



KENNEDALE
Planning and Zoning Commission
www.cityofkennedale.com

KENNEDALE PLANNING & ZONING COMMISSION
AGENDA
COMMISSIONERS - REGULAR MEETING
March 15, 2012
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

WORK SESSION - 6:00 PM
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. WORK SESSION

- A. Erosion control standards
- B. Discussion of zoning at Bowman Springs Road intersection with Kennedale Pkwy
- C. Revisions to the City's Noise Regulations
- D. Resident petition for rezoning
- E. Discussion of Gated Communities
- F. Discuss any item on the regular session agenda, if needed
- G. Discuss Items for Future Consideration

IV. REGULAR SESSION

V. CALL TO ORDER

VI. ROLL CALL

VII. MINUTES APPROVAL

- A. Minutes from the February 23, 2012 Planning & Zoning Commission meeting

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the Planning and Zoning Commission not scheduled on the Agenda may speak to the Commission, provided that an official 'Speaker's Request Form' has been completed and submitted to the Commission Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual commissioners or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

IX. REGULAR ITEMS

A.

CASE # PZ 11-08 to consider action on a request by William Winsett for a zoning change from "R-2" Single Family Residential to "C-1" Restricted Commercial for approximately 0.95 acres at 3835 Kennedale New Hope Rd, more particularly described as Robert C Richey Survey A 1327 Tracts 2C & 2M.

- A. Staff Presentation
- B. Applicant Presentation
- C. Action by the Commission

B.

CASE # PZ 11-12 to hold a public hearing and consider action on a request for a change in zoning from "R3" Single Family Residential to "PD" Planned Development District for approximately 16 acres located at 5306 Kennedale Sublett, 3190 Joplin Rd, and 3196 Hawkins Joplin Rd, 3 unaddressed parcels on Kennedale Sublett Rd, and 1 unaddressed parcel on Hawkins Joplin Rd, more particularly described as James R Hawkins Survey A-792 Tr 1, 1E, 1F, 1G, 1H, 1J, 1K, 1L, & 1M. The rezoning is requested by Vera Coker, Carolyn Williamson, Judith Coker Helms, Donald Coker, Martin & Maria Guevara, and James McDuff.

- A. Staff Presentation
- B. Applicant Presentation
- C. Public Hearing
- D. Applicant Response
- E. Staff Response and Summary
- F. Action by the Commission

X. REPORTS/ANNOUNCEMENTS

XI. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact Amethyst Cirno, City Secretary, at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the March 15, 2012, Planning and Zoning Commission agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.

Amethyst G. Cirino

Amethyst G. Cirino, City Secretary



Date: March 15, 2012

Agenda Item No: WORK SESSION - A.

I. Subject:

Erosion control standards

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Chairman Harvey asked staff to determine whether the city's existing regulations provide for future/long-term maintenance of erosion controls. The attached Ordinance 483 is the recently-adopted Erosion and Sediment Control Ordinance. I've also included below language from our subdivision regulations.

Briefly, here's what the city code says: our erosion-related regulations require erosion controls for land disturbing activities, some of which must be permanent controls. For non-land disturbing activities, however, no such regulations are in place. For example, we have no regulations requiring home owners whose properties back up to creeks to keep their yards in good shape as an erosion control tool.

James Cowey will discuss these regulations during the work session next week.

d) Related Land Areas. The erosion and sediment control regulations of this Article shall apply to all related land areas. Additionally, when construction or land - disturbing activities occur, all disturbed land areas related to a project **must have permanent erosion and sediment control measures established** before final occupancy of structures or final acceptance of a subdivision may be permitted. This Section applies whether or not a Responsible Party must obtain a building permit from the City.

This section applies to subdivision, but it is not clear whether this would pertain to commercial developments or only residential. Although the code states that permanent erosion controls must be established, it does not say who would be responsible for maintenance or replacement, if needed.

In addition, the code also has the following language.

a) Final Acceptance of Residential Subdivision. When construction or land – disturbing activities are conducted as part of a residential subdivision construction project, a Responsible Party shall `install all necessary permanent erosion and, sediment control measures, and when applicable, temporary erosion and sediment control measures, before final acceptance of a subdivision, property and/or structure.

This language implies that the developer (or other responsible party) will be required to install permanent erosion control measures but doesn't say who will be responsible if maintenance or repairs are needed.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

None

VIII. Alternative Actions:

IX. Attachments:

1.	Ordinance No. 483	Ordinance No. 483.pdf
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ORDINANCE 483

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KENNEDALE, TEXAS (1991), AS AMENDED, BY ADDING ARTICLE III "EROSION AND SEDIMENT CONTROL" TO CHAPTER 17 "PLANNING AND LAND DEVELOPMENT" TO REQUIRE A SEDIMENT CONTROL PLAN FOR CERTAIN CONSTRUCTION OR LAND-DISTURBING ACTIVITIES; PROVIDING FOR REQUIREMENTS, REVIEW, INSPECTION AND ENFORCEMENT OF THE PLAN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A PENALTY FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE, PROVIDING FOR PUBLICATION, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale, Texas (the "City") is a home rule city acting under its charter adopted by the electorate pursuant to article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, during the construction process, soil is highly vulnerable to erosion by wind and water and eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species; and

WHEREAS, eroded soil also necessitates the repair of sewers and ditches and the dredging of lakes; and

WHEREAS, the City desires to promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of certain construction or land-disturbing activities that disturbs or breaks the topsoil or results in the movement of earth or land in the City.

NOW, THEREFORE, BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE , TEXAS THAT:

SECTION 1.

Chapter 17, "Planning and Land Development" of the City of Kennedale Code of Ordinances (1991), as amended, is hereby amended by adding a new Article III entitled "Erosion and Sediment Control" to read as follows:

"ARTICLE III. - EROSION AND SEDIMENT CONTROL

Sec. 17-42. - Purpose.

During the construction process, soil is vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, the clearing of land and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, it is the purpose of this Article to preserve natural resources, protect the quality of the waters of the State of Texas and the City, and protect and promote the health, safety and welfare, and to provide a healthy living environment for citizens of the City of Kennedale (the "City"), to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharged to lakes, streams and wetlands because of construction or land-disturbing activities.

Sec. 17-43. - Definitions.

When used in this Article, these terms shall be defined as follows:

Below ground installations means activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion and sediment control purposes.

Construction activity means construction activity that requires a right-of-way or building permit.

Director means the City Manager or his/her designee.

Erosion and Sediment Control Plan or "Plan" means a site plan with necessary details, showing the property where construction or land-disturbing activities will take place, that indicates the locations and types of structures, devices, procedures and practices to be used to control erosion and sedimentation.

Erosion and Sediment Control Manual means the North Central Texas Council of Governments (NCTCOG) integrated Storm Water Management (iSWM) Technical Manual of Construction Controls, as amended from time to time and as may be modified by the City. A current copy of the Manual shall be kept on file in the office of the Department of Development Services and may also be obtained from NCTCOG.

Final approval means completion of a project, site or building in accordance with City of Kennedale requirements and ordinances. In the case of a building, a Certificate of Occupancy is issued.

Land-disturbing activity means any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover and exposes soil to the erosive forces of rain, storm water runoff or wind. Installation or maintenance of franchise utilities, such as telephone, gas, electric, etc., is considered a land-disturbing activity. Farming or ranching activities are considered land-disturbing activities.

Off-site borrow area means a source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than the principal construction site.

Off-site sedimentation means deposit of soil material beyond the limits of the property undergoing construction or land-disturbing activities or in public streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.

Off-site spoil area means an area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.

Permanent erosion and sediment control measures means devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such measures may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and storm water detention structures.

Permanent ground cover means permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.

Phased occupancy means use or inhabitation of a single structure or other portion of a project as such structure or portion thereof is completed, but before the project as a whole is fully completed and finally approved by City.

