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**PLANNING & ZONING COMMISSION**

**March 2, 2015**

**Minutes**

Members Present: Fred Famble  
Bruce Bixby  
Robert Calk  
Tim McClarty  
Clint Rosenbaum

Members Absent: Joy Ellinger

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

Others Present: Chris Clements Terry Crain  
Josh/Priscilla Leibel George/Margery Spivey  
Dale Boecker Rev Fred Nawarskas  
Rob Woods BJ Prichard  
Stephen Yarnell Duane Martin  
Brannon Barnes Sharon Dyer  
Kathy Brewer Erik Johnson  
Bob Lindley Megan Santee  
Steve Savage Tal Fillingim  
Sam Chase

**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: Commissioners sworn in:**

**Recording Secretary, Donna Boarts read the Oath of Office to our current three (3) board members to remain on the panel, Chairman Famble, Bruce Bixby and Tim McClarty.**

**Item Four:**

**Mr. McClarty moved to approve the minutes for the January 5<sup>th</sup> and February 2<sup>nd</sup> meetings. Mr. Bixby seconded the motion and the motion was carried unanimously.**

**Item Five: Plats**

Mr. Rainbow presented the staff report for these cases. Staff recommended approval of all plats.

**FP-1314:** Section 3, Southlake Estates, to the City of Abilene, Taylor County, Texas.

**FP-3714:** Mesa Ridge Villas Addition, Section 3, an Addition to the City of Abilene, Taylor County, Texas.

**FP-4314:** Hampton Hills, Section III, Abilene, Taylor County, Texas.

**PP-8714:** Preliminary Plat Three, Southlake Estates, City of Abilene, Taylor County, Texas. **(Mistakenly put on this month's agenda, was approved in February)**

**MRP-0615:** Lot 101, Replat of Lots 13 and 14, Block 4, and the South 10' of an Abandoned Alley Running East and West along the North Line of Lot 13, Block 4, Original Town of Abilene, Taylor County, Texas.

**PP-0715:** Lot 403 and 503, Block A, A Replat of part of Lot 203, Block A, Section 1, University Hills Addition, City of Abilene, Taylor County, Texas.

**MRP-9014:** Lot 403, Block A, A Replat of Part of Lot 203, Block A, Section 1, University Hills Addition, City of Abilene, Taylor County Texas, as Shown by Plat Recorded in Cabinet 1, Slide 726, Plat Records, Taylor County, Texas.

**PP-0815:** Lots 4, 5 & 6, Block A, Treanor Addition, a Subdivision of 6.960 acres out of NW/4 Section 67, Blind Asylum Lands Survey, City of 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-1314, FP-3714, FP-4314, MRP-0615, PP-0715, MRP-9014, PP-0815. Mr. Calk seconded the motion and the motion carried by a vote of five (5) in favor (McClarty, Rosenbaum, Bixby, Calk, & Famble) and none in opposition. (Mr. Bixby abstained from PP-0715 & MRP-9014).**

**Item Six: Zoning**

**a. Z-2015-06**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from AJWO, agent E-HT, to rezone property from RS-6 (Single-Family Residential) to GC (General Commercial) zoning, located at 2533 N. Danville Dr, 2510 Bel Air Dr, and portions of 2549 & 2625 N. Danville Dr.

Mr. Bryner presented the staff report for this case. Currently the property is zoned RS-6 and generally vacant but does include 2 church facilities. The surrounding area is developed generally with a single-family uses to the south & east. There are 2 other churches, a school, and apartments nearby as well. Vogel Ave is designated as a 'collector' street. Freeways border the north and west boundaries. The purpose of the zoning is to allow for self-storage warehousing on the property. The GC zoning is the first zoning district to allow for this use. Typically, commercial zoning would be appropriate along freeway properties. The presence of residential zoning to the south and west cause some concern from the types of uses permitted in the GC zoning. A retail zoning would be more appropriate on the south and east portions of the property.

The Future Land Use section of the Comprehensive Plan designates the block as 'low density residential'. The proposed GC zoning is similar to the existing GC zoning on the north portion of the property adjacent to I-20. This area transitions from the GC zoning to residential uses to the south and east. The requested zoning is not compatible with the Future Land Use Map and the adjacent properties. Staff recommends transition to a retail district that would be more compatible with the residential uses. One possibility is to rezone to a PD district that would allow for GR (General Retail) zoning but would also include self-storage warehousing as a permitted use.

