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**PLANNING & ZONING COMMISSION**  
**February 3rd, 2014**  
**Minutes**

Members Present: Fred Famble  
Gary Glenn  
Tim McClarty  
Clint Rosenbaum  
David Todd

Members Absent: Pam Yungblut  
Bruce Bixby

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: Don Bledsoe            Brandon Young  
Steve Ellinger            Chad Carter  
Timmy Simmons        Ken Musgrave  
Doug Kreidler            Wesley Brooks  
Ben McAnaley           Lance Johnson  
John Mangalanzo        Angela Benson  
Gene Reed                Dale Scoggins  
Megan Santee

**Item One: Call to Order**

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

**Item Two: Invocation**

Mr. Famble gave the Invocation.

**Item Three: Approval of Minutes:**

**Mr. McClarty moved to approve the minutes of the January 6th, 2014 meeting. Mr. Glenn seconded the motion and the motion was carried unanimously.**

**Item Four: Plats:**

Mr. Rainbow presented the staff report for these cases.

**MRP-2913**

A public hearing to consider a plat of Lot 101, Block 117, Original Town of Abilene, A Replat of Lots 3-12, and a Portion of an Abandoned Alley Running North and South in Block 117, Original Town of Abilene, Taylor County, Texas.

**FP-8313**

A public hearing to consider a plat of Section 2, Southlake Estates, to the City of Abilene, Taylor County, Texas.

**MRP-0314**

A public hearing to consider a Plat of Hendrick Home For the Children Addition, Abilene, Taylor County, Texas.

**MRP-0414**

A public hearing to consider a Plat of Fannin School 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 MRP-2913, FP-8313, MRP-0314, and MRP-0414. Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor and none (0) opposed (Mr. Todd abstained on MRP-0314, MRP-0414)**

**Item Five: Zoning:**

a. **Z-2014-04**

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 PD/COR (Planned Development/Corridor Overlay) zoning, being 41.118 acres located on the west side of the 6600-7000 block of Buffalo Gap Rd.

Mr. Bryner presented the staff report for this case. Currently the property is zoned AO & RS-8 with Corridor Overlay and is undeveloped. The property to the west is zoned AO & RS-8 and is being developed with a residential subdivision. The properties to the east are zoned GR (General Retail), AO & RS-8 and include a mix of retail, office and some residential development. The property to the south is zoned AO and is undeveloped. The property to the north was recently rezoned to RS-6 (Single-Family Residential). The requested PD zoning would allow for multi-family residential and retail development.

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. An exhibit (included at the end of this report) was provided showing the extension of Velta Dr. from the neighborhood to the west to intersect with Buffalo Gap Rd. The requested zoning would extend the retail zoning southward away from the intersection in more of a strip development. The requested zoning would be a transitional zoning from the retail development along Buffalo Gap Rd to the single-family residential zoning to the west. The requested zoning would be compatible with the adjacent uses and the Comprehensive Plan except for the GR zoning extending south of the future alignment of Velta Lane.

Property owners within the 200 feet of the zoning request were notified. Five (5) comment forms were received in favor and six (6) in opposition

### **STAFF RECOMMENDATION:**

Staff recommends approval as requested with the exception that the area for GR zoning not extend south of the future alignment of Velta Lane.

Mr. Jon James stated that when Dollar General was rezoned, City Council discussed whether zoning was appropriate on the east side of the road, therefore recommending against the commercial zoning on the other side of the road to extend farther south.

Mr. Rosenbaum inquired about other zonings.

Ben Bryner stated that the desired zoning is GR (General Retail).

Mr. Glenn stated with this modification in this zoning, if this area becomes a widely traveled area, would there be a need to re-zone at a later date?

Mr. Jon James stated the goal is to have the appropriate zonings, to alleviate any traffic problems. The goal is to have commercial more at nodes, around intersections but not extending too far out and down those major arterials.

Mr. Glenn spoke about the noise levels on Buffalo Gap Road.

Mr. McClarty stated that a no recommendation north and south of Velta there is little land to be developed due to being in the flood zone.

Chairman Famble opened the public hearing.

Mr. Chris Barnett (representing property owner, Don Bledsoe) stated that the hearing was postponed, to address some screening and setback concerns from the property owner to the west. Increasing the landscape buffer, screening and setbacks, states that it does comply with the long-term comprehensive plan. The flood zone area on the GR (General Retail) portion that is being requested, is approximately 50% of the Twenty-Four acres, Twelve acres are useable for developing.

