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**PLANNING & ZONING COMMISSION**  
**January 3rd, 2012**  
**Minutes**

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Members Present:           Bruce Bixby  
                                  Gary Glenn  
                                  Pam Yungblut  
                                  Tim McClarty  
                                  Clint Rosenbaum  
                                  David Todd

Members Absent:           Fred Famble

Staff Present:             Ed McRoy, Asst Director of Planning and Development Services  
                                  Dan Santee, City Attorney  
                                  Ben Bryner, Planning Services Manager  
                                  Zack Rainbow, Planner II  
                                  Debra Hill, Secretary II (Recording)

Others Present:           Don Bledsoe  
                                  Conni Robinett  
                                  Mora McGam  
                                  Brennon Peel

**Item One:                    Call to Order**

Mr. McClarty called the meeting to order at 1:30 p.m. and declared a quorum present.

**Item Two:                    Invocation**

Mr. McClarty gave the Invocation.

**Item Three:                 Approval of Minutes**

**Mr. Glenn moved to approve the minutes of the December 5th, 2011 meeting. Mr. Rosenbaum seconded the motion and the motion carried unanimously.**

Mr. McClarty read the opening statement for the Planning and Zoning Commission.

**Item Four:                   Plats**

Mr. Rainbow presented the staff report for this case.

MRP-4911

A public hearing to consider a Replat of Horne Subdivision, Lots 101 and 102, Block A, a replat of Lot 2, Block A, Horne Subdivision, City of Abilene, Taylor County, Texas.

MRP-5611

A public hearing to consider a plat of Lots 101 & 102, Block A, Belch Addition, Replat of Lot 1, Block A, Belch Addition, Abilene, Taylor County, Texas.

FRP-4110

A public hearing to consider a plat of Remington Estates Subdivision, Section 5, Lots 14-21, Block D; Lots 1-9, Block E; Being a Replat of Lot 101, Block N, Remington Estates, Section 4, Per Plat in Cabinet 2, Slide 339-B, Plat Records, Taylor County, Texas.

Mr. McClarty opened the public hearing. No one came forward and the public hearing was closed.

**Mr. Rosenbaum moved to approve MRP-4911, MRP-5611 and FRP-4110. Mr. Todd seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Glenn, Rosenbaum, Yungblut, Todd and McClarty) and none (0) opposed.**

**Item Five:                   Zoning**

a.       Z-2012-01

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Sandra Hernandez to rezone property from LI (Light Industrial) to HC (Heavy Commercial) zoning, located at 4358 Sayles Blvd.

Mr. Ben Bryner presented the staff report for this case. The subject property is approximately 2.45 acres and is currently zoned LI (Light Industrial). The property has been developed with a restaurant. The adjacent properties have LI zoning to the north, east and west and GC zoning across the freeway to the south. One property to the east has HC zoning. The property was annexed in 1957 and was zoned LI sometime after it was annexed.

The property is zoned LI and has been developed with a restaurant. The restaurant had been operating until late 2010 until it was closed due to a fire. The LI zoning previously allowed for a restaurant. With the adoption of the LDC, the LI zoning district no longer allows a restaurant as a permitted use. The use was considered a legal, non-conforming use until it had ceased operation for more than 6 months. The surrounding properties have been developed with a mix of industrial and commercial uses.

The Future Land Use section of the Comprehensive Plan designates this general area as a commercial/industrial area. The area currently includes commercial uses, especially along the freeway frontage. The requested zoning would allow the restaurant to re-open and would bring the intended use in conformance with the zoning on the property. The request would not have a negative impact on the surrounding properties and would be compatible with the existing land uses.

Property owners within 200 feet of the zoning request were notified. One (1) comment form was received in favor and zero (0) in opposition of the request. Planning staff recommends approval of the request.

