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**PLANNING & ZONING COMMISSION**  
**January 6<sup>th</sup>, 2014**  
**Minutes**

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

Members Absent:                   Fred Famble

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:                   Mike Maberry  
  John Mangaronzo  
  Amber Massey  
  Dustin Massey  
  Norma Harper  
  Kenneth Musgrave  
  Chad Carter  
  Megan Santee  
  Tal Filligim

**Item One: Call to Order**

Mr. Tim 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. Todd moved to approve the minutes of the December 2<sup>nd</sup>, 2014 meeting. Mr. Rosenbaum seconded the motion and the motion was carried unanimously.**

**Item Four: Plats:**

Mr. Rainbow presented the staff report for these cases.

**FRP-2713**

A public hearing to consider a plat of Holiday Inn Addition, Abilene, Taylor County, Texas, A Replat of Lot 115, Block A, Replat of Section 1, Hilltop Addition.

**FP-8813**

A public hearing to consider a plat of Southlake Estates, Continuation 1, Section 1, to the City of Abilene, Taylor County, Texas.

**MRP-9213**

A public hearing to consider a plat of 101, Block A, Universal Units, Abilene, Taylor County, Texas.

**PP-9413**

A public hearing to consider a Preliminary Plat for Andrews Addition, Abilene, Taylor County, Texas.

**FP-9613**

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

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

**Mr. Rosenbaum moved to approve FRP-2713, FP-8813, MRP-9213, PP-9413, FP-9613, Mr. Glenn seconded the motion and the motion carried by a vote of four (4) in favor (Mr. Bixby, Mr. McClarty, Mr. Rosenbaum) none (0) opposed. (Ms. Yungblut abstained from FRP-2713, MRP-9213, PP-9413 and FP-9613, Mr. Todd abstained from FRP-2713, MRP-9213, PP-9413 and FP-9613.**

**Item Five: Zoning**

a. **Z-2013-38 TABLED FROM THE 12/2/2013 MEETING**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Don Bledsoe, Agent Chris Barnett, to rezone property from AO (Agricultural Open Space), AO/COR (Agricultural Open Space/Corridor Overlay), and RS-8/COR (Single-Family Residential/Corridor Overlay) to MF (Multi-Family Residential) & GR/COR (General Retail/Corridor Overlay) zoning, being 41.118 acres located on the west side of the 6600-7000 block of Buffalo Gap Rd. **WITHDRAWN BY APPLICANT**

**b. Z-2014-01**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Sitzes Treadaway, LLC, agent Enprotec/Hibbs & Todd, Inc., and the City of Abilene to rezone property from HI (Heavy Industrial) to LI (Light Industrial) zoning, located at 2433, 2449, & 2479 S. Treadaway Blvd.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned RS-6 and developed with a school and the previous location of a Boys & Girls Club. The surrounding properties in all directions are also zoned RS-6 and developed with single-family homes. The requested zoning would allow for the re-use of the Boys & Girls Club to be a health clinic. The NO zoning was created to be compatible adjacent to residential uses. The zoning restricts the maximum size of buildings to 15,000 square feet. It also restricts the hours of operation to be between 7 am and 11 pm. The proposed use will not require expansion of the building or any substantial changes to the building or site.

The Future Land Use section of the Comprehensive Plan designates the area as 'low density residential'. The property is located in the middle of a single-family residential area. The site is the location of Fannin Elementary School and a Boys & Girls Club. The requested zoning would allow for re-use of the Boys & Girls Club to allow for a neighborhood health clinic. 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. Zero (0) comment forms were received in favor and zero (0) in opposition.

**STAFF RECOMMENDATION:**

Staff recommends approval as requested.

Chairman McClarty opened the public hearing.

Mr. Mike Mayberry (owner) asked for clarification on the property from HI (Heavy Industrial) to LI (Light Industrial).

Mr. McClarty stated that the property is currently zoned HI (Heavy Industrial). If plans include adding on or selling the property, it would then need to be re-zoned to LI (Light Industrial) due to the zoning ordinance in that area.

Ms. Sue Mosley (sibling to property owner) Inquired when the re-zoning for the surrounding properties were changed from LI (Light Industrial) to HI (Heavy Industrial).

Mr. Jon James stated that prior to 2010 that larger area was zoned HI (Heavy Industrial). In 2010 the *Land Development Code* was changed to HI (Heavy Industrial).