Mr. McClarty stated that the staff is recommending no GR (General Retail) past Velta and go with NO (Neighborhood Office) for your office zoning.

Mr. Barnett stated with the availability of property at this node is short based on the flood plain. Therefore it was conveyed that GR (General Retail) was the appropriate zoning. Planning on potentially developing (3) three lots. Platting has not been completed yet, will plat into several pieces. On the MF (Multi-Family) portion the density was reduced anticipating for 24 units per acre, with all the setbacks, will be way below that.

Mr. Tal Filligim (Agent, Musgrave Enterprises) developer to Wiley Legacy Subdivision spoke in opposition of the MF (Multi-Family). The first two phases are zoned RS-8(Single-Family Residential). Phase III zoning will be RS-12 (Single family Residential-12) due to increased lot size. Has an approved Preliminary Development Plan. Home size and value continues to increase as development continues south. Property owner has concerns with being a *speculative zoning*, feels not restrictive enough, with possible traffic concerns. Looking to a less intense zoning MD (Medium Density).

Mr. McClarty stated that he had a question for the developer: Inquired if there was a consideration of up-scale residential lots? Much higher profit if zoned RS-12(Single-Family Residential) or RS-8(Single-Family Residential) due to more lots and a higher profit.

Mr. Dale Scoggins (Property Broker listing the property) spoke about this development. Spoke about lots 6401 and 6381 that were sold to HEB grocers. Preliminary Plans are to build an 85,000 sq. ft. building on this site, a transition would then be needed due to an influx of traffic.

Mr. Ken Musgrave (Developer Musgrave/Musgrave) stated that he is not in favor nor opposed to the GR (General Retail) on Buffalo Gap Road, wanted to speak about the MF (Multi-Family) zoning request. Company purchased Wiley Legacy back in 2012, is aware the property in question is *speculative zoning*. Traffic is a concern, therefore is opposed to the MF (Multi-Family) zoning.

Chairman Famble closed the public hearing.

**Mr. McClarty made a motion to TABLE Item Z-2014-04 until March 3<sup>rd</sup>, 2014 meeting. Mr. Rosenbaum seconded the motion and the motion carried by a vote of four (4) in favor (Glenn, McClarty, Rosenbaum, Famble) and (1) in opposition (Mr. Todd)**

b. **Z-2014-05**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Allsup's Convenience Stores, Inc, agent DSA Architects, to rezone property from HI (Heavy Industrial) to HC (Heavy Commercial) zoning, being 3.32 acres located at 3023 Pine St.

Ben Bryner presented the staff report for this case. Currently the property is zoned HI and is developed with a convenience store with fuel sales, a residence, and a small commercial building. The surrounding properties to the north, south, and east are also zoned HI and are being used with industrial and commercial uses. The properties to the west are zoned HC and has a mix of uses from portable building sales, a residence, and other commercial uses. The property falls within the Pine Street Corridor Overlay. With adoption of the Land Development Code (LDC) the HI zoning became much more restrictive and no longer allows for uses that previously were allowed. The requested zoning would allow for a complete redevelopment of the property for a new Allsup's convenience store with associated fuel sales.

The Future Land Use section of the Comprehensive Plan designates the area as part of a 'major commercial/business center'. The property is located on Pine Street, which is an enhancement corridor. The requested zoning would allow for redevelopment of the existing convenience store with associated fuel sales 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.

Chairman Famble opened the public hearing.

Ms. Angela Benson (Architect/agent DSA for Allsup's Petroleum) spoke in favor of this zoning and requests approval for their new store.

Tommy Simmons (Property owner) spoke in favor of this zoning.

Chairman Famble closed the public hearing.

**Mr. Glenn made a motion to approved Z-2014-05. Mr. McClarty seconded the motion and the motion carried by a vote of five (5) in of favor (Rosenbaum, Famble, Glenn, McClarty, Todd) and zero in opposition.**

#### **Item Six: Thoroughfare Closure:**

**a. TC-2014-01**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Lance Johnson to abandon the alley located north of 137 Oak St running the length of the building.

The applicant is requesting to abandon the alley right-of-way to be able to utilize the area for better access and use of his new office located at 137 Oak St. The alley has not been used recently and therefore will not directly affect traffic in the area. However, both public and private utilities are located within the alley ROW and therefore a utility easement will be needed. The remaining portions of the alley will stay open and provide for access to the other properties in the block except for the property to the north. The closure would result in no alley access for the property to the north and staff only supports the abandonment if there is no opposition from the property owner to the north.