Mr. McClarty asked clarification regarding the zoning previous to this request. Mr. Bryner stated the previous zoning enabled a restaurant to operate under the LI zoning. He added that with the new Land Development Code the zoning for a restaurant would not be allowed. Mr. McClarty asked the reasoning for requiring the restaurant to apply for the new zoning and expressed concerns regarding the applicant having to pay the application fee due to the City changing the zoning. Mr. Bryner stated that staff had looked at using a nonconforming use stipulation but since the restaurant did not operate for longer than six months the nonconforming use would not be allowed. He added that the restaurant had been closed for over a year and is now in the process of remodeling due to a fire.

Mr. McClarty opened the public hearing. No one came forward and the public hearing was closed.

**Mrs. Bixby moved to approve Z-2012-01. Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Yungblut, Todd, Rosenbaum and McClarty) and none (0) opposed. (Mr. Glenn requested to abstain from Z-2012-01.)**

b. Z-2012-02

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Pebbles Lee to rezone property from RS-12 (Single Family Residential) to RS-12/H (Single Family Residential with Historic Overlay) zoning, located at 873 River Crest Dr.

Mr. Bryner presented the staff report for this case. The subject property is approximately 0.3961 acres and is currently zoned RS-12 (Single Family Residential). The property has been developed with a residential dwelling unit. The adjacent properties have RS-12 zoning to the north, south, east and west. The property was annexed in 1927 and was zoned RS-12 sometime after it was annexed.

The property is zoned RS-12 and has been developed with a residential dwelling unit. The house was built in 1928 by T.F. Grisham. The style of the home exemplifies the Spanish/Mission Revival style of architecture. The house exhibits elements of the classic hacienda, including stucco exterior, Mission-shaped roof parapet, arches, inset porch, metal roof in clay tile design, decorative wrought iron screens and gates at entrances. The home is in excellent condition.

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. Recently two other properties in the area have received Historic Overlay Zoning, and this request could encourage other properties to do the same.

Property owners within 200 feet of the zoning request were notified. One (1) comment forms were received in favor and zero (0) in opposition of the request. Planning staff recommends approval of the request. The Landmarks Commission recommended approval by a vote of five (5) in favor to none (0) in opposition.

Mr. Bixby questioned how similar is the property today compared to the original design. Mr. Bryner stated the property has had additions to the rear and side of the property but the front of the property is the original design. He added the applicant provided original photos to the Landmarks Committee for verification.

Mr. McClarty opened the public hearing. No one came forward and the public hearing was closed.

**Mrs. Rosenbaum moved to approve Z-2012-02. Mrs. Yungblut seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Yungblut, Glenn, Todd, Rosenbaum and McClarty) and none (0) opposed.**

c. Z-2012-03

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Lodovik (Luigi) Tetaj to rezone property from LI (Light Industrial) to GC (General Commercial) zoning, located at 620 Ambler Ave.

Mr. Bryner presented the staff report for this case. The subject property is approximately 0.32 acres and is currently zoned LI (Light Industrial). The property has been developed with a convenience store. The adjacent properties have LI zoning to the north, south, and east and HC zoning across the street to the west. The property was annexed in 1951 and was zoned LI sometime after it was annexed.

The property is zoned LI and had been developed with a convenience store. The applicant is proposing to locate his restaurant from across the street on N. Treadaway Blvd into the building. The LI zoning does not allow for a restaurant. The surrounding properties have been developed with primarily commercial uses with a few industrial uses close by.

The Future Land Use section of the Comprehensive Plan designates this general area as a Special Activity area that would include a mix of uses. The subject property is also along an Enhancement Corridor for Ambler Avenue. An application for a building permit was submitted for the restaurant use that is not allowed in LI. The area currently includes commercial uses, especially along the Ambler frontage. GC zoning is a more appropriate zoning along an Enhancement corridor as it does not allow some of the more intensive industrial uses. The request would not have a negative impact on the surrounding properties and would be compatible with the existing land uses.

Property owners within 200 feet of the zoning request were notified. One (1) comment forms were received in favor and zero (0) in opposition of the request. Staff recommends approval as requested.

Mr. Bixby asked clarification regarding who initiated this request. Mr. Bryner explained that during the reviewing of the applicant's relocation process the zoning of the new location would not be compatible. He added that staff discussed this process of changing the zoning for the new location and the applicant agreed to this request.