*NOTE: Mr. Bryner stated that 2510 Bel Air Drive should not have been included in this request, property is not for sale. The recommendation is to remove this property.*

Property owners within the 200 feet of the zoning request were notified. Two (2) comment forms were received in favor and three (3) in opposition.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval of a PD zoning with GR (General Retail) zoning but to allow for self-storage warehousing as a permitted use.

Chairman Famble opened the public hearing.

Mr. BJ Prichard (agent) stated that the owner is in favor of a GC zoning, to be consistent to the other zoning in the area due to it being a high traffic area.

Mr. McClarty inquired if zoning PD (Planned Development) would be acceptable.

Mr. Prichard stated the preference of the property owner was for GC zoning, but will accept a PD zoning.

Chairman Famble closed the public hearing.

**Mr. McClarty made a motion to approve Z-2015-06 to be PD zoning to allow for self-storage warehousing and to remove 2510 Bel Air Drive. Mr. Bixby seconded the motion and the motion carried by a vote of four (4) in favor (McClarty, Rosenbaum, Bixby, & Famble), none in opposition, and 1 abstained (Mr. Calk).**

**b. Z-2015-07**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Aubrey Hotel Investments, LLC, agent Tal Fillingim, to rezone property from AO (Agricultural Open Space) & RS-6 (Single-Family Residential) to PH (Patio Home) zoning, located at 3902 Bettes Ln & adjacent tracts totaling approximately 6.88 acres.

Ben Bryner presented the staff report for this case. Currently the property is zoned AO & RS-6. The main property has an existing house. The overall request includes several smaller adjacent tracts. The total area is approximately 6.88 acres. The surrounding area is developed generally with single-family residences to the north, east & west. The immediate property to the south is zoned AO and is currently vacant. The purpose of the zoning is to allow for patio homes. There is some existing PH zoning to the north off of Chimney Rock Rd. Both Catclaw Dr. and Bettes Ln. will be extended as this property develops. Both are designated as a 'collector' street. With the amount of right-of-way and improvements needed, the PH zoning would allow for greater flexibility and yield on the property.

The Future Land Use section of the Comprehensive Plan designates the area as 'low density residential'. The PH zoning is similar to the existing PH zoning to the north off of Chimney Rock Rd. The requested zoning is deemed compatible with the Future Land Use Map and the adjacent properties.

Property owners within a 200-foot radius were notified of the request. Three (3) comment forms were received in favor and thirteen (13) in opposition of the request.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval.

Chairman Famble opened the public hearing.

Rev. Fred Nawarskas (Pastor of adjacent church) spoke in favor of this re-zoning.

Mr. Josh Leibel (resident) spoke in opposition of this zoning due to possible decrease in home values with this zoning.

Mr. Bryner clarified a patio home allows for a 4500 sq. ft. lot size instead of 6000 sq. ft. The side set-backs are 5 ft. on either side with a 10 ft. separation between structures. He stated that some surrounding areas nearby also are zoned PH.

Mr. Tal Fillingim (Agent) spoke in favor of this development. Currently a large part of this property is zoned AO. Rezoning to PH zoning decreases the lot-width and set-back requirements.

Mrs. Sharon Dyer (resident) spoke in opposition of this zoning due to the added traffic. Should be mandatory that the square footage be similar and have the appearance of other homes in the area.

Mr. Chris Clements (resident) spoke in opposition due to the traffic and decrease in property values.

Chairman Famble closed the public hearing.

Mr. James spoke whether we should allow homes to front on *collector streets* due to the traffic concerns that happen with the expansion of these streets.

**Mr. Bixby made the motion to approve Z-2015-07 as requested. Mr. Calk seconded the motion with a vote of five (5) in favor (Bixby, Calk, McClarty, Rosenbaum, & Famble) and none in opposition.**

**c. Z-2015-08**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Abilene CMC Investments, LLC, agent Erik Johnson, to rezone property from LI (Light Industrial) to HC (Heavy Commercial) zoning, located at 1881 N. Treadaway Blvd.

Mr. Bryner presented the staff report for this case. Currently the property is zoned LI and is developed with a building that has been used as a restaurant in the past but has been vacant for more than 6 months. The surrounding area is developed generally with industrial uses to the north, south & east. The property to the west is developed with medical office uses. The purpose of the zoning is to allow for another restaurant use similar to what has occupied the building in the past. The LI zoning does not allow for restaurant uses. The HC zoning is the next district that allows for the proposed use.