The closure of the alley does not create any violations to the maximum block length in this area. The adjacent streets remain open for traffic to maneuver the area.

**RECOMMENDATIONS:**

**Plat Review Committee:** Approval of the requested street ROW closure with the following conditions:

1. A 20' Utility Easement shall be required for existing public and private utilities.
2. The applicant must replat within 12 months, at which time any issues regarding access to utilities and/or relocation of utilities will be resolved. The replat must not create any non-conforming lots.

Property owners within the 200' of the subject rights-of-way were notified. Zero (0) comment forms were received in favor and two (2) in opposition of the request.

**STAFF RECOMMENDATION:**

**Approval** of the requested ROW abandonments per the Plat Review Committee recommendations and if there is no opposition from the property owner to the north.

Mr. Glenn inquired why the owner wants to close the alley.

Mr. Bryner states due to access on the north side. As a ROW (right-of-way) there would be limited improvements that could be made due to its public usage. Closing it would allow better access for those improvements. The applicant is planning to plat the area into their property.

Mr. Jon James stated by doing this, it would allow them to make the improvements to their building. There are some limited opportunities to do that through a street use license, in this case would like more control of the area. If more information is needed before closure is made, can table item to a later date.

Chairman Famble opened the public hearing.

Mr. Lance Johnson (Property Owner) stated that he has spoken to Mr. Tom Watson owner of the Matera Building, stated that Mr. Watson was in favor of this closure. Mr. Johnson explained possibly making it into a courtyard type setting with a deck and awnings. Will use the building for office space.

Chairman Famble closed the public hearing.

**Mr. McClarty made a motion to approve Pending staff speaks to the property owner to the north, and confirm that all are in agreement with this closure.**

Mrs. Messer stated that we are not able to vote on a *pending motion*.

Mr. Jon James clarified if it is the intent to recommend approval on to City Council, but with the same stipulation that the Matera property owner is in agreement with other property owners as well. Would then move on to City Council.

Mr. McClarty stated that he would be opposed *IF* the Matera property owner was opposed.

**Mr. McClarty made the motion to APPROVE. For staff to contact the property owner to the north and make City Council aware of what was discussed. Mr. Todd seconded the motion with a vote of three (3) in favor (McClarty, Rosenbaum, Todd) and two (2) opposed (Glenn, Famble).**

**Motion failed due to the lack of four (4) votes.**

Mr. Glenn inquired we are able to go back for a *re-motion* to bring back for next month?

Ms. Messer stated that the vote was already made. It will be going before City Council to make a decision if applicant appeals.

Mr. Jon James stated that there is *parliamentary rule* if they choose not to appeal there could be a motion at the next meeting to reconsider it once again. And the motion would need to be made at the next meeting by someone that voted in opposition.

Mr. McClarty stated that it was not right to have Mr. Lance Johnson pay an added fee for the appeal due to the City not being able to contact the property owner.

Mr. Todd inquired if the fee could possibly be waved?

Mr. Jon James stated that the City Management makes the decision to wave the fee.

Mr. McClarty questioned the other Commissioners if we could go back and do a re-vote, whether the decision would change at all?

Ms. Messer stated that you cannot un-vote a vote. May re-consider the item before it goes before City Council.

Mr. Jon James stated that an added fee would not have to be paid as long as a motion is made to re-consider it is on the record. Those that voted to *deny* would need to make a motion to re-consider and possibly table it for another date.

**Mr. Glenn made a motion to re-consider the item. Mr. Famble seconded the motion. The motion carried with a vote of five (5) in favor (McClarty, Glenn, Rosenbaum, Todd, Famble)**

**Mr. McClarty made a REVISED motion to the above vote with the staff recommendation. Mr. Famble seconded the motion with a vote of five (5) in favor (McClarty, Glenn, Rosenbaum, Todd, Famble) and zero (0) in opposition.**

### **Item Seven: Ordinance Amendment:**

- a. Public hearing and possible vote to recommend approval or denial to the City Council on an ordinance amending the Land Development Code with regard to Section 2.4.2.13 The Land Use Matrix and Section 2.4.3.3 All Other Uses with Specific Requirements concerning Freight Containers.

Mr. Ben Bryner presented the staff report for this case. Currently the Land Development Code (LDC) currently does not allow for freight containers on property with Agricultural Open Space (AO) zoning. A request was made for the Planning staff to evaluate the regulations for possible inclusion of the AO district for having freight containers.