Mr. McClarty opened the public hearing.

Mr. Don Bledsoe (owner) spoke in favor of this request. Mr. Bledsoe stated he was the owner of the property and had sub-leased part of the building to the applicant. He added he was not against the request just the process of informing the owners and leasers of any changes affecting their properties. Mr. Bledsoe stated he would like to see more security procedures regarding zoning request. He added he was unaware of who applied for this rezoning. Mr. Bryner stated it was the applicant. Mr. Bryner explained that in the process of applying for rezoning the individual is informed that if they are not the owner of the property they would need to acquire permission from the owner to request the rezoning.

Mr. McClarty closed the public hearing.

Mr. Rosenbaum questioned the compatibility of the rezoning request in regards to the convenience store already located on the property. Mr. Bryner stated this would no effect the current lease holders.

Mr. Bixby addressed Mr. Dan Santee (City Attorney) regarding the rezoning request in this situation where the owner was no the applicant. Mr. Santee explained the application does inform the applicant that if they are not he owner of the property that they do have the owner's permission for the request in rezoning. He added that through this process the owners are notified of any request to their properties by mail.

**Mr. Glenn moved to approve Z-2012-03. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Yungblut, Glenn, Todd, Rosenbaum and McClarty) and none (0) opposed.**

**Item Six: Capital Improvement Program (CIP):**

Preliminary Staff Report and discussion regarding the 5-Year Capital Improvements Program (CIP) 2012-2016.

Mr. Ed McRoy presented the staff report for this discussion. The City's Charter requires that the Planning and Zoning Commission make a recommendation to the City Manager each year for a 5-year Capital Improvements Program. Today's action is a preliminary report allowing staff to discuss various project options with the commission and to answer questions you may have as you prepare to make a formal recommendation to the City Manage next month. This is not a public hearing. No vote will be taken on this item at this time. Final action and a vote to send your recommendation to the City Manager are scheduled for February 6, 2012.

The Capital Improvements Program (CIP) is a five-year plan for major non-recurring capital projects that uses a range of funding sources. CIP projects are long-term investments rather than day-to-day operating expenses. Typical items include infrastructure and assets that are relatively costly, (\$25,000+) and that are expected to have a long life, (15+ years). Typical projects in a CIP include the acquisition, upgrading or major repair of streets, water lines, sewer lines, drainage facilities, large vehicles, buildings, parks, major equipment and similar projects.

Terms and Concepts

Capital Project	A significant asset or piece of infrastructure 1) exceeding \$25,000 in cost and 2) having a life expectancy of 15 years or more. Typical projects include roads, water lines, construction equipment, buildings, property parks etc.
Capital Budget	The first year of the CIP (2012 Projects approved in this first year (2012) will be authorized for funding.
Out Years	Projects scheduled for the subsequent years (2012-2016). These 0projects are included in the CIP for planning purposes only and they will not receive expenditure authority until they are part of the current year.
Funded List	The full 5-year list of projects (2012-2016) including the Capital Budget (2012) and the Out Years (2013-2016). Projects listed in the Funded List have been evaluated more thoroughly and have targeted completion dates assigned.
Unfunded List	Projects that have been determined to be potentially eligible for CIP funding but that are not ready to be placed on the “Funded List” at this time.
New Project	A project that has not previously been on a Funded or Unfunded List in the CIP Program.
Graduated Project	A project that moves from the Unfunded List to the Funded List is said to “graduate”
Recurring Projects	A project that is designed to receive funding at a target amount on an annual, biannual or other periodic basis. Recurring Projects are typically location specific or and thus they provide some flexibility to respond to emerging needs, opportunities, or concerns.