The Future Land Use section of the Comprehensive Plan designates the property as part of a Special Activity Center' centered on the N. Treadaway Blvd & Ambler Ave intersection. N. Treadaway Blvd is designated as an 'enhancement corridor'. This area is primarily developed with heavy commercial and light industrial uses. The requested zoning is deemed compatible with the Future Land Use Map and the adjacent properties.

Property owners within the 200' of the zoning request were notified. Two (2) comment forms were received in favor and one (1) in opposition of the request.

**PLANNING STAFF RECOMMENDATION:**

Staff recommends approval.

Chairman Famble opened the public hearing.

Mr. Duane Martin (representative for Hendricks) stated that they were the one that sent in the opposition on this property. The reason was to step up the zoning from HC (Heavy Commercial) to GC (General Commercial). Hendricks owns property on the west side from N. 19<sup>th</sup> Street to N. 17<sup>th</sup> Street. Specified GC is an appropriate zoning for this area.

Mr. Eric Johnson (agent) stated his client would like to keep the HC zoning to retain the use as a restaurant and to keep consistent with other zoning in the surrounding area.

Chairman Famble closed the public hearing.

Mr. James inquired if there was agreement with GC zoning throughout this 3-4 block corridor of Treadaway.

Mr. Rosenbaum asked what could be done in HC zoning that could not be done in a GC zoning.

Mr. Bryner stated very light manufacturing & limited warehousing. It falls between commercial and industrial type businesses.

**Mr. McClarty made a motion to approve Z-2015-08 with GC zoning. Mr. Calk seconded the motion and the motion was approved by a vote of five (5) in favor (McClarty, Rosenbaum, Bixby, Calk, & Famble) and none in opposition.**

**Item Six: Street Name Change:**

**a. SNC-2015-01**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the City of Abilene for a Street Name Change to change Mason Rd & Mason Ct to Foot Hills Rd & Foot Hills Ct in Lake Fort Phantom Hill Subdivision, Section 4.

Mr. Bryner presented the staff report for this case. The streets were platted as part of the Lake Fort Phantom Hill Subdivision, Section 4 and Foot Hills Rd was changed to Mason Rd. This action will rename the road back to its original name. Only 1 home exists on this portion of the road and is currently occupied. Other homes exist in this section of the subdivision but are addressed off of other streets. The applicant is the City of Abilene as the transfer of the property has not yet occurred.

The applicant is requesting to change the name of Mason Rd & Mason Ct to Foot Hills Rd & Foot Hills Ct. All property owners that would be directly affected by the street name change have notified and are in favor of the change.

Property owners within the 200' of the zoning request were notified. Zero (0) comment forms were received in favor and zero (0) in opposition of the request.

**PLANNING STAFF RECOMMENDATION:**

Approval as requested.

Chairman Famble opened the public hearing.

Mr. Sam Chase (spoke on behalf of the Spivey family) stated that the Spivey family is the only occupant to reside on this road and have retained the street name Foothill Road since 1981.

Chairman Famble closed the public hearing.

**Mr. Bixby made a motion to approve SNC-2015-01. Mr. McClarty seconded the motion and the motion was approved by a vote of five (5) in favor (Bixby, Calk, McClarty, Rosenbaum, & Famble) and none 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 to create and adopt standards for a Lake Fort Phantom Hill Overlay zone.

**TABLED FROM FEBRUARY 2, 2015 MEETING.**

Mr. McClarty made a motion to **REMOVE** the Ordinance Amendment from the table. Mr. Bixby seconded the motion. The motion carried unanimously.

Mr. James stated the purpose of this discussion is to implement the recommendation of the *Lake Fort Phantom Plan* that was adopted a few years ago. The Lake Fort Phantom Hill (LFPH) Area Plan was approved by the City Council on January 12, 2009. The plan established a vision of the lake area as a unique place within the City that would benefit from customized and higher development standards. The intent of the plan was to integrate and exploit both natural and developed assets of the area in ways that would protect and showcase its future potential.

The proposed overlay district is intended to implement standards envisioned within the LFPH Plan. The overlay will over time influence development to balance potentially competing interests of human, natural, local and citywide users of the lake. Stakeholders have been actively included in the development of the overlay since August 2012

The overlay is currently following a two-step adoption process. This first step is an amendment of the Land Development Code text creating the standards. The next and second step will be the application of these standards to specific area(s) of land. The decision on the overlay district boundary itself will have an equally significant impact on how the area ultimately develops and on the effectiveness/need for various provisions. The two issues are distinct but interrelated.

