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**PLANNING & ZONING COMMISSION**  
**June 4th, 2012**  
**Minutes**

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Members Present:           Tim McClarty  
                                  David Todd  
                                  Fred Famble  
                                  Gary Glenn

Members Absent:           Bruce Bixby  
                                  Clint Rosenbaum  
                                  Pam Yungblut

Staff Present:             Jon James, Director of Planning and Development Services  
                                  Dan Santee, City Attorney  
                                  Ben Bryner, Planning Services Manager  
                                  Brad Stone, Planner II  
                                  Debra Hill, Secretary II (Recording)

Others Present:            Dave Boyll  
                                  Margaret Richins  
                                  Michael Richins  
                                  Brennan Peel  
                                  Buddy Moore  
                                  Sue Post  
                                  Thomas Rickelman  
                                  John Rogers  
                                  Ray Ellis

**Item One:                    Call to Order**

Mr. McClarty called the meeting to order at 2:00 p.m. and declared a quorum present.

**Item Two:                    Invocation**

Mr. McClarty gave the Invocation.

**Item Three:                 Approval of Minutes**

**Mr. Famble moved to approve the minutes of the May 7th, 2012 meeting. Mr. Todd seconded the motion and the motion carried unanimously.**

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

**Item Four:                  Plats**

Mr. Ben Bryner presented the staff report for these cases.

FP-3911

Section 6, Indian Wells Addition, To the City of Abilene, Taylor County, Texas.

MRP-2212

Lot 110, Block 1, Boulevard Heights Addition, Abilene, Taylor County, Texas. A Re-plat of the South one-half of Lot 9 and all of Lots 10 and 11, Block 1, Boulevard Park Addition, to the City of Abilene, Taylor County, Texas.

PP-2412

Preliminary Plat for Blocks A, B, C, D, and E, Section 3, Ft. Phantom Hill Subdivision, out of Section 70, A-910, Block 14, T&P RR Company Survey and the A. Greenwell Survey 64, A-187, Jones County, Texas.

MRP-2612

Lot 101, Replat of part of Lot 8 and all of Lot 9, Block 2, L.C. Sharp's Subdivision, City of Abilene, Taylor County, Texas.

MRP-2712

Lots 101 and 102, a Replat of Lots 1 and 2, Block A, Section 1, KNET Enterprise Subdivision, to the City of Abilene, Taylor County, Texas.

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

**Mr. Famble moved to approve FP-3911, MRP-2212, PP-2412, MRP-2612 and MRP-2712. Mr. Glenn seconded the motion and the motion carried by a vote of two (2) in favor (Famble and Glenn) and none (0) opposed. (Mr. McClarty and Mr. Todd asked to abstain from MRP-2212)**

Mr. James clarified the approval for the plats as four of the five plats were approved and due to the lack of votes MRP-2212 was not approved. He explained that MRP-2212 would be approved within 30 days.

**Item Five:                  Zoning**

a.      Z-2012-13

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Kenneth Musgrave, Agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GR (General Retail), located at the southwest corner of Hwy 351 and East Lake Road.

Mr. Bryner presented the staff report for this case. The subject property is approximately 2.66 acres and is currently zoned AO (Agricultural Open Space). The property is currently undeveloped. The adjacent properties have AO zoning to the south and across East Lake Road to the east, LI (Light Industrial) zoning to the west, and AO & LI zoning to the north. The property was annexed in 1980 and was zoned AO.

The property is zoned AO and is currently undeveloped. The applicant is proposing to rezone the property to allow for a mix of retail & restaurant uses. The adjacent properties across Hwy 351 have been developed with a mix of single-family residential, educational, and industrial uses. The adjacent property to the west is developed with the Coca-Cola Bottling plant. The adjacent property to the south is vacant.