Chairman McClarty closed the public hearing.

**Mr. Rosenbaum made a motion to approve Z-2014-01. Bixby seconded the motion and the motion carried by a vote of four (4) in favor (McClarty, Rosenbaum, Bixby, Glenn) and zero (0) in opposition and two (2) abstained (Mr. Todd, and Ms. Yungblut).**

**c. Z-2014-02**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Dub Wright Blvd, LLC, agent Enprotec/Hibbs & Todd, Inc., to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at 3533 Dub Wright Blvd.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned AO and developed with a house. The surrounding properties to the west are zoned AO and are undeveloped. The properties to the north and east are zoned GC and developed with a self-storage facility and a gas station. The requested zoning would allow for expansion of the self-storage use.

The Future Land Use section of the Comprehensive Plan designates the area as 'low density residential'. The property is located near an existing highway interchange with existing commercial development and property zoned for future commercial development. Commercial development is recommended to be developed at nodes and concentrated at major intersections. The property is adjacent to an existing self-storage facility and near an existing gas station. The requested zoning would allow for expansion of the existing use. 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. Zero (0) comment forms were received in favor and Zero (0) in opposition of the request.

**STAFF RECOMMENDATION:**

Staff recommends approval as requested.

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

**Mr. Glenn made a motion to approve Z-2014-02 as requested. Mr. Rosenbaum seconded the motion and the motion carried by a vote of four (4) in favor (Mr. Bixby, McClarty, Rosenbaum, Glenn) and zero (0) in opposition (Mr. Todd and Ms. Yungblut abstained )**

**d. CUP-2014-01**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Amber Massey for a Conditional Use Permit to allow for Day Care Operation - Home-Based on property zoned RS-6 (Single-Family Residential), located at 3274 White Wing Way.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned RS-6 and has been developed with a home. The adjacent properties are developed as part of a large subdivision with similar homes. The homeowner currently runs a home-based day care at the home. The current regulations for home-based day cares limit the number of children receiving care to 6. However, with approval of a Conditional Use Permit, the number of children can be increased to more than 6 under the regulations provided by state law up to a maximum of 12 children. The

request is to allow for a 'Day Care Operation - Home-Based' to allow for the home-based day care to care for more than 6 children. No changes to the home are needed/requested by the applicant.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential uses. The request would allow for expansion of an existing home-based day care. The Conditional Use Permit request would be compatible with the surrounding uses.

Property owners within a 200-foot radius were notified of the request. Two (2) comment forms were received in favor and three (3) in opposition.

**STAFF RECOMMENDATION:**

Staff recommends approval as requested.

Mr. Todd stated that the state has regulated the number and age of children, inquired if there was a safety net from the City to make sure of this.

Mr. Bryner stated that if a complaint was made regarding the daycare, we would then contact the homeowner and inquire about their State Daycare License and see if they are meeting such state requirements.

Mr. Bixby asked if state regulations are all that is looked at.

Mr. Bryner stated that the locations of the home and traffic liabilities are less, which made it more of a desirable location. Majority of the consideration was based on the rules outlined through the State of Texas.

Mr. Jon James explained that six (6) has been the limit for years, above that would need approval of a Conditional Use Permit, for which surrounding property owners would be notified.

Chairman McClarty opened the public hearing.

Ms. Amber Massey (Daycare Owner) spoke in favor of this zoning. Ms. Massey is the owner of this childcare facility along with her retired husband Dustin Massey. Stated that there are homes in Abilene that do have their limit of twelve (12) children, six (6) under the age of four (4) and six (6) school age. Our current daycare will not consist of school age children. In discussion with Region 14, to have our home become the first childcare home to be "*Texas School Ready Certified*" the ages would consist of 2, 3 and 4 year olds in a preschool setting.

Mr. Rosenbaum inquired how many children per your license are you able to have.

Ms. Massey stated that she is licensed for twelve (12). Does not have a before and after school childcare program, therefore transportation is only used for field trips or extracurricular activities paid for by the parents.

Mr. Rosenbaum inquired about the "*Conditional Use Permit*".

Ms. Massey stated that I was approved with the State of Texas for twelve (12) children, the state checked the city ordinance and found out the ordinance was outdated, and it did not comply and was old that there were complications with City Council.