Staff has updated the proposed text as per the discussion on 02/02/2015 and removed some language in the proposed dock standards after further discussions with Legal and Water Utilities Staff [See §2.3.4.6 (m)] Staff now believes pending Corps of Engineers rules being promulgated and alternative regulatory options will adequately address the needs relating to dilapidated docks.

Wording changes were made to the street section that was brought to our attention by the City Public Works Department:

- **2.3.4.6.(K) Streets**

In keeping with the rural nature of the area and the intent to preserve its unique character, local streets within the district shall have a paved width of 24 feet minimum pavement width without

curbs, gutters or paved shoulders based upon the interim rural section standards as established by the City's Engineering Division.

Mr. James stated that the **Lake Association** recommended changing the wording to: "**Alternative Design Standards for the Lake Fort Phantom Hill Rural Residential Section**".

**2.3.4.6. (K) Streets Navigability and Protection of Watercourses Removed provisions on dilapidated docks, dock length and standards related to construction and materials.**

"All structures and objects that are to be constructed near or in water shall not have a negative impact on the water quality, natural habitat, scenic beauty and recreational resource of Lake Fort Phantom Hill. Improvements or modifications must satisfy applicable Army Corps of Engineers requirements in addition to any City standards.

**REMOVE: Where such standards conflict, the more stringent or restrictive shall apply.**

Chairman Famble opened the public hearing.

Mr. Steve Yarnell (Resident, President of the LFPH) wanted to introduce himself and to thank all for their hard work.

Mr. Sam Chase (Resident) stated that Mr. Yarnell has taken over this position from Mrs. Faith Gage. Mr. Chase explained there are a few changes that he would like to be considered.

- **(H.1.II) Parking:** Should read: "Parking allowed: State, Federal, and City Holidays."
- **2.3.4.6. (K) Streets:** Clarified wording streets will be 24' of paving with no curbs, gutters or shoulders. The language reads, "In keeping with the rural nature of the area and the intent to preserve its unique character, local streets within the district shall have a paved width of 24 feet." He would prefer the wording "...maximum pavement width of 24 feet..."

***INSERT: "Alternative Design Standards for the Lake Fort Phantom Hill Rural Residential Section"***

- **(M 2.3.4.6) Navigability and Protection of Watercourses:** All structures and objects that are to be constructed near or in water shall not have a negative impact on the water quality, natural habitat, scenic beauty and recreational resource of Lake Fort Phantom Hill. Improvements or modifications must satisfy applicable Army Corps of Engineers requirements in addition to any City standards.

**REMOVE: Where such standards conflict, the more stringent or restrictive shall apply.**

Mr. Steve Savage (business owner, resident, and City Councilman) inquired as a member of the Abilene Gun Club whether the gun club is "grandfathered" as an existing use.

Mr. James stated the Abilene Gun Club is grandfathered, although the City is able to terminate the contract when the lease is up.



Chairman Famble closed the public hearing.

Chairman Famble stated a need to go over each one of these changes separately to come to a decision.

- Should read: Parking allowed: State, Federal, and City Holidays.  
Adding the word “State” to the parking ordinance ~all in favor
- Streets: Adding the word maximum pavement width of 24 feet. No consensus on this issue.

Mr. McClarty inquired about the “interim rural section standards”

Mr. Rob Woods (city engineer) stated that the *Interim Rural Section Standards* is an identified document that has been in place since October 2006. Minimum width at that time was 30ft and was then reduced to 24 ft. which referenced a typical roadway system.

Chairman Famble opened the public hearing.

Mr. Bixby inquired if there is “*interim rural section standard for Lake Fort Phantom Hill*” in place.

Mr. Chase stated at this time a letter dated in 2009 is all that is in place.

Chairman Famble closed the public hearing.

Mr. Bixby indicated that the terminology regarding the minimum 24 ft. width was clear.

Mr. James stated that the way the ordinance is written today a developer could come in and exceed the width. In past discussions it was discussed to allow a minimum of 24 ft. to allow keeping that rural character, but not to restrict future development that might want to build standard city streets.

Mr. Dan Santee stated that having a minimum width is advised for safety and congestion if there are larger developments out at the lake.

Chairman Famble opened the public hearing.

Mr. Chase explained the residents would like retain the rural lake appeal, therefore pavement and concrete are not desired. The wording “*Interim Rural Section*” does not have the same specifications as the wording in the *Fort Phantom Hill Rural Residential Section* letter referenced by Mr. Marshall to Mr. Lindley in 2009. Difference being, the street width, no sidewalks or shoulders.

