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**PLANNING & ZONING COMMISSION**  
**September 3rd, 2013**  
**Minutes**

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Members Present:           Chairman: Fred Famble  
                                  Clint Rosenbaum  
                                  Bruce Bixby  
                                  David Todd  
                                  Pam Yungblut  
                                  Tim McClarty

Members Absent:           Gary Glenn

Staff Present:             Jon James, Director of Planning and Development Services  
                                  Dan Santee, City Attorney  
                                  Ben Bryner, Planning Services Manager  
                                  Zack Rainbow, Planner II  
                                  Stephanie Goodrich, Planner I Historic Preservation Officer  
                                  Donna Boarts, Secretary II (recording)

Others Present:           Al & Diana Woody           Ronnie Miller  
                                  Judy Sorrells               Matt Miller  
                                  Darral Steele               Scott Senter  
                                  Kenneth Musgrave         Ron Musgrave  
                                  Stephanie Duncan         Monica Daniel  
                                  Terry & Cathy Casey       Stan West  
                                  Karl Jackson               Kelly Young  
                                  Stephen Shewmaker        Megan Santee  
                                  Tal Filligim

**Item One: Call to Order**

Mr. Fred Famble called the meeting to order at 1:35 p.m. and declared a quorum present.

**Item Two: Invocation**

Mr. Famble gave the Invocation.

**Item Three: Approval of Minutes:**

**Mr. Rosenbaum moved to approve the minutes of the August 5th, 2013 meeting. Mr. McClarty seconded the motion and the motion was carried unanimously.**

**Item Four: Plats:**

Mr. Bryner presented the staff report for these cases.

**FP-6412**

A public hearing to consider a plat of Lot 2, Block A, Paceline II Addition, Being 2.721 Acres out of Lot 8, of the Anderson and Berry Subdivision of the Alexander Thompson Survey No. 37, City of Abilene, Taylor County, Texas.

**FP-1513**

A public hearing to consider a plat of Lot 1, Block A, Southwest Drive Park Addition, Abilene, Taylor County, Texas.

**FP-3313**

A public hearing to consider a plat of Sawgrass Addition, Section 1, 32.331 Acres of Land out of a 104.510 Acre Tract out of the SE/4 of Section 14, Lunatic Asylum Land, Abstract Land, Abstract No. 677, Taylor County, Texas.

**PP-6013**

A public hearing to consider a Preliminary Plat of Section 2, Tuscany Trails Subdivision, Abilene, Taylor County, Texas.

**FRP-6813**

A public hearing to consider a Plat of Lot 101, Block A, Bonham Elementary Addition, Abilene, Taylor County, Texas.

**FP-6913**

A public hearing to consider a Plat of Memorial Drive Right of Way, Abilene, Taylor County, Texas.

**MRP-7013**

A public hearing to consider a plat of Lots 101 and 102, Block 1, Treanor Addition, Abilene, Taylor County, Texas.

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

**Mr. McClarty moved to approve FP-6412, FP-1513, FP-3313, FRP-6813, FP-6913 and MRP-7013. Mr. Rosenbaum seconded the motion and the motion carried by a vote of four (4) in favor (Mr. Bixby, Mr. McClarty, Mr. Rosenbaum, Mr. Famble) none (0) opposed. (Ms. Yungblut abstained from FP-1513, PP-6013, FRP-6813, FP- 6913, MRP-7013. Mr. Todd abstained from FP-1513, PP-6013, FRP- 6813, FP-6913, MRP-7013, FP-6412 and FP-3313.**

**PP-6013 received three (3) approved votes, and three (3) abstained votes, needing the fourth vote to pass, motion did not carry.**

Mr. Jon James stated that due to lacking four (4) votes, by state law if Plats are not denied within the 30 days, they are then deemed approved. Mr. James suggested allowing the 30 days to expire, at that time the Plat will be approved by law. {Correction: This was later determined to be incorrect. By failing to achieve the necessary four votes, the item was denied and will be brought back to a future meeting for reconsideration.}