Mr. Glenn inquired about how many employees and if parking would be an issue.  
Ms. Massey stated that one employee as needed, besides her husband and her.

Chairman McClarty closed the public hearing.

Mr. Bixby voiced his concern on approving this zoning, due to the three (3) adjacent neighbors that were opposed.

Ms. Yungblut inquired why neighbors were not at this meeting to voice their opinion.

Chairman McClarty opened the public hearing.

Ms. Massey stated that the letters that were sent out by Planning and Zoning, the surrounding neighbors thinking the daycare was a larger facility then it was.

Chairman McClarty closed the public hearing.

**Mr. Glenn made a motion to approve CUP-2014-01. Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor (McClarty, Todd, Yungblut, Rosenbaum, Bixby, Glenn) and zero (0) in opposition.**

**e. Z-2014-03**

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 RS-6 (Single-Family Residential) to NO (Neighborhood Office) zoning, being approximately 1 acre located on a portion of 2726 N. 18th St.

Mr. Ben Bryner presented the staff report for this case. Currently the property is zoned RS-6 and developed with a school and the previous location of a Boys & Girls Club. The surrounding properties in all directions are also zoned RS-6 and developed with single-family homes. The requested zoning would allow for the re-use of the Boys & Girls Club to be a health clinic. The NO zoning was created to be compatible adjacent to residential uses. The zoning restricts the maximum size of buildings to 15,000 square feet. It also restricts the hours of operation to be between 7 am and 11 pm. The proposed use will not require expansion of the building or any substantial changes to the building or site.

The Future Land Use section of the Comprehensive Plan designates the area as 'low density residential'. The property is located in the middle of a single-family residential area. The site is the location of Fannin Elementary School and a Boys & Girls Club. The requested zoning would allow for re-use of the Boys & Girls Club to allow for a neighborhood health clinic. 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. Zero (0) comment forms were received in favor and zero (0) in opposition.

## **STAFF RECOMMENDATION:**

Staff recommends approval as requested.

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

**Mr. Bixby made a motion to approve Z-2014-03. Ms. Yungblut seconded the motion and the motion carried by a vote of six (6) in favor (McClarty, Todd, Yungblut, Rosenbaum, Bixby, Glenn) and zero (0) in opposition.**

### **Item Six: Ordinance Amendment: Land Development Code Related to Sidewalks**

- a. Public hearing and possible vote to recommend approval or denial to the City Council on an ordinance amending the Land Development Code related to Sidewalks.

Mr. Jon James presented the follow-up to discussions that were made a couple of meetings ago regarding the *Sidewalk Ordinance*. Was given a list of recommendations, and we would come back with any changes needed. One of the major changes was going to a map based analysis of the city, and incorporating the Sidewalk Master Plan with a map that would illustrate on what streets sidewalks would be or not required.

#### Summary of these changes:

- RS (Residential Single Family Subdivisions) being at the option of the developer could choose whether to construct sidewalks on the local streets in a residual subdivision. Staff remains in opposition on this matter although we have drafted this ordinance per your recommendation.
- Exempt AO (Agricultural Open Space) land that does not trigger a site plan. Anything zoned AO that is not of commercial nature, would be exempt.
- Exempting plats that do not trigger other street improvements. If a residential plat would we want sidewalk constructed or not?
- Exempting plats along rural or TxDOT roadways that have ditch drainage cross sections.

Mr. Bixby inquired on the staff prepared recommendation, what is the process of determining which designated streets require sidewalks.

Mr. James stated through this process would be to design a "*Sidewalk Master Plan Map*" based on these criteria. This would be voted on by the Commission and City Council.

Mr. McClarty inquired about the appeal process would be if a sidewalk was not desired.

Mr. James states that once a basic appeal process is triggered, they would submit a letter requesting a waiver and or deferral. Would then be reviewed by staff, a determination is made jointly by the

Planning Director and the City Engineer. The applicant is informed by letter. If not agreed upon by Planning Director and City Engineer, then it would go to the City Manager office for a final decision. If denied by staff they have 10 days to appeal to City Council. If a *waiver* is denied, in some cases a *deferral* may be approved.

Mr. Todd inquired when the “*Designated Streets*” begin. Desired clarity on what defines an expressway.