Related land area includes the property where the principal construction or land-disturbing activities is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.

Responsible party means a business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this Article.

Staging area means an on-site or off-site location used by a Contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction related uses.

Stop work order means the suspension of all City permits with no approvals or inspections of work for the site or project being performed.

Storm Water Pollution Prevention Plan ("SWP3" or "SWPPP") is a plan of activities that includes an erosion and sediment control plan and SWP3 document that includes procedures to install, operate and maintain erosion, sediment and other construction pollutant controls in full compliance with the requirements of Texas Commission on Environmental Quality (TCEQ) Texas Pollutant Discharge Elimination System (TPDES) General Permit TXR150000.

Temporary erosion and sediment control measures means devices installed or practices implemented and maintained during construction or land-disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

Sec. 17-44. - Erosion and Sediment Control Plan Required.

(a) Application of Regulations. Regardless of a property's size, a Responsible Party engaging in construction or land-disturbing activities shall prepare an Erosion and Sediment Control Plan ("Plan") and submit that Plan to the Director for approval unless the Responsible Party is granted a waiver under Section 17-47(b). This Article shall apply regardless of whether a Responsible Party is required to obtain a permit from the City or a State agency to conduct construction or land-disturbing activities.

(b) Liability of Third Parties. The Responsible Party shall be held liable for violations of this Article committed by third parties performing work on behalf of the Responsible Party related to the Responsible Party's construction or land-disturbing activities.

(c) Plan Implementation and Compliance. Prior to beginning any construction or land-disturbing activities, a Responsible Party shall implement and maintain the erosion and sediment control measures shown on its approved Plan in a manner that minimizes the erosion and the transport of silt, earth, topsoil, etc., beyond the limits of the Responsible Party's site onto City streets, drainage easements, drainage facilities, storm drains or other City property due to water runoff, construction, or land-disturbing activities.

Sec. 17-45. - Plan Review and General Requirements.

(a) Plan Review. The Director shall review each Plan required by this Article shall to ensure the Plan clearly identifies all erosion and sediment control measures to be installed and maintained throughout the duration of the activity or project.

(b) Erosion and Sediment Control Required. The Responsible Party shall install and maintain erosion and sediment control measures in accordance with an approved Plan, the Erosion and Sediment Control Manual, and as may be specified in Sections 17-48 and 17-49 of this Article. Erosion and sediment control measures that are installed but not properly maintained in accordance with the Erosion and Sediment Control Manual are considered a violation of this Article and may be enforced pursuant to Section 17-51.

(c) Inspection of Residential Subdivisions. When construction or land-disturbing activities are conducted on a residential lot or subdivision for which a building permit is required, the City shall not conduct an inspection until an approved Plan is implemented by the Responsible Party.

(d) Erosion and Sediment Control Measures. General guidelines for erosion and sediment control measures are as follows:

- (1) Maximum use shall be made of vegetation to minimize soil loss;
- (2) Natural vegetation should be retained wherever possible;
- (3) Vegetation used for vegetative cover shall be suitable for local soil and weather conditions. Ground cover plants shall comply with listings from the Texas Agricultural Extension Service for North Central Texas;

- (4) Stripping of vegetation from project sites shall be phased so as to expose the minimum amount of area to soil erosion for the shortest possible period of time. Phasing shall also consider the varying requirements of a Plan at different stages of construction
- (5) Temporary erosion and sediment control measures should be installed promptly to minimize soil loss and ensure that erosion and sedimentation does not occur if inadequate natural vegetation exists or where it becomes necessary to remove existing natural vegetation;
- (6) Erosion and sediment control measures should be implemented prior to any construction or land-disturbing activities;
- (7) Erosion and sediment control measures shall be used on hillsides to slow drainage flow rate wherever possible during construction;
- (8) Waste or disposal areas and construction roads should be located and constructed in a manner that minimizes the amount of sediment entering streams;
- (9) Frequent fording of live streams will not be permitted; therefore, temporary bridges or other structures shall be used wherever an appreciable number of stream crossings are necessary;
- (10) When work areas or material sources are located in or adjacent to live streams, such areas shall be separated from the stream by a dike or other barrier to keep sediment from entering a flowing stream. Care shall be taken during the construction and removal of such barriers to minimize the sediment transport into a stream;
- (11) If preventative measures fail to function effectively, the Responsible Party shall act immediately to bring the erosion and/or siltation under control by whatever additional means are necessary;
- (12) Erosion and sediment control measures shall be placed to trap any losses from stockpiled topsoil;
- (13) The selection and timing of the installation of erosion and sediment control measures shall be based upon weather and seasonal conditions that could make certain controls impracticable;
- (14) Runoff shall be diverted away from construction areas as much as possible.

Sec. 17-46. - Additional Requirements.

- (a) Installation of Utilities. Developers, builders, or owners of property shall install all utilities, including franchise utilities, before final acceptance of a subdivision, property and/or structure.

(b) Transfer of Property. If the Responsible Party sells all or part of a residential or commercial development or subdivision, the purchaser becomes the Responsible Party for the development or subdivision and is required to comply with the approved Plan and SWPPP, and shall be liable for any violation of this Article. The sale of the development or subdivision shall be logged within the SWPPP kept at the project site along with written proof of transfer of a development or subdivision.

(c) Off-Site Borrow, Spoil and Staging Areas. Where applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered part of the project site and shall be governed by this Article.

(d) Related Land Areas. The erosion and sediment control regulations of this Article shall apply to all related land areas. Additionally, when construction or land-disturbing activities occur, all disturbed land areas related to a project must have permanent erosion and sediment control measures established before final occupancy of structures or final acceptance of a subdivision may be permitted. This Section applies whether or not a Responsible Party must obtain a building permit from the City.

(e) Below Ground Installations. All discharges resulting from below ground installations shall be passed through approved erosion and sediment control measures or removed from the site and properly disposed of.

Sec. 17-47. - Exception to Plan Requirement.

(a) Land Less Than 1 Acre but Part of a Larger Common Plan or Sale. Consistent with TCEQ TDPEs General Permit TXR150000, a Responsible Party engaging in construction or land-disturbing activities that are or smaller than one acre is required to prepare a Plan and submit it to the Director for approval and implement erosion and sediment control measures if the property is part of a larger common plan of development or sale.

(b) Land Less Than 1 Acre but Not Part of a Larger Common Plan or Sale. Activities less than one acre that are not part of a larger common plan of development or sale may petition the Director for a waiver from the Plan submission requirement and the implementation of erosion and sediment control regulations. A waiver may be granted if, in the Director's opinion, the proposed construction or land-disturbing activities would not cause pollutant runoff, erosion or offsite sediment discharge.

Sec. 17-48. - Occupancy of Non-Residential and Multi-Family Construction.

(a) Occupancy. When construction or land-disturbing activities are conducted as part of a non-residential or multi-family construction project, permanent erosion and sediment control measures shall be established prior to the occupancy of any non-residential or multi-family structure.

(b) Phased Occupancy. When construction or land-disturbing activities are conducted as part of a non-residential or multi-family construction project, phased occupancy will be allowed only when the project has no outstanding violations of this Article.

Sec. 17-49. - Residential Lots and Subdivision Construction.

- (a) Final Acceptance of Residential Subdivision. When construction or land-disturbing activities are conducted as part of a residential subdivision construction project, a Responsible Party shall install all necessary permanent erosion and, sediment control measures, and when applicable, temporary erosion and sediment control measures, before final acceptance of a subdivision, property and/or structure.
- (b) Exception to Installation Requirement. Notwithstanding Section 17-49(a), at the Director's discretion, a subdivision, property and/or structure may be accepted without the installation of erosion and sediment control measures if perennial vegetative cover is actively growing.
- (c) Maintenance of Temporary Measures Required. When construction or land-disturbing activities are conducted on a residential lot or subdivision for which a building permit is required, the Developer, builder, or owner shall continue to maintain all temporary erosion and sediment control measures until permanent erosion and sediment control measures are established on lots for which a building permit has not been issued.
- (d) Removal of Temporary Measures Required. Upon establishing permanent ground cover on a lot, all temporary erosion and sediment control measures shall be removed.