### **Item Five: Zoning**

#### **a. Z-2013-28**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from David Phillips, to rezone property from RS-6 (Single-Family Residential) to PD-55 (Planned Development) zoning & to amend PD-55 (Planning Development) zoning regarding allowable uses, located at 6156 & 6164 Hartford St.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned RS-6 & PD-55. A home exists at 6164 Hartford St. The remaining property is vacant. The adjacent properties to the north are zoned RS-6 to the north and east and developed with residences. The properties to the south include PD, RR-1 (Rural Residential), & AO (Agricultural Open Space) zoning. A gas station exists on the corner with residences nearby. The property to the west is zoned PD and is Dyess Air Force Base. The property owner is requesting to include 6156 Hartford St as part of PD-55. Additionally, the property owner is requesting to amend the PD zoning in order to use the property for auto sales and self-storage. The current PD zoning does not allow for these types of uses. The amendment would add these uses as permitted uses.

The Future Land Use section of the Comprehensive Plan designates the area as low-density residential. The entrance to Dyess Air Force Base is located at this intersection. The intersection is considered a node and is supported by a mix of uses that are connected and of a high quality design. The approved PD zonings in the area have placed an emphasis on high-quality design. The applicant is requesting the zone change to bring 6156 Hartford St into the existing PD-55 zoning. The applicant is also requesting to amend PD-55 to allow for auto sales and self-storage to the already approved office and retail uses. The requested rezoning would be compatible with the adjacent uses and the existing uses allowed in the PD zonings. However, the requested amendment to allowable uses would not be compatible.

Property owners within a 200-foot radius were notified of the request. Zero (0) comment forms were received in favor and two (2) in opposition of the request.

### **PLANNING STAFF RECOMMENDATION:**

Staff recommends **approval** of the rezoning request and **denial** of the amendment request.

Mr. Rosenbaum questioned why we keep it zoned as PDD(Planned Development District). Mr. Bryner stated that it has to do with the uses. They specifically listed them out, setbacks, screening, signage control and driveway spacing. Explained that it was appropriate to the PDD zoning, did not move forward with a straight zoning change, those control were there for a reason.

Mr. James clarified that when the gas station (Stripes) was built at this location near the entrance to Dyess Air Force Base, we worked extensively with the Dyess officials, they were concerned about the look and activities going on at the entrance of their base. Officials were supportive of the aesthetic controls, therefore the Stripes building was built with a higher standard than it would have been otherwise.

Chairman Famble opened the public hearing.

Ms. Jackson (resident across street) spoke in opposition of the proposed construction. Expressing the added traffic would be dangerous, and wanting to add a car lot and self-storage facility to the already congested area, feels it is unsafe due to the young children.

Chairman Famble closed the public hearing.

**Mr. McClarty made a motion to approve the re-zoning request and denial for the amendment to allow the use of the property for auto sales and self-storage. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, McClarty, Yungblut, Rosenbaum, Todd, Famble) and zero (0) in opposition.**

**a. Z-2013-29**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Terry & Mary Cathryn Casey, to rezone property from RS-8 & RS- 8/COR (Single-Family Residential/Corridor Overlay) to GR & GR/COR (General Retail/Corridor Overlay) zoning, located at 6382 & 6458 Buffalo Gap Rd.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned RS-8 & RS-8/COR and has been developed with 2 single- family homes. A large portion of the property is undeveloped. The applicant has future plans to use the property for retail development. The property to the north is zoned GC (General Commercial) and includes a restaurant and an office. The properties to the east are zoned GR (General Retail) & O (Office) and include retail and office development. The properties to the south are zoned RS-8 & NR (Neighborhood Retail). A home and a bike shop exist to the south.

The Future Land Use section of the Comprehensive Plan designates the area as low-density residential. The property is close to the intersection with Antilley Rd which is considered a commercial node and is supported by a mix of retail, office, and institutional uses of a high quality design. The Buffalo Gap Corridor study indicates that retail zoning is allowable in nodes at intersections of major thoroughfares. The requested zoning would be compatible with the adjacent uses and the Comprehensive Plan.