C.O.	Certificate of Obligation – A debt instrument issued by the City to fund various projects and programs. CO’s are authorized by a majority vote of the City Council. Current City policy limits and ties the total amount of C.O. funds that can be issued to the current property tax rate so that the CIP will not increase property tax rates.
Bond Project	A CIP project that is funded in part or in total by general obligation (GO) bonds. GO bonds are approved by a vote of the citizens and are limited to the purposes described in the ballot measure. Bond Projects are included in the CIP primarily for planning to coordinate timing with other non-bond projects. Bond Projects are sometimes supplemented with CO funds or with grant funds from Federal or State sources.
Water Fund	A project funded from the Water Fund rather than from the General Fund. Water Fund revenue is derived from water and sewer rates charged to users of the system. Water Fund projects may also use CO’s but these are historically paid from the Water Fund. Water Fund Projects are included in the CIP primarily for planning purposes to coordinate the timing of other Capital Projects.

Mr. McRoy discussed the 2012-2016 Preliminary CIP budget breakdown. He discussed maintenance repairs in need for the LEC (Law Enforcement Center), Sears recreation center and the Chavez recreation center. These facilities are in need of foundation repair due to roof leakage and water seepage in the basement of the LEC.

Mr. McClarty expressed concerns in using the Capital Improvements Program as “insurance” for repairs. Stan Standridge (Chief of Police) explained the urgency of the repair. Chief Standridge stated that over the last six months the east side of the LEC building that the sidewalks has sunk approximately six inches or more. He added the facilities maintenance manager for the City of Abilene has been investigating the issue. Chief Standridge stated that the City has requested Meers Engineering to conduct a site study to explain this foundation problem. He added that this has become such a problem the sidewalk has been blocked off for safety reasons. Mr. McClarty asked if he was aware of any soil testing done on site. Chief Standridge stated that his understanding is that Meers would be taking of any testing needed. Mr. Bixby asked if it was just the sidewalks or was it the entire building. Chief Standridge stated the LEC basement is also having water seeping into the basement area. He added that they are not sure if these two could be related. Mr. Bixby asked where the estimate for the repairs originated from. Chief Standridge stated the facilities maintenance manager, Lowell Phillips, estimated the repairs at his request. Mr. Bixby stated that until Meers Engineering has done their site study there is no way to estimate the cost of repairs. Chief Standridge explained that faced with a timeline there was no way to have the accurate estimate of repairs for the CIP budget.

Mr. Bixby questioned if the extent of the damage happened in the last six months. Chief Standridge stated that actually the extreme damage happened within the last three months.

Mr. McRoy stated that with any new information received from Meers Engineering it would be forwarded to the commissioners by the next meeting in February.

Mr. McClarty addressed the foundation repairs for the recreation facilities.

Mr. Larry Johnson (interim Director for Community Services) stated that the repairs would involve Chavez and Rose Park Senior Center. He added the repairs for the Chavez center is related to the wall separating from the foundation and the Rose Park Senior Center repairs are related to roof damage. Mr. Johnson stated the interior walls and ceiling of the Senior Center were also damaged as a result of the roof leaking. He added this repair is also an estimate. Mr. Glenn questioned the location of the funding for these kinds of repairs in regards to the City being self-insured. Mr. McClarty stated this is similar to the fire apparatus replacement.

Mr. McRoy discussed the replacement of the large Animal Control crematorium. Mr. McClarty questioned the frequency use of the crematorium. Mr. McRoy stated the unit is used daily at this time but with the new crematorium the usage would decrease to two to three times a week.

Mr. McRoy discussed the sidewalk construction program and the various preliminary changes in comparison to last year's budget breakdown.

Mr. Bixby stated the Industrial Blvd and Hardison Lane improvements are crucial improvements added to the CIP budget.

Mr. Chad Carter (City Engineer) discussed the various improvements outlined in the preliminary CIP budget. Mr. Carter suggested the main area in need of improvements is Industrial and Sayles Blvd.

Mr. McRoy summarized the total number of projects for the 2012-2016 budget at twenty-one. He added the new projects for this budget are emergency repairs for several facilities.

Mr. McClarty expressed concerns with using the CIP budget for repairs instead of improvements needed.

**Item Seven: Discussion Item:**

Discussion regarding development regulations in the floodway and floodplain.