Sec. 17-50. - Farming and Ranching Activities.

Prior to beginning any construction or land-disturbing activities, a Responsible Party that engages in construction or land-disturbing activities for farming and ranching purposes shall submit a Plan to the Director for approval. The approved Plan shall be implemented and erosion and sediment control measures shall be maintained as specified in the Plan. A Responsible Party engaging in farming or ranching activities shall comply with all other general requirements of this Article.

Sec. 17-51. - Enforcement.

- (a) Violations. It shall be an offense for a Responsible Party or a third party performing work on a project to violate any of the requirements of this Article, including, but not limited to, the following:
 - (1) Conducting any construction or land-disturbing activities without an approved Plan for the location where the violation occurred.
 - (2) Failing to install or maintain erosion and sediment control measures throughout the duration of construction or land-disturbing activities pursuant to the approved Plan for the location where the violation occurs.
 - (3) Failing to remove off-site sedimentation that is a direct result of construction or land-disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion and sediment control measures as specified in an approved Plan for the location where the violation occurs.

- (4) Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion and sediment control measure.
- (5) Failing to repair damage to existing erosion and sediment control measures, including the replacement of existing grass or sod.

(b) Notice of Violation. The Director shall provide written notice of violation ("Notice") to the Responsible Party or their job site representative identified in the Plan. The Notice shall identify the nature of the violation and the action required to obtain compliance with the approved Plan, including any sediment clean-up, erosion and sediment control device repair, erosion and sediment control device maintenance and/or installation of additional erosion and sediment control devices to prevent re-occurrence of the violation.

(c) Stop Work Order. The Responsible Party who has received Notice shall have twenty-four (24) hours to bring their erosion and sediment control measures into compliance with the approved Plan for the site. The 24-hour period may be extended for inclement weather or other factors at the discretion of the Director. At the end of the twenty-four (24) hour period, the Director shall re-inspect the site. If the erosion and sediment control measures at the site have not been brought into compliance with the approved Plan, the Director may issue a Stop Work Order and issue a citation for each violation of this Article. To obtain a re-inspection for removal of the Stop Work Order, a request for re-inspection must be submitted and a re-inspection fee, as set by the City, shall be paid.

(d) Penalty. Any person, firm, or corporation violating any of the provisions or terms of this Article shall be deemed guilty of a Class C misdemeanor and, upon conviction thereof, be subject to a fine not exceeding five hundred dollars (\$500) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

(e) Remedies Nonexclusive. The remedies provided for in this Article are not exclusive of any other remedies available to the City under state or federal law or other City ordinances. The City may take any, all, or any combination of these actions against a violator. The City is empowered to take more than one enforcement action against any violator, which may be taken concurrently."

SECTION 2. CUMULATIVE CLAUSE

This Ordinance shall be cumulative of all provisions of all existing ordinances and of the Kennedale City Code (1991), as amended, including but not limited to all ordinances of the City of Kennedale affecting construction or land-disturbing activities, and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this Ordinance.

SECTION 3. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. SAVINGS CLAUSE

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of the Kennedale City Code (1991), as amended, or any other ordinances regarding construction or land-disturbing activities that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 5. PUBLICATION

The City Secretary of the City of Kennedale is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this Ordinance in the official newspaper of the City of Kennedale as provided by Section 3.10 of the City of Kennedale Charter.

**SECTION 6.
EFFECTIVE DATE**

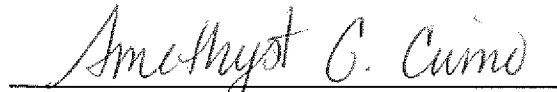
This Ordinance shall be in full force and effect from and after its passage and publication as required by law, as it is so ordained.

PASSED AND APPROVED ON THIS 14TH DAY OF JULY, 2011.



Bryan Lankhorst, Mayor

ATTEST:



Amethyst G. Cirino, City Secretary

APPROVED AS TO FORM AND LEGALITY:



City Attorney



Date: March 15, 2012

Agenda Item No: WORK SESSION - B.

I. Subject:

Discussion of zoning at Bowman Springs Road intersection with Kennedale Pkwy

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

The Commission has expressed interest in developing a form-based code for this intersection, which could be a great way to begin implementing the comprehensive plan. As you may recall from previous discussion, form-based codes require a lot of data collection and some visioning as part of the development process. The community has some vision for the area already as part of the comprehensive plan, but since the comprehensive plan doesn't include much detail for specific areas of the city, the Commission may want to consider more visioning for this site. In addition, since rezoning will be more successful if it can be built upon input from the community (and therefore reflect what the community thinks is important), you may want to consider holding a public input meeting to collect feedback from the owners of the properties in question and from neighboring properties, prior to developing final zoning regulations for the area.

Detailed list of preliminary work to be done before developing a form-based code:

Scoping

- Selecting the process
- Determining the application area
- Determining the implementation method
- Selecting an approach to developing a form-based code (e.g., use the smart code as a template)

Documenting

- Collecting relevant background data
- Identifying the neighborhood framework
- Identifying and analyzing the role of different corridors
- Identifying the existing transect levels
- Selecting sampling areas for the micro-scale documentation
- Identifying the typical conditions within each sampling area that will be the foundation of the Building Form Standards

Conduct macro-scale site visit.

- Prior to visiting the site, analyze the data collected, which should include the following material:
 - o maps of existing conditions
 - o existing planning documents

- o streets master plan
- o parks plan
- o historic conservation plans
- o historic maps
- o figure-ground maps
- o maps with lot lines
- o building footprints
- o curbs and sidewalk locations
- o public rights-of-way
- o creek corridors or other natural features that will impact development
- o special conditions analysis (e.g., slope analysis)
- o historic growth analysis diagram
- Visit the site
- Identify micro elements to be studied during the micro site visit, for example, thoroughfare types, frontage types, building types, and architectural styles
- Organize data
- Analyze the data post-visit
- Present to stakeholders

Conduct micro-scale site visit

- Select sampling areas
- Prepare site visit materials
- Visit the site
- Organize the data
- Analyze the data

Visioning

A small amount of this work has already been done by the Commission and staff. And if the Commission does not want to create a form-based code for this area, then of course all of the above steps are not necessary.

Staff can manage the documenting/data collection phases, including site visits, but the Commission should provide direction by setting the framework during the Scoping process. And of course staff input is always available to you during discussions about what process to select, and what the the application area, implementation method, and approach to coding should be. Attached to this report is an except from the Form-Based Codes Manual explaining the Scoping process. If the scanned pages are too hard to read, please let me know, and I can re-scan the pages and send them to you again.

In terms of data collection, I've begun pulling together some of the data needed, but gathering information at this scale takes a bit of time, and I won't have all the data compiled in time to discuss it during the March meeting. However, if the Commission has enough time during the work session to make decisions about the Scoping process, we can still move forward.

On a final note, the Village Creek Master Plan is nearing completion, and the information presented in the

report will have some bearing on development in this area. We will bring the plan to you as soon as it is available.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

n/a

VII. Recommendation:

None

VIII. Alternative Actions:

IX. Attachments:

1.	FBC Scoping (book excerpt)	fbc scoping.pdf
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Pre-Phase 1: Scoping

A COMMUNITY CONSIDERING a Form-Based Code needs to make a variety of choices at the outset that will both shape the process for drafting the code and determine its content, including selecting the coding team, the process, the area to be affected, the implementation method, and the overall coding approach. These decisions will impact the success of the code before code writing has even begun, so they should be considered carefully.