Property owners within a 200-foot radius were notified of the request. Two (2) comment forms were received in favor and zero (0) in opposition.

**STAFF RECOMMENDATION:**

Staff recommends approval.

Chairman Famble opened the public hearing.

Mr. Casey (property owner) spoke in favor of this zoning. Mr. Casey has owned the property in question for over 20 years. The frontage area behind Buffalo Gap Road is considering building duplexes or multi-family structures. Due to the property sloping, does not feel that there are retail possibilities. Some utilities are on the property in question, water, sewer and gas lines that will be addressed before construction is started.

Chairman Famble closed the public hearing.

**Mr. Todd made a motion to approve Z-2013-29. Mr. McClarty seconded the motion and the motion carried by a vote of (6) in favor (Yungblut, McClarty, Rosenbaum, Bixby, Todd, Famble) and zero (0) in opposition.**

**c. Z-2013-30**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Musgrave Enterprises, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GC (General Commercial), GR (General Retail), and NR (Neighborhood Retail) zoning, being approximately 45.4 acres located at 750 Gateway St to include the property north.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned AO and is undeveloped. The applicant has future plans to use the property for retail development. The property to the south is zoned O (Office) and MD (Medium Density). An office complex is about to begin construction. A duplex neighborhood also exists to the south. The properties to the east are zoned AO and RS-6 (Single-Family Residential) which is the Lytle South neighborhood. The properties to the northwest (across Loop 322) are zoned PD (Planned Development). The PD allows for commercial/retail development along the freeway frontage and transitions to residential uses away from the freeway. The proposed zoning will be at a major intersection and bounded by a major arterial street on the east. Additionally, the applicant is proposing NR (Neighborhood Retail) & GR (General Retail) zoning in the area closest to the nearby residential zoning which will provide a transition to the proposed GC (General Commercial) zoning along the freeway frontage.

The Future Land Use section of the Comprehensive Plan designates the area as low-density residential but authorizes non-residential development at intersections of major roadways or nodes. The property is at the intersection of Loop 322 and Oldham Lane which already includes commercial development on the north side of the freeway. The requested zoning is compatible with the adjacent uses and the Comprehensive Plan.

Property owners within a 200-foot radius were notified of the request. Twenty (20) comment forms were received in favor and five (5) in opposition of the request.

**STAFF RECOMMENDATION:**

Staff recommends approval of PD zoning. Development along the Loop 322 corridor has been intended for higher standards to include regulations for building materials and signage. The Planning and Zoning Commission will consider this item at their September 3, 2013 meeting.

Chairman Famble opened the public hearing.

Mr. Tal Fillingim (Agent) spoke in favor of this zoning request. The request is to support the continued development of this area. The existing development of Tuscan Village Duplex Multi-Family subdivision to the south of this property as well as the current ongoing construction of an Office Park. Did not plan for the suggested PD zoning, several years ago when the land development codes were established, general idea was to move to a standard zoning and move away from the PD's. The new set of codes that we believe restrict each zoning classification appropriately. An approval for GC, NR and GR zoning is what we are asking for your vote on today. Tried to extend the NR zoning through the majority of that neighborhood, creating a buffer from public through-fare then direct them on to the frontage road too Loop 322 and onto Oldham Lane. By providing this transitional zoning, it will help protect the neighborhood as well as what has already been done.

Chairman Famble closed the public hearing.

**Mr. McClarty made a motion to approve Z-2013-30 as requested. Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor (Ms. Yungblut McClarty, Rosenbaum, Todd, Famble) and zero (0) in opposition (Mr. Bixby abstained)**

**d. Z-2013-31**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Musgrave Enterprises, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, being approximately 11 acres on the south side of Scottish Rd east of Musgrave Blvd.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned AO and is undeveloped. The applicant has future plans to use the property for retail development. The properties to the north, south and east are zoned AO (Agricultural Open Space) and are undeveloped. The properties to the west are zoned PD (Planned Development) and developed with a hotel and commercial/retail uses. The proposed zoning will continue the commercial/retail development in the area.