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. The intersection of Hwy 351 with I-20 is identified as a Major Commercial/Business Center. The City has recently adopted the Highway 351 Development Plan to help define the goals of the corridor. One of the goals of the plan includes: "Ensure the long-term economic viability of a vital retail and service hub serving this sector of the community and outlying communities." Additionally, this area was included in the concept plan for a major retail area with frontage on both I-20 and Highway 351. An initial Planned Development (PD-113) district was approved along I-20 for the Lowe's with plans to continue development to Hwy 351. Part of the initial development included the construction of East Lake Road south of Hwy 351. The PD zoning was intended to continue in order to maintain continuity in the development. Staff has determined that continuation of the PD zoning is the appropriate course of action.

Property owners within 200 feet of the zoning request were notified. Four (0) comment forms were received in favor and zero (0) in opposition of the request. Staff recommends denial as requested and approval of PD-113 zoning.

After discussion, Mr. McClarty opened the public hearing.

Mr. Tal Fillingim (agent for the applicant) spoke in favor of this request. Mr. Fillingim described the differences associated with a PD versus a GR zoning. He added the applicant believes there is not a need to extend the PD past the current Lowes facility and feels the current request for GR zoning on this property is more suitable for their needs.

Mr. Todd asked clarification regarding the decision to request a GR zoning instead of a PD. Mr. Fillingim stated the differences include signage and building materials.

Mr. Buddy Moore (agent for Coca-Cola) questioned the use of the property and the effects the increased traffic flow would have for the facility. He also questioned the change in the access roads and the effect this would also have for the facility. Mr. McClarty stated the changes to the access roads are implemented by TXDOT and not this committee. He questioned staff as to the affect this new zoning would have in regards to the traffic flow. Mr. James stated that the new zoning might increase the flow of traffic.

Mr. McClarty questioned Mr. Fillingim if he knew the nature of the facility for this property. Mr. Fillingim stated the new development is a proposed fast food restaurant. Mr. Fillingim described the approval process involving the access to the Coca-Cola facility. He added the developer at that time worked with the Coca-Cola Corporation to assure the access would be effective for that facility.

Mr. McClarty closed the public hearing.

Mr. James addressed the proposed group sign in the original concept plan. Mr. James stated that the location of the proposed group sign is located within this rezoning request. He added that if this request is approved for the GR zoning that this would no longer allow the group sign to be located within this area along HWY 351. Mr. Todd questioned the reasoning of initially zoning this entire area a PD. Mr. James stated that this was initially discussed and decided that many property owners had concerns regarding prematurely rezoning properties to commercial uses for fear that it could affect property values. Mr. Todd addressed the property owners have now changed and this has become an issue. Mr. James stated that this applicant for this request is the original owner of the entire area and portions of this area have been sold. Mr. Famble asked clarification on the request for denial. Mr. James explained the recommendation from staff is for this request to be zoned PD.

Mr. McClarty reopened the public hearing.

Mr. Tal Fillingim clarified the ownership for this area. He stated this property was originally owned by the applicant in this request. Mr. Fillingim addressed the group sign. He asked clarification regarding the group sign. Mr. James explained the original intent for future expansion of the PDD is outlined in the concept plan, which includes this area in this request. Mr. Todd questioned the number of business for this location. Mr. Fillingim stated there would be two.

Mr. McClarty closed the public hearing.

**Mr. Glenn moved to approve Z-2012-13. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Famble, Todd, Glenn and McClarty) and none (0) opposed.**

**Item Six: Conditional Use Permit:**

a. CUP-2012-03

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Milliron J & Company, LLC, Agent John M. Rogers, for a Conditional Use Permit to allow a fast food restaurant on property zoned NR/COR (Neighborhood Retail/Corridor Overlay), located at 5001 Buffalo Gap Road.

Mr. Bryner presented the staff report for this case. The subject property is approximately 1.85 acres and is zoned NR/COR (Neighborhood Retail/Corridor Overlay). The surrounding properties have MF (Multi-Family Residential) zoning to the north, RS-6 (Single-Family Residential) zoning to the east, PD (Planned Development) zoning to the south, and RS-6 & NR zoning to the west across Buffalo Gap Road. The area was annexed in 1959 and was zoned NR sometime after it was annexed. The Buffalo Gap Corridor Overlay was applied in 2006.