Assembling the Team

Among the powerful distinctions between the preparation of a Form-Based Code and a conventional code is that the Form-Based Coding process addresses both the short- and long-term interests of all the specialized disciplines that need to work in concert to create and maintain the framework for the evolution of a city. This occurs in two ways. First, key municipal departmental professionals (for example,

public works, police, fire, parks and recreation, and the like) are included in the community visioning, charrette, and other parts of the code drafting and review process. At the same time, various consultants are typically engaged to augment the expertise of city personnel. Depending upon the overall focus and objectives of the planning and coding effort, (e.g., downtown revitalization, neighborhood preservation, or new neighborhood creation through greenfield development), the specialized professional disciplines that may be needed in Form-Based Code preparation could include several of the following: planning; architecture; urban design; landscape architecture; traffic analysis; economics, retail, and housing market analysis; fiscal analysis and municipal finance; environmental resource analysis; civil engineering; parking program design; historic resource preservation; visual simulation; legal support; graphic design; public participation; and charrette management.

It is important to note that each of these disciplines will not be essential in every Form-Based Coding project. The list is intended to comprehensively identify most, if not all, of the possibilities, so that a community embarking on a Form-Based Coding effort may have the opportunity to consider carefully which expertise is necessary to the completion of its Form-Based Code, which expertise would be helpful if time and funding permit, and which is not necessary given the scope and intent of the particular code. Often, it may be possible for current city staff to perform some of the work described above. It is also not uncommon for a team member representing one of the above specialties to be expert in one or more others as well.

Selecting the Process

On the process side, the primary decisions regarding the scope of the coding effort relate to how the community visioning and other components of the public participation process will be configured. Because a fundamental reason for a community to prepare a Form-Based Code is to most effectively implement clear and specific community urban design intentions for the area being coded, it follows that clear and specific intentions must first be described. If the urban design intentions are indeed to reflect the aspirations of the community, as many segments of the community as possible should be involved in their description.

This need results in one of the most interesting differences between the preparation or update of a conventional zoning code and a Form-Based Code. That is, Form-Based Coding typically integrates a planning process with the drafting of specific rules for development. In contrast, preparing or updating a conventional zoning code typically focuses mostly on drafting regulations, with "planning" limited simply to the review and consideration of the most recently adopt-

ed community plan covering the same area, in terms of ensuring that regulations in the code are "consistent" with adopted plan policies. Unfortunately, the policies usually address issues unrelated to providing a clear urban design foundation for the code, such as the amount of land to be zoned for commercial development versus housing, which implies only gross differences in physical character and says nothing about the details of the public realm and how it is to be shaped by private development and public street and streetscape improvements.

This situation is a consequence of how state laws across the country structure local planning and zoning. Commonly, a two-part process is anticipated, where a municipality first prepares a "comprehensive" or "general" plan that covers all land area within the jurisdiction. Then (sometimes years) later, the community updates the zoning code to make it consistent with the plan. State planning mandates do not normally prevent a community from simultaneously updating its comprehensive plan and zoning code. But the range or nature of topics the state requires to be addressed in the plan, and/or particularly controversial local issues that need attention, can sufficiently complicate the logistics and increase the cost of a plan update, so cities most often choose to update the plan and code separately.

Depending upon the state, specific contents of the plan may be mandated or not. California, Oregon, Florida, Arizona, Texas, and a few other states specify various mandatory details for comprehensive plan content, while others simply require that a plan be prepared. Still others enable, but do not require, that plans be prepared or that zoning be used at all. As an example of state-mandated content, California requires that "general plans" explicitly address the issues of land use, housing, circulation, open space, noise, safety, and conservation. Notably

lacking from state mandates, and from most comprehensive plans even where the state allows topics in addition to those mandated to be addressed at the option of a city, is any specific discussion of the community's urban design preferences or vision.

Increasingly, cities have come to realize that the lack of distinct physical identity and quality and the prevalence of monotony in the public realm are not only a consequence of ineffective conventional zoning regulations, but also a result of inadequate community attention to urban design in the overall planning process. In response, Form-Based Coding practitioners have developed and are evolving public participation and visioning techniques that can identify the community's urban design preferences in both planning and coding. While a "conventional" state-mandated planning process can, if allowed by the particular state, incorporate effective attention to urban design, (i.e., by including an urban design element or chapter in the comprehensive plan detailing desired distinctions in the character of the public realm as shaped by private development and in different parts of the city as a foundation for the code), the preparation of Form-Based Codes that are not preceded by a clear and sufficiently detailed community vision defined through other means instead accomplish the "planning" side of the exercise as an integrated component of code preparation itself.

This planning process has several purposes: to identify and document the existing physical character of the area being coded; to engage the public in the exploration and review of alternatives to the existing physical character, usually through a charrette; to describe the preferred physical character of the different places within the coded area in illustrations that clearly show how the public realm and private development will appear if the community vision is

implemented; and finally, to prepare a Regulating Plan and draft the regulations. As noted in Chapter 1, the Regulating Plan identifies property boundaries between areas where differences in physical character are to occur and, therefore, where regulations for development in the Form-Based Code must differ in order to produce the intended variations in character. The details of this planning process are described later in this chapter.

Community choices between a conventional planning process with an added emphasis on urban design versus Form-Based Coding with an integrated planning and visioning process should be based upon several factors: the timing of the most recent comprehensive plan update and whether the update included sufficient community engagement and resulting urban design details in the plan; the nature of applicable state mandates and enabling legislation; and the amount of funding available for the work.

Determining the Application Area

The options available to a community for the scope of a Form-Based Coding effort that will ultimately affect the regulatory content and effect of the code include determining the areas to be coded and the degrees of change desired. Inevitably, and properly, a number of these choices will be revisited during a community charrette and at other points during code preparation, but they should at least be considered and tentative choices made among them at the outset.

Area to Be Coded

To date, Form-Based Coding techniques have been applied at a variety of scales: to downtowns and other specific, limited areas within cities, such as deteriorating strip centers; in cities, such as deteriorating strip centers; in cities, such as deteriorating strip centers; one or more undeveloped "greenfield" areas adjacent to a city that are intended to accom-

moderate growth, or existing neighborhoods or other developed areas where infill development is intended to preserve or extend existing patterns of physical character; to entire cities; and to regions that include at the time of coding both urban areas and countryside.

A city's initial choice about the area to be covered by a Form-Based Code may depend on some of the same factors described above on how to choose among public participation and visioning process alternatives, but also on whether there is a perceived need to revitalize particular areas, including reversing existing conditions of blight, or to take advantage of opportunities for the improvement of areas within the city related to changes in land ownership, parallel city plans to renovate existing street improvements or other infrastructure, and/or the availability of limited-term grants or other funding. As will be discussed regarding implementation options below, some cities have also chosen to apply Form-Based Coding to limited areas in response to political uncertainty about the desirability of Form-Based Coding in the city "by taking a small bite first," and/or to create a "pilot project" that will provide an opportunity for city staff and appointed and elected officials to gain experience in the administration of and achieving success with a Form-Based Code before applying the techniques to more extensive areas or to the entire city.

Degrees of Change

An important part of the dialog about Form-Based Coding must necessarily be the extent of physical change that is expected and desired over time in different areas of the city. This is because physical planning, related urban design decisions, and Form-Based Coding are all fundamentally about managing change within a city. Cities will often include areas that resist change as they are in a planning and coding effort, and other areas where varying degrees of

change are desired. These issues are addressed in Form-Based Coding at all stages of the preparation process, first in the documentation phase, and finally in the substance of the detailed urban and architectural standards for each area to which Form-Based Coding is applied. As communities consider physical change, the following list identifies the continuum of change that may be desired, and that a community may wish to effect through Form-Based Coding:

Preservation

The community is satisfied with and actively wants to retain the existing physical character of one or more neighborhoods, a downtown, or other area with distinct identity, historical or otherwise, and to ensure that infill and replacement development "fits in" with the established physical character of its context and does nothing to change that character.