In reviewing the regulations found in the LDC, the Planning staff is proposing that freight containers be allowed in the AO zoning district with adequate screening and setback requirements. The screening would follow similar requirements for freight containers in Commercial districts. Additionally, freight containers in the AO zoning would be required to be located a minimum of 200 feet from property lines.

Staff is proposing to amend the Land Development Code (LDC) to allow for freight containers in the AO district. The sections proposed for amendment are Section 2.4.2.1 and 2.4.3.3 (a)(24).

### **STAFF RECOMMENDATION**

Staff recommends approval

Mr. Rosenbaum stated that he is not comfortable with the zoning.

Mr. Bryner stated that they would have to go through the standard permitting and with the *AO Zoning* would need to meet the 200 ft. setback *giving sufficient* distance or buffer from adjacent property owners.

Mr. Jon James stated that the 200 ft. would limit it to larger AO properties. Other alternative is to limit the AO properties to a certain size.

Mr. Bryner stated that a conditional use could be done as well.

Chairman Famble opened public hearing.

Mr. Steve Ellinger (Past President Abilene Clay Sports) spoke in favor of this zoning. At this time the storage unit is a tractor trailer on the property that is used to store their bio-degradable targets. Wanting to replace with a smaller, lower profile freight container. The location where this container would be placed will not be visible by any residents, being in a non-residential area.

Mr. McClarty was concerned that if approved, then every AO is able to put one in. Would there be an issue if we treat it as a *Conditional Use Permit*?

Mr. Jon James stated that making it a *Conditional Use Permit* would make it similar to a zoning application, and would require a \$1,500 dollar application fee.

Chairman Famble closed the public hearing.

**Mr. McClarty made a motion to approve that in AO districts, freight containers shall be located a minimum of 300 feet from the property lines, with no more than two containers per property, screening still applies. Mr. Famble seconded the motion and the motion failed by a vote of two (2) in favor (Famble, McClarty) and three (3) opposed (Glenn, Rosenbaum, Todd).**

**Motioned failed due to lack of four (4) votes.**

**Mr. Todd made a motion to submit this item as written to City Council. Mr. McClarty seconded the motion and the motion carried by a vote of three (3) in favor (Todd, Bixby, Famble) and (2) opposed (Rosenbaum, Glenn)**

**Motioned failed due to lack of four (4) votes.**

- b.** Public hearing and possible vote to recommend approval or denial to the City Council on an ordinance amending the Land Development Code with regard to Section 3.1.1.1 (c) (2) Applicability concerning expansion of buildings.

Mr. Ben Bryner presented the staff report for this case. The Land Development Code (LDC) requires that a property be a duly recorded lot of record in order to obtain a building permit. However, building permits may be issued for any property when associated with a building expansion of 30 percent or less of the existing floor area of the structure. A new accessory building requires a property to be platted in order to obtain a building permit.

The Planning staff is dealing with a scenario where new accessory buildings are proposed on a property that is not a duly recorded lot of record. The property has certain characteristics hindering it from being platted easily. Other properties have been required to plat in order to receive a building permit for portable buildings. In reviewing the ordinance, staff is looking into the possibility of expanding the exemption to include accessory buildings that do not exceed the 30% increase of total square footage on the property. This potential exemption would allow for new storage buildings and carports on all properties regardless of the plat status.

Staff is proposing to amend the Land Development Code (LDC) to allow the exemption to include new accessory structures where the increase of the total floor area is not greater than 30%. The section proposed for amendment are Section 3.1.1.1 (c) (2).

### **STAFF RECOMMENDATION**

Staff recommends approval as requested.

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

**Mr. McClarty made a motion to approve this ordinance amendment. Mr. Glenn seconded the motion and the motion carried by a vote of five (5) in favor (Glenn, Todd, McClarty, Rosenbaum, Famble) and none (0) opposed.**

- c. Public hearing and possible vote to recommend approval or denial to the City Council on an ordinance amending the Land Development Code with regard to Section 3.2.5.2 The City System concerning the use of on-site sewage disposal facilities.