Currently the property is zoned NR/COR and has been developed with a retail florist store. The store has been vacant for some time now. The applicant is proposing to build a drive-thru coffee shop on the front of the property. This use is classified as a fast-food restaurant and requires a Conditional Use Permit (CUP) when located on property zoned NR. The properties to the north, east and south are developed with single-family and multi-family uses. The properties to the south along Buffalo Gap Road are developed with a dry cleaner and a fast-food restaurant.

The Future Land Use section of the Comprehensive Plan designates this general area as residential and office when located at mid-block. The intersection of Chimney Rock and Buffalo Gap Road is designated as a commercial node that would include retail, office, personal service & restaurant uses. The subject property currently allows for retail uses and standard restaurants. The applicant is requesting the CUP in order to use the property with a drive-thru coffee shop. The property fronts along an arterial street and near the commercial node at the major intersection which suggests that the use would be suitable for the property.

Property owners within 200 feet of the zoning request were notified. Four (4) comment forms were received in favor and ten (10) in opposition of the request. Planning staff recommends approval of the request.

Mr. McClarty requested clarification to this request. Mr. Bryner stated that this property of zoned for NR and the request for the CUP is to allow a drive through on this property, otherwise there would not be a need for this rezoning. Mr. James stated that the commissioners have the ability to request conditions with the approval of a CUP.

Mr. McClarty opened the public hearing.

Mr. Tal Fillingim (agent for Milliron J & Co.) spoke in favor of this request. Mr. Fillingim stated that this request is for the front part of this property and would request the CUP to extend to the back of the existing building. He added the reasoning is to allow stacking to ensure vehicles would not over flow onto Buffalo Gap Rd. Mr. Glenn expressed his concerns with the stacking of vehicles along Buffalo Gap Rd. Mr. Fillingim described the conceptional plan is to push the new building as far north as possible to allow for stacking. Mr. James stated that the stacking requirement is set at five vehicles. He added that with a CUP, conditions could be implemented to increase the stacking requirements.

Mr. Michael Richins (5058 Oaklawn) expressed concerns with the current maintenance of the property. He stated that currently the property is not maintained adequately and with the new development could pose a larger problem. Mr. Richins also expressed concerns with the stacking of vehicles and the traffic issues that could occur. He stated he is not opposed to the development of the property, but would like to see it maintained.

Mr. Ray Ellis (4825 Circle 19) expressed concerns with the increase of traffic to that area. He also addressed the current drive through businesses and the problems associated with them. Mr. Ellis expressed concerns with the drainage in that area and his concern is that with the new development it could increase the flooding issues that are currently a problem.

Mrs. Sue Post (Chimney Circle) expressed concerns with the addition of another restaurant. She explained her concerns include noise, traffic and the accumulation of trash and debris. Mrs. Post addressed the drainage of that area and her concerns of the increase of flooding due to the new development. Mr. McClarty stated that the property currently is zoned NR which would allow for a restaurant. He added the only reason this has come before the commissioners is to allow a drive through for the new development.

Mr. Thomas Rickelman (Brentwood) expressed concerns with the noise issues associated with the new development and agreed with the previous homeowner's grievances.

Mr. McClarty closed the public hearing.

Mr. McClarty addressed each of the concerns listed by the homeowners and explained the requirements for developers. He discussed the two main concerns listed by the homeowners, traffic and noise. Mr. McClarty stated the stacking for this development should be increased to eight.

**Mr. Bixby moved to approve CUP-2012-03 to extend to the rear of the existing building, with a minimum stack of eight vehicles. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Famble, Todd, Glenn and McClarty) and none (0) opposed.**

**Item Seven: Directors Report :**

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

Mr. James stated that all recommendations to the City Council have been approved.

Mr. McClarty questioned the progress toward the Sign Ordinance Committee. Mr. James stated that staff is awaiting direction from the City Council.

**Item Eight: Adjourn**

The Planning and Zoning Commission meeting was adjourned at approximately 3:20 P.M.

Approved: \_\_\_\_\_, Chairman