Preservation and Enhancement

The community wants to retain the established physical character in one or more areas, but is interested in carefully conceived and targeted enhancements to them, which could be in the form of private property developments, or changes to the public realm constructed by the city.

Evolution

The community is interested in seeing physical change within the planning area over time, but is willing to allow change in compliance with the city's vision to occur primarily according to the timing needs and investment expectations of individual property owners within the planning area.

Transformation

The community wants to see desired physical change occur within the shortest possible time, so it wants Form-Based Coding to be as effective as possible in facilitating change, and is also willing to pursue other measures toward

the same ends. These may include, for example, such development incentives as housing density bonuses, accelerated development application processing, street and streetscape (public realm) improvements undertaken by the municipality, and/or more rigorous code enforcement programs.

The desired extent of physical change identified through the public participation process will inform several aspects of code content, particularly Building Form Standards, frontage and building type standards, and the nature of the process for development review and approval.

Determining the Implementation Method

Communities that find the concepts of Form-Based Coding of interest can consider several different methods of introducing these types of regulations into an established zoning and permitting system. Ultimately, the adoption of a Form-Based Code is a legislative act that requires the same type of public process as the adoption of any other plan or zoning regulation under applicable state laws, and may involve environmental review if required in the applicable state, one or more planning commission public hearings concluding with a recommendation to the local legislative body (city or town council, board of supervisors or commissioners, or the like), and one or more legislative body public hearings prior to their adoption of the regulations. Within that framework, the following alternative approaches are possible.

Comprehensive Replacement of Existing Code (Mandatory and Freestanding)

The Form-Based Code replaces the preexisting conventional zoning code for all or part of a community, and all development within the FBCs defined application area must abide by the regulations in it.

The comprehensive replacement of an existing conventional code with a Form-Based Code creates the greatest range of opportunities for transforming targeted areas of a community while maintaining established character in others. This approach is less expensive in smaller communities than larger (as would be any conventional planning process) and also offers the advantage of any changes in regulatory vocabulary and procedures being consistent throughout the code.

Optional/Parallel and Freestanding

The FBC is created as a standalone code but does not replace the preexisting conventional zoning code. Instead, in specific areas defined in the FBC and for project sites meeting certain specified minimum requirements (for example, 20 acres, or at least one urban block), the developer is given the choice to build under the preexisting conventional zoning code or the new Form-Based Code. The property does not have to be rezoned, but once the developer chooses a code, the entire development project must abide by it.

This method of FBC application could result in a development that is incrementally more effective at implementing the community's desired urban vision because developers will generally face a more predictable and straightforward permit process under a Form-Based Code, and the range of possible development types available to them under the FBC can be both more cost-effective to build and more marketable than those allowed by the conventional code, depending upon the particular city. However, given the complexity of planning and zoning administration generally, this approach should be considered carefully. The challenges of administering even a single zoning code are significant, and the potential for two codes to cause confusion about the community's commitment to the requirements, preferences, and priorities

reflected in the Form-Based Code may result in development applicants attempting to pick and choose only those most beneficial to their interests, unless the terms under which each code may apply are absolutely clear.

Pilot Projects

A variety of cities have explored and gained experience with Form-Based Coding through a pilot project focused on a limited area. A pilot project could be executed in the form of any of the three following approaches.

Specific Plans and Other Limited Area Complete Codes

Certain states, such as California, Arizona, and Pennsylvania, allow this type of regulatory document (which is a subgroup of "Mandatory and Freestanding") in order to supplement broader general plans. A local government or a developer wishing to regulate a walkable, mixed-use community that is not permissible under the current zoning code prepares a Form-Based Code (including a Regulating Plan) for the area and submits it through the designated Specific Plan process to have it approved. The property does not have to be rezoned, but once approved, the Specific Plan FBC replaces the preexisting conventional zoning code regulations for the defined area.

Specific plans have been used in a number of California communities to provide a Form-Based Code for a particular area (e.g., a downtown), either as a pilot project, one of a series of plans and Form-Based Codes covering several individual places within the city, or as the only intended implementation of Form-Based Coding in the city.

Embedded "Form-Based Zones" (Mandatory and Integrated)

The preexisting conventional zoning code is updated by adding new Form-Based Zones with

appropriate FBC regulations. The zoning map is also revised (or a new Regulating Plan is created), and certain areas are rezoned to the new Form-Based Zones. Within these areas, any and all development must abide by the new regulations for the Form-Based Zones. In addition, other regulations, such as a streamlined project approval process, may be added to the conventional zoning code, to be applicable only to areas in the new Form-Based Zones.

In this "hybrid code" example, the "conventional" zones and related standards of the existing code are retained in areas of the community that are not rezoned. This approach of introducing a few Form-Based Zones into a conventional code could be an effective pilot project in the phased replacement of an existing code, as well as an effective way of responding to near-term pressures for physical change in "sensitive" areas of the community. While this may not ultimately be as desirable as the comprehensive replacement of the existing code described above, it may be the only one feasible in a community that, for any number of reasons (including funding and time limitations), wants to move into the field gradually.

Floating Zone/Traditional Neighborhood Development

The preexisting conventional zoning code is updated by adding a single new zone. (It may be called a Traditional Neighborhood Development [TND] zone, or something similar.) The new zone has an FBC embedded within its regulations, including a number of Form-Based Subzones and their accompanying regulations, but typically does not include a Regulating Plan and is not yet applied to any areas on the zoning map (which is why it is a "floating" zone). A developer wishing to build under this FBC applies the Form-Based Subzones to create a Regulating Plan for the property and submits it through the designated process to have the property re-

zoned to the new TND zone. If approved, the property is rezoned to the TND zone with the submitted Regulating Plan attached as part of the rezoning.

An alternative but similar system requires the property owner request to have the property rezoned to the new TND zone first, to grant the initial authority to use the FBC for the project area. Regulating Plans are created later for specific parts of the project area as individual developments are proposed, reviewed, and approved.

Floating Zone/Planned Unit Development

The preexisting conventional zoning code already has a floating zone, such as a Planned Unit Development (PUD) or Planned Development (PD) zone with virtually no requirements. A developer wishing to create a walkable, mixed-use community that is not permissible under the current zoning code prepares an FBC (including a Regulating Plan) for the property and submits it through the designated process to have the property rezoned to the new PUD zone. If approved, the property is rezoned to the PUD zone with the submitted FBC attached as part of the rezoning.

This is not actually a method for implementing FBCs, but it has been used successfully under conventional zoning codes by developers wanting to create walkable, mixed-use communities.

Selecting an Approach to Coding

Even though Form-Based Codes have been prepared and used for a brief time in comparison with conventional zoning, there are a number of variations in practice that may be considered as workable differences in the overall approach to coding.

Organizing Principle

The first group of choices regarding the coding approach is about the "organizing principle" used as the basis for the Regulating Plan. As described earlier, Form-Based Coding practitioners have used at least four different approaches to date to structure Regulating Plans by identifying distinct areas where different code standards will apply. Some practitioners have divided coded areas into "neighborhoods, districts, and corridors," which mirror some of the key features of urbanism identified by the Charter of the New Urbanism. Others have created Regulating Plans based on the types of thoroughfares or street frontages planned within the area being coded, where design and development standards then differ depending on the type of thoroughfare or frontage applicable to the site. Small-scale, named zones, have been used to apply Form-Based Coding standards when one or very few areas within a city are being regulated separately from the adjacent urban fabric.