Chairman Famble closed the public hearing.

Mr. Rob Woods (city engineer) stated an added stipulation to the first letter will be e-mailed to each commissioner to look over.

The last item: removal of last sentence. All in favor.

- Where such standards conflict, the more stringent or restrictive shall apply.

Mr. Bixby stated that a consideration should be made to approve all but **2.3.4.6. (K) Streets**.

Chairman Fable made a motion to **APPROVE** the other changes, and to **TABLE 2.3.4.6. (k) Streets**.

Mr. James stated an approval on all items would need to be done, with any future changes to either item to be treated as an amendment.

Mr. McClarty stated that time is needed to look over the streets to make the right decision. Would like to make the motion to *ONLY* discuss streets, then send on the City Council.

Mr. James indicated about having a “*Special Meeting*” in March, location and date to be determined, to discuss more regarding the topic of streets or resume at the next regularly scheduled meeting.

**Mr. McClarty made a motion to TABLE 2.3.4.6 (K) with the exception of the approval on the other two (2) items: Mr. Calk seconded the motion and the motion was approved by a vote of five votes (5) in favor (McClarty, Rosenbaum, Bixby, Calk, Fable) and none in opposition.**

Chairman Fable made a motion to take a five (5) minute break.

**Item Eight: Discussion Item:**

Discussion regarding detention requirements related to pre-existing impervious cover and how that is defined within the ordinance.

Mr. James provided a brief overview of the understanding of the Land Development Code Section 3.2.11.4. Item # 2 “When a drainage plan is required for development” which states that development which creates less than 20,000 sq. ft. impervious surface will not be required to submit a formal drainage plan. Mr. James posed the following questions to the Commission:

- Should sites that have been cleared and returned to vacant, pervious ground, be required to submit a drainage plan?
- Or should they be exempt based on the previous impervious cover that was on the site?
- Does it make a difference how long ago the previous development existed and was cleared?
- Does it make a difference whether or not the new development will create drainage problems for downstream neighbors?

Mr. James stated that under the current interpretation the day that you come in for a site-plan, the calculation of impervious cover is based on what the property looks like on that day.

Mr. Rosenbaum questioned what the drainage standards that were put in place in 1983 required and asked if anything existing before that time would remain?

Mr. Woods (City Engineer) stated the property in question has been vacant for many years there have been drainage issues, therefore necessitating a drainage plan.

Mr. James stated that under the building code, if you demolish a building you must remove the slab, unless there is permission granted by the Board of Building Standards to keep it. The City Council designated infill areas where drainage plans would not be required, such as the Central Business District, Hwy 80, Pine St, Butternut St as well as areas of Treadaway Blvd. He also stated that the past interpretation of the ordinance was that pre-existing development before the date of April 30, 1983 is given credit and may exempt the site from the requirement for a drainage plan.

Mr. Woods stated on-site detention ponds were not a requirement for downstream property owners.

Mr. Dan Santee stated the property in question at 2121 N. 6<sup>th</sup> Street. He stated that the City approved a resolution on the property and partnered with the housing authority so this development could be built.

Chairman Famble inquired what we need to express to the City Council regarding this conversation.

Mr. James stated we know what existed in 1983 and if at some point they had expanded by 19,000 sq. ft. then any future expansion that puts the site over the 20,000 sq. ft. threshold would then trigger the requirement for a drainage plan.

Chairman Famble opened the public hearing for any consideration regarding the Discussion Item.

Mr. BJ Pritchard spoke in agreement with the discussion regarding claiming credit for impervious surface and having the City clarify that in the land development code.

Chairman Famble closed the public hearing.

Commissioners expressed their desire for staff to bring back an ordinance amendment to clarify these requirements as per the longstanding interpretation of the ordinance allowing credit for any pre-existing impervious cover present in 1983.

**Item Nine: Directors Report.**

Mr. James indicated that City Council approved all cases as recommended by the Commission with the exception of case regarding the PD (Planned Development) zoning on Stamford for the proposed RV Park. The Council added a requirement increasing the set-back from 15 ft. to 40 ft. from the south and east property lines.

Discussed having a special meeting Mar 16<sup>th</sup>, or possibly the 23<sup>rd</sup>. If those dates do not work, then these items will be heard at the next Commission meeting scheduled for April 6<sup>th</sup>.

**Item Ten: Meeting Adjourned:**

**Planning and Zoning Commission meeting was adjourned at approximately 4:15 p.m.**

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