Mr. Jon James presented the staff report for this case. The City of Abilene has a specific requirement that new development extend and tie-into the City's existing sanitary sewer system. In extremely limited circumstances, the City Council may waive the required extension of municipal sewers and approve the use of on-site sewage disposal facilities. Currently, this is only available when the Planning Director and the Director of Water Utilities, or designee, determine that such extension would require unreasonable expenditures and that on-site sewage disposal facilities will function properly. No appeal to the City Council is available if the determination by staff is that there are not unreasonable expenditures or that on-site sewage disposal facilities will not function properly.

Both the City Council and the Planning & Zoning (P&Z) Commission has asked staff to provide an amendment to the language that would allow for the City Council to hear appeals for the use of on-site sewage disposal facilities when requested by a developer.

The attached proposed amendment to the Land Development Code (LDC) will allow for the City Council review and approval of requests to use on-site sewage disposal facilities.

Mr. Glenn inquired how much of an issue is it the way it reads now for these land developers? Mr. James stated that this is the first time a developer had asked to not connect to the City Sewer. Therefore that developer wanted to appeal to the City Council. If you are too far out to connect to sewer, then you are too far out to develop.

Mr. Todd inquired about putting a benchmark on unreasonable expenses to off- sight costs.

Chairman Famble opened the public hearing. No one came forward the public meeting was closed.

**Mr. Todd made a motion to approve and adding a definition for extension for unreasonable expenditures with benchmark costs on on-site systems for each lot in the subdivision and installing dry sanitary sewer lines if waiver is granted. Mr. Glenn seconded the motion and the motion carried by a vote of five (5) in favor (Glenn, Todd, McClarty, Rosenbaum, Famble) and none (0) opposed.**

Mr. Rosenbaum left the meeting.

**Item Seven: Cobb Park Area Revitalization Plan:**

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to adopt the Cobb Park Area Revitalization Plan.

Mr. Jon James presented the staff report for this case. The City of Abilene's Comprehensive Plan promotes infill development and redevelopment in areas of the community that are vacant or underutilized. The Cobb Park Super Neighborhood Area is in the core of the City within an area that is in need of redevelopment. Key community facilities within this neighborhood are the Abilene High School, Martinez Elementary, and Cobb Park. The plan is intended to expand upon the general goals and strategies of the citywide Comprehensive Plan, not to supersede the recommendations of that Plan.

This plan identifies goals for future development and redevelopment, makes findings about the need for reinvestment and revitalization, identifies recent and planned investment in the area, and encourages implementation through joint efforts by the City, other public stakeholders, organizations, and the private sector.

The City will join with residents, neighborhood organizations, nonprofits, private developers, and/or other stakeholders to work to achieve the goals of this Plan. City support, programs, and incentives may be combined with state, federal, and private investment through the development of market rate and affordable single-family and multifamily housing, residential and commercial property development and renovation, and infrastructure improvements. In addition, community development projects, transportation improvements for motorized vehicles, bicyclists, and pedestrians, and/or other activities that will contribute to the development and long-term benefit of the area will be pursued.

**STAFF RECOMMENDATION**

Staff recommends approval as requested.

Mr. McClarty inquired about the large flood plain, and how they would rebuild and can they? Mr. James stated that if they were in the flood plain they would have to meet standards. In the floodway it would be much more difficult. Would be referred to the City Engineer, Mr. Chad Carter, for additional flood plain questions.

Chairman Famble opened the public hearing.

Mr. Gene Reed (Executive Director, Abilene Housing Authority) spoke in favor of these improvements. Been working with qualified developers to build out of these flood plain areas and continue beautifying the City.

Chairman Famble closed the public hearing.

**Mr. McClarty made a motion to approve. Mr. Glenn seconded the motion and the motion carried by a vote of four (4) in of favor (Famble, Glenn, McClarty, Todd) and zero in opposition.**

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

Preliminary Staff Report and discussion regarding the 5-Year Capital Improvements Program (CIP) 2014-2018.

Mr. Ed McRoy presented the staff report for this case. The CIP is a 5-Year Plan that identifies needed capital projects and coordinates the financing and timing of these projects. The CIP is a method of planning for the effective and efficient provision of public facilities, infrastructure improvements, and the acquisition of property and equipment.

**Item Nine: Directors Report:**

Mr. James stated that the recent council actions memo that the council approved everything as recommended, with one exception the MH (Mobile Home) Zoning on Westlake Road. There were concerns about how many mobile homes are allowed with that type of zoning. City Council reduced the size of the area that was re-zoned to address that issue.

**Item Ten: Meeting Adjourned:**

**Planning and Zoning Commission meeting was adjourned at approximately 4:32P.M.**

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