Currently, the transect is the most commonly used organizing principle because it is the most effective and flexible method of addressing multiple areas within a city where development standards are to differ, and because it is highly intuitive in terms of how all components of urbanism (building and thoroughfare types, use types, landscape, and so on) should be allocated to specific transect zones based on their intensity. Choosing an organizing principle for a Regulating Plan other than the transect should be based on the size of the area to be subject to the code, whether the code is intended to cover multiple areas within city, and whether there has been earlier Form-Based Coding that is being extended into the areas currently being considered.

Templates

The second group of choices regarding the approach to coding is interrelated and involves

the type of code document itself, in terms of both the organization and the format and overall presentation of the code. Alternatives include whether the code and its standards are designed and developed locally, or are based on a predetermined "template" that has been used and proven elsewhere and that can be appropriately and effectively customized to serve local needs.

The SmartCode

The most notable currently available code template is the SmartCode, initially designed and written by Duany Plater-Zyberk & Company (DPZ) of Miami, and which has since undergone continual refinement, both by DPZ and its associates, and by the communities that have considered and adopted the code.

The SmartCode is a comprehensive, transect-based FBC that includes model standards and requirements for multiple scales of development by both the public and the private sectors, as well as administrative procedures for development review and approval. Many Mississippi communities are currently using it as a tool for implementing vision plans created as part of the post-Katrina "Mississippi Renewal" planning efforts, and in its largest implementation to date, it is being used as the basis for a new development code for the City of Miami, Florida.

As a template, the SmartCode is intended to be rigorously customized to the Form-Based Coding needs of each community considering its use. At minimum, after the preparation of a Regulating Plan, SmartCode customization must include the modification of administrative procedures as necessary to comply with applicable state law requirements and local regulations, and the adjustment of its model standards to ensure that proposed development is appropriate to the local area and effectively

implements the community's vision as represented by the Regulating Plan.

The SmartCode can then also be customized in a variety of other ways. Some of these are anticipated by the template itself (in some cases, for example, it provides more than one version of a graphic illustrating the application of the same regulations for a city to choose from). Other aspects of SmartCode customization may include its organization and format, as well as the selection of the various components of the template that are to be used in the local code calibration (for example, whether the "Sector Plans" chapter will be included in a city's version of the code). The SmartCode template, incorporating a manual for its calibration and use, is available for download and use without charge at www.smartcodefiles.com. For examples of its implementation, see the case studies for Montgomery, Alabama; Leander, Texas; and Miami, Florida.

Other Templates

Depending on the preferences of the city pursuing Form-Based Coding, other Form-Based Code "templates" in addition to the SmartCode may be considered because any consultant team that has prepared more than three Form-Based Codes likely has at least one template itself. This is because a zoning code author's first code drafting experience is likely to be a bit of an experiment; his or her second code works to (among other things) correct the shortcomings of, and refine the formatting, usability, and effectiveness of, the first in the context of the second client jurisdiction; and, unless the needs of each client have been substantially different, his or her third completed code provides a model in terms of format, nomenclature, and standards that may be effectively and appropriately adapted for use in other communities, assuming adequate skill, experience, and dedication

on the part of the author, as well as the necessary attention to detail.

Selecting a Template

A decision about whether to use a template, such as the SmartCode, may be based on several factors. As noted earlier, if Form-Based Coding is to be applied only to areas within a city so limited that more than one transect level cannot be identified within them, a transect-based solution, such as the SmartCode, may not be necessary. Beyond that issue, the remaining questions about whether to use a certain template involve the level of effort required to customize and calibrate the code template to local conditions and needs, versus that implied by other types of code documents (given that any existing code template must be calibrated and customized), and the extent to which local officials (particularly city attorneys) are confident that the template can be sufficiently calibrated and customized to comply with applicable state law requirements, including where required, consistency with the city's comprehensive plan. (Currently, this is largely not a serious issue as more Form-Based Codes, including SmartCodes, are adopted and more city attorneys become familiar with the platform.)

Customizing and Calibrating a Template

It is important to note here that "customization" is not the same as "calibration." Calibration is adapting and revising substantive template or other model development standards to serve local needs effectively, while customization is both modifying the format, organization, and graphic design of the template, and editing the text to improve clarity and eliminate ambiguity, to serve the information retrieval needs of code users as they are identified by local officials. Specific customization and calibration issues that should be considered by a city interested in using a template include the following,

recognizing that the SmartCode and other templates can typically be calibrated and/or customized in any manner desired by a jurisdiction interested in using them:

- **Overall format, page format:** A code template should be compared to the principles for code formatting found later in this section, and the city should determine whether it wishes to implement some or all of those principles and recommendations in its new code.
- **Nomenclature:** If the template uses terminology in its standards that is different from that commonly found in other city development regulations, the city may wish to consider whether template nomenclature or citywide code nomenclature should be changed, or whether they may coexist. For example, the SmartCode refers to "building disposition," while a term such as "building placement" may be more intuitive to those who regularly work with codes, as well as to the general public.
- **Scope of development standards:** A calibration issue related to the scope of the standards in a template is that the template may not provide standards that address some development issues that the community has found to be problematic or now wishes to address. The code team will need to add regulations to address such local issues.
- **Organization:** The organization of the code should be optimized for use by project designers and municipal development project reviewers who most commonly need to access code information in a particular order: (1) what type of development and use is allowed on an individual lot (so that the owner can readily determine if the type of development project is possible at all); (2) what are the basic standards that define the limits of a building that may be located on the individual lot; (3) what other applicable develop-

ment standards will affect the project and program (for example, parking, landscaping, and sign standards, as well as any standards that may address the location, design, and operation of the specific proposed land-use type); and finally, (4) administrative and procedural provisions, which are typically the least used components in day-to-day code administration. Because the SmartCode is designed to serve as a template for the planning and regulation of development at scales ranging from the region to the individual lot, its default overall organization instead first presents its administrative provisions, then the provisions for the preparation of Sector Scale Plans, New Community Scale Plans, Existing Community Scale Plans, Building Scale Plans (which include the sections that regulate the development of individual lots), Standards and Tables, and finally, Definitions of Terms.

- **Graphics:** To help illustrate the meaning and applicability of its model standards, there should be graphics that are simple, crisp, and readable; however, they, too, need to be calibrated to illustrate the physical character objectives of the subject community. In some cases, it may be useful to augment them with photographs that show urban design conditions similar or identical to those that the community hopes to achieve. See more on formatting graphics later in this section.
- **Administration:** The SmartCode introduces a permit type called a "warrant," and also notes that "variances" are to be used in specific circumstances. The titles and use of these discretionary review procedures may

SMARTCODE municipality		TABLE 10 BUILDING FUNCTION-SPECIFIC												
		T1	T2	T3	T4	T5	T6	SD						
A. RESIDENTIAL														
Apartment Building														
Row House														
Duplex House														
Sideway House														
Cottage														
House														
Estate House														
Accessory Unit														
Manufactured House														
Temporary Tent														
Live-Work Unit														
B. LODGING														
Hotel (no room limit)														
Inn (up to 12 rooms)														
Inn (up to 5 rooms)														
S.R.O. hotel														
School Dormitory														
C. OFFICE														
Office Building														
Live-Work Unit														
D. RETAIL														
Open Market Building														
Retail Building														
Display Gallery														
Restaurant														
Kiosk														
Push Cart														
Liquor Selling Establishment														
Adult Entertainment														
E. CIVIC														
Bus Shelter														
Convention Center														
Conference Center														
Exhibition Center														
Fountain or Public Art														
Library														
Live Theater														
Movie Theater														
Museum														
Outdoor Amphitheater														
Parking Structure														
Passenger Terminal														
Playground														
Sports Stadium														
Surface Parking Lot														
Religious Assembly														
F. OTHER: AGRICULTURE														
Grain Storage														
Livestock Pen														
Greenhouse														
Stable														
Kennel														
G. OTHER: AUTOMOTIVE														
Gasoline														
Automobile Service														
Truck Maintenance														
Drive-Through Facility														
Rest Stop														
Roadside Stand														
Billboard														
Shopping Center														
Shopping Mall														
H. OTHER: CIVIL SUPPORT														
Fire Station														
Police Station														
Cemetery														
Funeral Home														
Hospital														
Medical Clinic														
I. OTHER: EDUCATION														
College														
High School														
Trade School														
Elementary School														
Other Children's Center														
J. OTHER: INDUSTRIAL														
Heavy Industrial Facility														
Light Industrial Facility														
Truck Depot														
Laboratory Facility														
Water Supply Facility														
Sewer and Waste Facility														
Electric Substation														
Wireless Transmitter														
Crematorium														
Warehouse														
Produce Storage														
Milk Storage														