The Future Land Use section of the Comprehensive Plan designates the area as business/industrial. The area is adjacent to a Major Commercial/Business Center located at the intersection of Highway 351 and Interstate 20. The adjacent development to the west is planned to be a major retail

development. The requested zoning is compatible with the adjacent uses and the Comprehensive Plan.

Property owners within a 200-foot radius were notified of the request. Three (3) comment forms were received in favor and zero (0) in opposition of the request.

**STAFF RECOMMENDATION:**

Staff recommends approval as requested.

Mr. Rosenbaum stated that there were some diverse zonings nearby, inquired about the plans for this property.

Mr. Bryner stated, at this time there are no plans. Primarily, this property is zoned Commercial and Retail Zoning.

Chairman Famble opened the public hearing.

Mr. Tal Filligim(Agent) spoke in favor of the development of this property. To address Mr. Rosenbaum question, GC (General Commercial) is an appropriate use for this location. PD zoning used to be used more frequently due to not having the multi ordinances to contend with. This property has been Master Planned, waiting for a developer. A large portion of the property was sold to another developer.

Mr. Musgrave (Owner/Developer) spoke in favor of the development of this property. There are a total of eleven (11) acres involved, seven (7) are already under contract with Marriott Courtyard Hotels. The remaining four (4) acres, possibly a Senior Citizen Home.

Chairman Famble closed the public hearing.

**Mr. Rosenbaum made a motion to approve Z-2013-31. Ms. Yungblut seconded the motion and the motion carried by a vote of five (5) in favor (McClarty, Todd, Yungblut, Rosenbaum, Famble) and zero (0) in opposition. (Mr. Bixby abstained)**

**e. Z-2013-32**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Jerry Hallmark, agent Brad Andrews, to rezone property from AO (Agricultural Open Space) & PD (Planned Development) to GC (General Commercial) zoning, being approximately 4.27 acres located at 3602 Catclaw Dr & a portion of 4491 Curry Ln.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned AO & PD and is undeveloped. The applicant has future plans to use the property for retail development. The properties to the north and south are zoned PD and are developed with retail and office uses. The

properties to the west and south are zoned AO and undeveloped. The property to the east is zoned GC (General Commercial) and is developed with retail uses. The proposed zoning will continue the commercial/retail development in the area.

The Future Land Use section of the Comprehensive Plan designates the area as low density residential. The area is adjacent to a Major Commercial/Business Center located in the vicinity of the mall. The adjacent developments to the north and east are major retail development. The requested zoning is compatible with the adjacent uses and the Comprehensive Plan.

Property owners within a 200-foot radius were notified of the request. Two (2) comment forms were received in favor and one (1) in opposition.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval of GR (General Retail) zoning.

Mr. McClarty asked for clarity on the zoning, staff is recommending GR, the original zoning was for GC (General Commercial).

Mr. Bryner stated that they wanted to match some of the PDD (Planned Development Districts), after reviewing felt comfortable with the GR (General Retail) zoning.

Ms. Sorrels (homeowner) spoke in opposition of this request. Bought her property before the influx of buildings and heavy traffic. Due to Catclaw and Curry Lane overcrowding, it has become a serious safety issue.

Chairman Famble closed the public hearing.

Mr. McClarty questioned if the proponent was available to discuss the GR (General Retail).

Mr. Bryner stated that he had not spoken to anyone that has their name on the application, but has spoken to an individual that is involved with the property, and they are fine with the GR (General retail) zoning.