Mr. James explained the definition of an expressway per the Sidewalk Ordinance and pointed out that this definition differs from the more general term “expressway” as defined by the Thoroughfare Plan.

Mr. McClarty opened the public hearing.

Tal Filligim spoke in favor of exempting plats along rural or TxDOT roadways. Does it pertain to site plans?

Mr. James stated that as it is worded it only pertains to plats not site plans.

Mr. Filligim mentioned it is important to include all bar ditch roads that are otherwise improved. Would like see the wording modified.

Mr. McClarty inquired about property with a bar ditch that is to be developed, at what time would sidewalks be required.

Mr. James stated at the time of platting.

Mr. Filligim stated if there are no other improvements to roadways necessary or required, sidewalks should not be installed.

Mr. James stated that an outright exemption shifts the cost from the developer to the taxpayers. Notifying a developer they don't need to build a sidewalk, you are increasing the cost down the road for the City or TxDOT when road improvements go in.

Mr. McClarty closed the public hearing

Mr. Rosenbaum inquired about exempt plats that do not trigger other street improvements.

Mr. James stated that the plat would not have triggered sidewalks, but the site plan would have. Do not recommend outright exemption.

Mr. Bixby inquired about the sidewalk ordinance ~ *12.4a. Requirements for New Streets: Sidewalks shall be required and both side of all new streets, except on local streets in a (RS) Residual Single family Subdivision.* Desire is for it to say ‘*Identified Streets*’ rather than on all streets.

Mr. James stated that sections of the ordinance will change once the map is in place.

Mr. Rosenbaum stated a map should be in place before any discussion or changes are made.

Mr. Bixby inquired about *12.4b. Sidewalks should be provided at the time of road construction on all new expressways, frontage roads, arterials and collector streets.*

Mr. Rosenbaum questioned what if a map was not in place?



Mr. James stated that we can make those changes that there were some consensus on. Then come back and make the changes necessary once the map is in place, which was our understanding of the Commission's direction.

Mr. Rosenbaum made a motion that this ordinance is to be reviewed by City Council with a stipulation that more work is needed to complete.

**Mr. Rosenbaum made a motion to approve the land development Code. Ms. Yungblut seconded the motion and the motion carried, four (4) in favor (Bixby, Todd, Yungblut, Rosenbaum) and none (2) in opposition (Mr. McClarty, Mr. Glenn).**

**Mr. Rosenbaum indicated that he is needed leave and would like to discuss next items out of sequence:**

**Item Seven: Discussion item: Land Development Code related to Section 3.2.5.2 Wastewater, The City System.**

Mr. Jon James spoke about this item at the request of a commissioner. The Land Development requires with any new development within the city has to connect to the city sewer system with some exceptions agricultural, large lots and exceptions for the lake area due to no sewer system. The ordinance allows: *The required extension of municipal sewers maybe waived per the City Council acting on the advice of the Planning Director and Director of Water Utilities determines such extensions would require unreasonable expenditures and onsite sewage disposable facilities will function properly.* The interpretation of is, only when both the Planning and Water Utility Director advise in favor, does it then go before the City Council for consideration.

In a recent case, an applicant sought approval to develop on septic systems not connecting to the City Sewer. Both Directors reviewed, and made the determination that it wasn't their advice to do so. Therefore, it was not eligible to go before City Council.

Mr. James inquired if this is what the ordinance should say, or should we amend this ordinance to allow the appeal to go before City Council? Prior to 2010, almost every subdivision rule did not have an appeal process.

Mr. McClarty stated there always was a way for a citizen to appeal or to present their side of the story to City Council. Everyone should have that right to the appeal process.

Mr. James stated that this is not new to the Land Development Code, when this was written there were no appeals and no exceptions to this process.

Mr. Dan Santee (Legal) spoke that City Council is willing to participate in improvements. The value of waste water today is vastly different then 30 years ago. We are being told by our consulting engineers the value of this waste water and are being told to capture as much as possible. This one development is estimating possible 20,000 future residents in this area.

Mr. James stated this does not require a public hearing, we are asking today for direction should we bring back an ordinance at a future meeting.

Mr. McClarty closed the public hearing.

Mr. McClarty advised that all Commissioners are in agreement to bring back an ordinance amendment for consideration on the *Right to Appeal* to the City Council through the Planning and Zoning Commission.