* BY RIGHT
* BY VARIANCE

SC123

need to be changed in a particular code calibration to make them consistent with applicable state law and local practice. For example, Table 10 (Building Function-Specific) allows some land-use types in some zones only with the approval of a variance. This is contrary to planning and zoning law in some states, such as California, where "land-use variances" are prohibited; so the template will simply need to be modified in these instances. (See Figure 3.2.)

Fig. 3.2 SmartCode building functions (Credit: DPZ)



Date: March 15, 2012

Agenda Item No: WORK SESSION - C.

I. Subject:

Revisions to the City's Noise Regulations

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

We had planned to discuss this item with the City Council during its work session on March 8th. Because the Council was considering the updated comprehensive plan that evening, however, and we wanted to allow plenty of time during the work session for the consultants from Halff to give an in-depth presentation, the issue was not included in the work session after all. This will give us more time to bring more information and suggestions to the Commission, so by the time we go to a Council work session, the Commission can have definite recommendations for Council.

Part of the difficulty of drafting a revised ordinance has been to resolve the conflict between the two requests the Commission received from Council: (1) setting uniform standards for all districts--which would probably require establishing maximum sound levels, as in Seattle--and (2) requiring ambient sound testing and setting ambient sound limits. It isn't feasible for the city to require every new land use to do ambient testing, but if the regulations are entirely uniform, would the ambient testing requirement apply to every use? If it isn't required for every use, how do we determine who should be required to conduct ambient testing?

The previously proposed ordinance tried to resolve the issue by saying proposed new uses for certain industrial uses (manufacturing, fabrication, drilling, mining/extracting) would require ambient sound testing, and other uses would follow the regulations already in place. The Commission may want to consider a variation to that approach. One approach the city may want to take is as follows:

- * Remove existing standards for nuisance during certain times (see attached section from our existing city code).
- * Replace said existing standards with table of sound limits based on districts (see attachment for an example of what this could look like).
- * Require ambient sound testing under certain circumstances, providing allowance for temporary variance not to exceed 5 dB over limit listed in the table or over ambient and not to exceed 70 dB. For example, construction projects or gas drilling, where the users expect they will not be able to meet the standards shown in the ordinance, could seek a variance.
- * For all other uses, assume the use is meeting the sound limits in shown in the table unless a complaint received or unless police or other enforcement staff suspect a problem, in which case the sound levels will need to be verified with sound readings.

In the attached table, you'll see there are two questions listed in brackets. These are questions I wanted to put

to the Commission--should the maximum sound level be lowered more at night for residential districts that what is shown in the table? And should the limit also be lowered for pure tones? It is lower in one of the examples I've read, and it's something the city might consider, considering the nuisance level of pure tones.

(As an aside, please ignore the highlighted square in the table under the Industrial district limits. I had highlighted the table when I was typing it, and now the highlighting feature won't turn off.)

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

None

VIII. Alternative Actions:

IX. Attachments:

1.	Table of sound limits (draft)	Table of sound limits by district (draft).doc
2.	Sec. 15-155 Nuisance during certain times	Sec. _15 _155. _Nuisance _during _certain _times..doc

Table of Maximum Allowable Sound Levels^{1, 2}

District Type of Sound Source	District Type of Sound Receiver					
	Daytime Residential	Nighttime Residential	Daytime Commercial	Nighttime Commercial	Daytime Industrial	Nighttime Industrial
Residential ³	55	50	60	60	60	60
Commercial	65	53	63	60	65	65
Industrial	58	55	65	63	70	67

[SHOULD RESIDENTIAL LIMITS BE LOWERED AT NIGHT?]

[pure tones, lower by 5 dB(a)]

¹ Sound limits are given in dBA.

² See also [section number] for limits on low-frequency sounds.

³ For purposes of this article, mixed use districts containing residential and commercial are classified as residential districts.

Sec. 15-155. - Nuisance during certain times.

In addition to the prohibitions set forth in sections 15-153 and 15-154, the following acts, among others, are deemed to be nuisances that are prohibited by this chapter during the times listed:

- (1) The playing of any radio, audio equipment or other musical instrument between the hours of 10:00 p.m. and 7:00 a.m. in such manner or with such volume as to annoy or disturb the quiet, comfort, or repose of persons of ordinary sensibilities in any dwelling.
- (2) The erection, including excavation, demolition, alteration or repair work on any building, structure or site which is within one hundred (100) feet of any dwelling between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, except in case of urgent necessity in the interest of public safety and convenience, and then only by permit issued under section 15-157
- (3) The creation of any excessive noise on any street adjacent to any school, institution of learning, or church while the same is in session or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided conspicuous signs are displayed in such manner indicating that the same is a school, church or hospital area.
- (4) The parking or standing of any engine or motor, whether attached to a vehicle, trailer, or otherwise, left in operation for a period exceeding one (1) hour between the hours of 10:00 p.m. and 7:00 a.m., within a distance of two hundred (200) feet from any dwelling.

(Ord. No. 205, § 1, 10-26-00)



Date: March 15, 2012

Agenda Item No: WORK SESSION - D.

I. Subject:

Resident petition for rezoning

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

As you will recall, during the February meeting, a Kennedale resident addressed the Commission to say he had brought a petition to rezone certain properties in Old Town. The Commission could not act on the item at that time, since it was brought up during the Visitors'/Citizens' Forum. We do not have a formal application from the residents, but we do have the petition on file. Staff has placed the petition on the Work Session agenda in case the Commission wanted to discuss this item.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

None

VIII. Alternative Actions:

IX. Attachments:



Date: March 15, 2012

Agenda Item No: WORK SESSION - E.

I. Subject:

Discussion of Gated Communities

II. Originated by:

James Cowey, Director of Development Services

Rachel Roberts, City Planner

III. Summary:

The new comprehensive plan encourages development to provide for connections with surrounding areas. As the city begins revising its zoning regulations and subdivision regulations to be in compliance with the comprehensive plan, one issue the city will need to examine is gated communities.

City staff recommends considering prohibiting gated communities or, if they are to be allowed, require that gating be for automotive traffic only and that un-gated access be provided for pedestrians or cyclists. Before pursuing the issue further, though, we would like to have comments from the Commission about this possible change to the zoning code. We can bring to the meeting more information about why we recommend limiting this kind of development.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

None

VIII. Alternative Actions:

IX. Attachments:



Date: March 15, 2012

Agenda Item No: WORK SESSION - F.

I. Subject:

Discuss any item on the regular session agenda, if needed

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

This item has been added to the agenda in case a Commission member would like to discuss an item on the regular session agenda. No action may be taken by the Commission at this time.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

None

VIII. Alternative Actions:

IX. Attachments:



Date: March 15, 2012

Agenda Item No: WORK SESSION - G.

I. Subject:

Discuss Items for Future Consideration

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

The items below will be considered by the Commission on a future agenda. The Commission may discuss these topics or additional topics in terms of when they will be added as a regular work session agenda item and the scope of the future discussion.