**Mr. Bixby made a motion to approve Z-2013-32 with GC or GR zoning (which did they approve?). Mr. Famble seconded the motion and the motion carried, four (4) in favor (Bixby, McClarty, Rosenbaum, and Famble) and none (0) opposed. (Mr. Todd, Ms. Yungblut abstained).**

**f. Z-2013-33**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the City of Abilene to rezone property from AO (Agricultural Open Space) to PD (Planned Development) zoning, located at 435 College Dr.



Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned AO and is developed with a home. The properties to the north, south, and northeast are zoned RS-6 & RS-12 (Single-Family Residential) and are developed with single-family homes. The property to the east is zoned CU (College University) and developed with an apartment complex. The property owner has been using the residence and grounds as a commercial event center for receptions and parties. This is not a permitted use in the AO zoning district. The proposed zoning would allow the use to continue while providing for conditions to make the use compatible in the area. However, there are several concerns with the proposed use to include parking, noise, and traffic added to the area. The proposed PD zoning attempts to minimize the impacts of these externalities.

The Future Land Use section of the Comprehensive Plan designates the area as low density residential. The building was built as a single-family residence. The area is located in the middle of a large residential area. The requested zoning is not compatible with the adjacent uses and the Comprehensive Plan.

Property owners within a 200-foot radius were notified of the request. Zero (0) comment forms were received in favor and one (1) in opposition.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends denial.

Mr. Bixby inquired about the PD (Planned Development) about the noise, parking and hours of operation. Questioned the main nature of complaints received.

Mr. Bryner stated that the parking is an issue, spilling over into the streets on either side, blocking driveways, creating a nuisance for existing home owners. Stated the City had cited this property numerous times. Explained that this property is being used as a full commercial event center rather than a residence.

Mr. Bixby questioned who instigated this PD (Planned Development).

Mr. Bryner stated that due to the numerous citations, the owners of the residence are being compensated monetarily for these events. Looking for feedback from appointed officials for the appropriate zoning. If necessary, having the property owner go through the site plan process making sure it was a suitable usage for this location.

Mr. Bixby questioned if there was any interaction regarding the PD (Planned Development) between the City and the property owner.

Mr. Bryner stated that it was suggested to the property owner to apply for the PD (Planned Development), to have the City Council make the determination on the accurate zoning for this location. Property owner choose to not go that direction. Been an ongoing issue, at a point were now it is appropriate for the City to go ahead and initiate this matter.

The owner was notified by the standard notification process.

Mr. Famble questioned the staff, stated that he could sense the PD (Planned Development) was not an appropriate use for this location.

Mr. Bryner explained that it was not an appropriate use in this location. However if the Commission did feel it was appropriate, we would like the PD (Planned Development) to be approved as written. With the approval of the PD (Planned Development) they would be required to make some improvements, as well as parking and hours of operation would be monitored. Mr. McClarty stated that the owner has made parking arrangements with neighboring properties in the area. My Bryner stated that is fine, if worked out with the site plan process.

Ms. Yungblut questioned why the property is zoned AO and not Residential.

Mr. Bryner stated that being an older home, when it was annexed in, it has never gone through a re-zoning process since.

Chairman Famble opened the public hearing.

Mr. West (homeowner) spoke in favor of the zoning changes. Purchased the home in question, stated that the City zoned the home as PD (Planned Development); therefore Commercial Event Center have never been appropriate. Purchased the home in 2008, hosted a few weddings and photo shoots around the property. Spoke to Abilene Christian University regarding the usage of their parking lot during functions. The college supported the usage of the 63 parking spaces that are not being utilized by the students, explained an agreement was signed stating this. The property is zoned AO (Agricultural Open Space). Research showed the Swenson House (1726 Swenson Street) is zoned AO (Agricultural Open Space) and utilizes their property in the same manner. Due to events and complaints by a neighbor, the City has issued citations. In 2010, it went before Judge Barton concerning the citations, was informed the need to file a permit.

Mr. Famble asked if Mr. West was acceptable with a PD (Planned Development) zoning.

Mr. West stated that he was acceptable with the zoning.

Mr. Bixby asked for clarity on concerns from the neighbors regarding this property.