Mr. Chad Carter (City Engineer) presented the discussion for this item. Mr. Carter discussed the new flood insurance rate maps received by the City. He described the provisions required by FEMA for insurance purposes. Mr. Carter explained the National Flood Insurance Program (NFIP).



The National Flood Insurance Program (NFIP) was created by Congress in 1968 to protect lives and property and to reduce the financial burden of providing disaster assistance. The NFIP is administered by the Federal Emergency Management Agency (FEMA).

The NFIP is based on a mutual agreement between the Federal Government and communities. Communities that participate agree to regulate floodplain development according to certain criteria and standards. The partnership involves:

- Flood hazard maps.
  - FEMA prepares maps that are used by communities, insurance agents and others.
- Flood insurances.
  - Property owners in participating communities are eligible to purchase federal flood insurance for buildings and contents.
- Regulations.
  - Communities must agree to adopt and enforce floodplain management regulations so that development, including buildings, is undertaken in ways that reduce exposure to flooding.

Mr. Carter discussed the reasoning for regulating the floodplain.

- To protect people and property.
- To make sure that federal flood insurance and disaster assistance are available.
- To save tax dollars.
- To avoid liability and law suits.
- To reduce future flood losses in Texas.

The Special Flood Hazard Area (SFHA) is that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards. The base flood means the flood having a 1% chance of being equaled or exceeded in any given year (also called “100-year floodplain”).

The Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge without increasing flood depths.

Mr. Carter discussed the previous Land Development Code in regards to the floodplain rules for building permits. He explained the previous rules stated new buildings in the floodway are not permitted without an approved floodplain development permit. This is expensive for the applicant and must be done by an engineer. For new construction to be considered an addition must be attached. If the building permit is for an addition and it is less than 50% of the value of the existing building and less than 30% of the square footage of the existing building then, the addition would be exempt from the floodplain requirements. If the addition does not meet both the 50% and 30% rule, it cannot be approved.

Mr. McClarty questioned the removal of the 30/50 rule from the Land Development Code. Mr. Carter stated the removal of this rule was in response to FEMA/NFIP regulations not approving the City of Abilene's ordinance. Mr. Carter stated the risk of re-implementing this rule could put the City of Abilene at risk of losing FEMA insurance. He added he would rather be involved with citizens developing their properties in floodways to assure the correct elevations are acquired.

Mr. Rosenbaum questioned if the new Land Development Code is violation currently. Mr. Carter stated this was not part of this new code, it was initially added to the sub-division section and later removed.

Mr. Dan Santee stated that FEMA/NFIP almost removed Abilene from the insurance program due to the 30/50 rule in the sub-division code. He added that staff reviewed the ordinance extensively and agreed to remove this rule and allow the City's engineer to review developments in floodways as needed and issue required permits.

**Item Eight: Director's Report:**

Recent City Council decisions regarding items recommended by the Planning & Zoning Commission.

December 1, 2011 Council Meeting

Z-2011-29

A request from Sharon Riley to rezone property from LI (Light Industrial) to HC (Heavy Commercial) zoning, located at 849 and 875 E. HWY 80.

P&Z Recommendation: Approval as requested (6-0)

Council Decision: Approval as recommended by P&Z (6-0)

Z-2011-31

A request Sharon Yost to rezone property from RS-6(Single Family Residential) to RS-6/H (Single Family Residential with Historic Overlay) zoning, located at 3434 S. 9th Street.

P&Z Recommendation: Approval as requested (6-0)

Council Decision: Approval as recommended by P&Z (6-0)

CUP-2011-03

A request from Terry Browder for a conditional use permit for a Bed and Breakfast located in RS-12 (Single Family Residential) zoning, located at 642 Sayles Blvd.

P&Z Recommendation: Approval as presented with staff recommendations (6-0)

Council Decision: Approval as recommended by P&Z eliminating the requirement for a sidewalk (6-0)

**Item Nine: Adjourn**

The Planning and Zoning Commission meeting was adjourned at approximately 4:15 P.M.

Approved: _____, Chairman
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