**Item Six: Discussion Item:**

- b. Public hearing and possible vote to recommend approval or denial to the City Council on an ordinance amending the Land Development Code to create and adopt standards for a Lake Fort Phantom Hill Overlay zone.

Mr. Ed McRoy spoke about amending the Land Development Code to adopt standards for a Lake Fort Phantom Hill Overlay zone. Activities within this overlay district shall be governed by all regulations of the underlying zoning district, including regulations for site development, landscaping, signs, performance standards, etc, except where modified by the provisions of this Section.

- (a) **Purpose.** The primary purpose of this overlay district is to encourage high quality development and redevelopment within the district that meets the goals of the Lake Fort Phantom Hill Land Use Plan.

Development and redevelopment within this district should be compatible with lakeside development and support a unified community image consistent with the design guidelines of the LFPH Land Use Plan. Uses are intended to include residential, retail, restaurants, services, recreational, offices, educational and related uses. Development in the area should be of high quality with well-designed buildings and attractive landscaping in a pedestrian friendly environment. When questions of compatibility arise relating to site design, materials, or landscaping, it is the intent of this provision that the Director should consider the views of owners, residents, professionals or stakeholders in rendering decisions.

- (b) **Land Use.** Allowable uses within the overlay district shall be per the underlying zoning district, except as modified below.
- (1) The following uses are allowed only with a Conditional Use Permit, which shall only be granted for such uses that are compatible with the development goals of the overlay, including incorporating appropriate conditions to address elements such as building design, landscaping, screening, limitations or prohibitions on outdoor activities, and the like.
  - Recreation – Outdoors (active)
  - Vacation Travel Trailer Park
  - Marina
  - Commercial Boat Docks
  - Fuel Sales
  - Major or minor vessel repair

- Sale and rental of small boats, personal watercraft, boat parts and accessories
- (2) Wind Energy Conversion Systems within 1,320 feet of the shoreline of Lake Fort Phantom Hill (1,636 mean sea elevation (MSL))
- (3) The following uses are prohibited within the overlay district:
- Commercial Uses:
    - Animal Shelters, Kennels and Feedlots
    - Pet Grooming
    - Automotive Sales and Services
    - Pawn Shops
    - Payday or Title Lending Services/Credit Access Businesses
    - Tattoo Parlors
  - Utilities:
    - Sanitary landfills
  - Recreational/Entertainment Uses:
    - Zoo
    - Fairgrounds/Rodeo
    - Motorized Racing
    - Outdoor Gun Range
  - Others:
    - Mobile Homes/Manufactured Homes

Resource Production and Extraction
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- |   |
|---|
| <ul style="list-style-type: none"> <li>○ Mining</li> <li>○ Petroleum or Gas Well</li> </ul> |
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Mr. McRoy stated residents are expressing interest for underground utilities. For setbacks, the property that faces the lake is treated as the front of the house as well as the side that faces the street. The City does not require to do underground utilities. Lake area has some challenges due to the topography.

Mr. Todd inquired if the state allows for the calculation of the half- acre to be underneath the lake? Mr. McRoy advised it was discussed before any of the property was sold. Lots are state law required that you have a lease. The city would then have to offer you the first option to purchase. For commercial purposes, planting would need to be above the spillway elevation of 1636.

Mr. Todd inquired about pumping water out of the lake for water purposes.  
Mr. McRoy stated that it goes beyond our zoning that will be a water issue instead.

Fencing: One of the things the ordinance calls for: Preserving the view of the lake. The fence standards suggest 50% of all fences from the house back be non-opaque in color that will allow a non-obscured view of the lake.

Concerns around the lake are:

Parking of large recreational vehicles and boats.

Signage requirements are at a 25ft height maximum.  
Sidewalks and trails should be the same as the city ordinances are.

Walkways are a maximum 8ft wide. Maximum dock length is 200 feet, or 1/3 distance of a cove. Docks need to be set back away from your sidelines. And can be floating or stationary with proper marine floatation.

**Mr. McClarty made a motion to approve the above items identified carried. Mr. Bixby seconded the motion and the motion carried by a vote of five (5) in favor (McClarty, Todd, Yungblut, Bixby, Glenn) and zero (0) in opposition.**

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

The City Council approved both items per your recommendations.

**Planning and Zoning Commission meeting was adjourned at approximately 5:05p.m.**

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