Mr. West stated that noise, parking and the flow of traffic are an issue. Purchased a sound system that helps control the noise levels. The surrounding property in question is 6 blocks south, 2 blocks east as well as Abilene Christian College owns two (2) blocks east.

My Bixby questioned the times of operation.

Mr. West stated that operation has been until 11:30 pm, but is flexible on the days and times.

Mr. Woody (Neighbor) spoke in opposition of this request. Mr. Woody has lived in his home since 1987, specified the fondness of keeping this well-established neighborhood safe and quiet. Hesitant about the decline in the property values, safety of the younger children due to the traffic congestion.

Mr. Famble questioned Mr. Woody would be content with the re-zoning to a PD (Planned Development).

Mr. Woody stated that he would like the zoning denied, and keep the neighborhood the way it is.

Mr. Bixby questioned Mr. Woody if they would consider a PD (Planned Development) would consider any of the following. Off-street parking shall be required at a minimum of at 1 space per

4 guests at maximum occupancy. Hours of Operation/Noise: No event may continue past 11 p.m. and all outdoor speakers must be directed away from single-family homes

Mr. Woody indicated that with a PD (Planned Development) it is non-specific, stated it does not belong within a residential neighborhood. Would like it zoned RS-6 (Residential- Single Family)

Ms. Yungblut asked for clarity on the AO (Agricultural Open Space) zoning if left alone.

Mr. Woody stated that the property was zoned years ago when Abilene Heights was developed, would like to see it zoned Residential- Single Family (RS-6).

Mr. Shoemaker (Neighbor) is not in favor nor opposed of this zoning. Stated that not many residents are against this issue, only one resident was in opposition.

Explained that the property had been used for multiple events prior to Mr. West purchasing it. Stated that Abilene Christian Collage was more of an inconvenience to this neighborhood due to heavy traffic and parking issues.

Mr. Young (Abilene Christian University) Spoke in favor of the re-zoning to make this property an event center. Being an historic home with acreage, it would be beneficial to the neighborhoods property values. And with the recommended restrictions that are placed on it, would be beneficial to the area.

Mr. Famble closed the public hearing.

Mr. McClarty spoke about limiting the amount of events to 10-15 per year, and an ending time 11:00 p.m. on Friday and Saturday and 10-10:30 p.m. during the week.

**Mr. McClarty made a motion to approve Z-2013-33. Ms. Yungblut seconded the motion and the motion carried, by a vote of 6 in favor (Bixby, McClarty, Rosenbaum, Todd, Yungblut, and Famble) and none opposed.**

#### **Item Six: Discussion Item**

Oilfield Services as permitted use in the Five Points Business Park.

Mr. Jon James stated in the last meeting, there was an amendment that added power generation facilities to the PD. Has not gone to City Council yet, was approached about making an additional change to the PDD (Planned Development District) to allow oil field services as a use, and based on a potential tenant to the Five Point Business Park. We are recommending this change to the Council at their next meeting, making Planning and Zoning Commissioners aware of this possible change and provide any feedback that might be needed.

#### **Item Seven: Director's Report**

The City Council approved all that was recommended over the past month. Reminder of the

*Special Planning and Zoning Meeting, Monday September 16<sup>th</sup>, 2013 at 1:30.* Discussing Lake Fort Phantom Overlay District, discussing sidewalks, no ordinance at this point, RV Travel Trailer Ordinance, we received information from other cities and we will be bringing it to you at the next meeting, will possibly have ordinance language to review, and discussing site plan triggers as well, Have been doing research on what threshold of development should trigger the requirement for a site plan.

Mr. Rosenbaum inquired about the September 16<sup>th</sup> meeting, if there would be a discussion or a motion that would be needed regarding sidewalks, due to not being able to attend the special meeting.

Mr. James stated that other than the Lake Fort Phantom, all others are intended to be discussion items and will bring back to discuss at a future meeting.

**Item Eight: Adjourned:**

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

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