- a. Green / Environmental Regulations
- b. Salvage Yard Ordinance

Staff has done some preliminary work on item (a), and we will bring notes and research to the Commission when this becomes a work session item.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

VIII. Alternative Actions:

IX. Attachments:



Date: March 15, 2012

Agenda Item No: MINUTES APPROVAL - A.

I. Subject:

Minutes from the February 23, 2012 Planning & Zoning Commission meeting

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

A copy of the draft minutes from the February meeting follows this staff report for your review and consideration for approval.

IV. Notification:

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

VIII. Alternative Actions:

IX. Attachments:

1.	P&Z Minutes 2012 February	02.23.2012 PZ Minutes.doc
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KENNEDALE
Planning and Zoning Commission
www.cityofkennedale.com

KENNEDALE PLANNING & ZONING COMMISSION
MINUTES
COMMISSIONERS - REGULAR MEETING
February 23, 2012
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

I. CALL TO ORDER

Chair Ernest Harvey called the meeting to order at 6:10 PM.

II. ROLL CALL

Roll Call

Present Billy Simpson, Lori Bryan, Ray Cowan, Ernest Harvey, Adrienne Kay, Charles Overstreet, Carolyn Williamson, Michael Herring

Absent/Excused Thomas Pirtle

III. WORK SESSION

A. Comprehensive Land Use Plan

Chair Harvey asked for more information on Section 7 of the draft report. Rachel Roberts clarified that this section was intended to explain the basic overall direction of the plan and what the city should expect next.

Commissioner Kay expressed that she was pleased with the plan and greatly appreciated the public support and involvement throughout the process.

B. Revisions to the City's Noise Regulations

Ms. Roberts noted that she had been conducting research on other cities' regulations related to noise regulations. Chair Harvey noted that he would like to see a comprehensive ordinance that covered all areas and potentially an ordinance that set allowable according to zoning classification.

Discussion was held on the importance of maintaining a positive lifestyle for residents while considering potential development in terms future mixed use development, entertainment venues, etc.

Chair Harvey asked that Council be presented information regarding the direction of the noise ordinance to ensure that the commissioners are pursuing a direction that is favorable to Council.

C. Discussion of zoning at Bowman Springs Road intersection with Kennedale Pkwy

The Commission had been conducting research on this issue, and Mr. Harvey asked that Frisco and Grapevine be looked as examples for development of this area. The Urban Village concept described in the proposed comprehensive plan update will be used as a guideline.

IV. REGULAR SESSION

V. CALL TO ORDER

Chair Harvey called the meeting to order at 7:00 PM

VI. ROLL CALL

Roll Call

Present Billy Simpson, Lori Bryan, Ray Cowan, Ernest Harvey, Adrienne Kay, Charles Overstreet, Carolyn Williamson, Michael Herring

Absent/Excused Thomas Pirtle

VII. MINUTES APPROVAL

A. Review and approval of minutes from the January 2012 Planning & Zoning Commission meeting

Motion to approve the minutes as presented, **Action** Approve, **Moved By** Ray Cowan, **Seconded By** Billy Simpson

Motion passed unanimously with Chairman Harvey abstaining.

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the Planning and Zoning Commission not scheduled on the Agenda may speak to the Commission, provided that an official 'Speaker's Request Form' has been completed and submitted to the Commission Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual commissioners or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

One resident asked to speak.

1. George O'Neal of 121 West Mansfield Avenue approached the commission, asking that his petition regarding rezoning and expansion of lot size in his area be accepted. Chair Harvey directed Mr. O'Neal to speak with Development Services Director James Cowey.

IX. REGULAR ITEMS

- A. Public Hearing to receive comments and consider action on the revised Comprehensive Land Use Plan for the City of Kennedale

A. Staff Presentation

Rachel Roberts commented that this plan has been in the works for quite some time and that the city is very excited to adopt the measures prescribed.

B. Consultant Presentation

François de Kock and Adam Wood from Halff and Associates presented the final draft of the plan, noting that the plan was intended to encourage development, manage growth, broaden transportation options, and enhance image identity of the city. Other areas of focus included respecting the city's heritage, establishing a sense of place, creating biking/walking friendly neighborhoods, and keeping tax dollars in Kennedale.

The plan included a variety of neighborhoods, including high density residential, employment centers, open space, and industrial areas. Conservation overlay zones were also proposed in the southern portion of the city.

As far as transportation, the plan allows for contextual building of roads to accommodate for varying land uses and neighborhood types, biking areas, etc.

Mr. Wood noted that the city's ordinances and regulations would need to be updated to accommodate for the development methods described in the plan. This can be done by developing new ordinances, adding form based code throughout, or proceeding with a hybrid of form based codes and traditional regulations. Cities that have successfully pursued a hybrid or completely form based set of regulations include Celebration FL, Flagstaff AZ, El Paso TX, and Denver CO.

C. Public Hearing

Mr. Harvey opened the public hearing. One resident requested to speak.

1. Frank Acree, property owner of land between 5510 and 5520 Kennedale-Sublett Road requested to speak regarding concerns with the plan's proposed economic development methods in tin his area. He requested that the commission extend the neighborhood corridor on Sublett Road to the 287 urban village area, avoiding all open and green space in that area

No other residents requested to speak and the public hearing was closed.

D. Consultant Response

No response was necessary.

E. Staff Response and Summary

Ms. Roberts recommended that commission send the plan to Council for final approval.

F. Action by the Commission

Commissioner Cowan expressed concern regarding to the new plan and its effect on current zoning regulations, to which Chair Harvey responded that the commission and the city would have multiple opportunities to decide on options for implementation of plan standards.

Motion To approve the plan and send it to City Council along with a recommendation to extend the neighborhood corridor on Sublett Road to the 287 urban village, avoiding all open and green space in that area., **Action** Approve, **Moved By** Adrienne Kay, **Seconded By** Ray Cowan

Motion passed unanimously, with Chairman Harvey abstaining.

X. REPORTS/ANNOUNCEMENTS

Ms. Roberts noted that the Texas Independence Day Parade would be held on Saturday, March 3rd at 1:00 PM in the area of TownCenter Plaza.

XI. ADJOURNMENT

Motion to Adjourn, **Action** Adjourn, **Moved By** Ray Cowan, **Seconded by** Charles Overstreet.
Motion passed unanimously, with Chairman Harvey abstaining.

The meeting was adjourned at 8:05 PM.



Date: March 15, 2012

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

CASE # PZ 11-08 to consider action on a request by William Winsett for a zoning change from "R-2" Single Family Residential to "C-1" Restricted Commercial for approximately 0.95 acres at 3835 Kennedale New Hope Rd, more particularly described as Robert C Richey Survey A 1327 Tracts 2C & 2M.

- A. Staff Presentation
- B. Applicant Presentation
- C. Action by the Commission

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

This item was tabled by the Commission last August in anticipation of the comprehensive plan update being adopted.

Mr. Winsett's request is for a C-1 Commercial zoning designation. The updated comprehensive plan shows his property as Neighborhood Corridor. While the zoning code hasn't yet been updated to reflect the new comprehensive plan, commercial uses are included in the Neighborhood Corridor category. Thus while the C-1 Zoning District does not fit the comprehensive plan, the intended uses from a C-1 Zoning District could fit the plan's intent. It is possible that proposed development projects submitted for this property may not fit the comprehensive plan, but the city can at least enforce the masonry requirements and other requirements for new construction.

Because we do not yet have new zoning designations in place to reflect the updated comprehensive plan, the city must work with the zoning designations already in place. The Commission has the following options:

- approve the request as is;
- deny the request with prejudice;
- deny the request without prejudice, and request the applicant to submit a new rezoning request, this time as a Planned Development District. But keep in mind that if you deny the request and ask the applicant to resubmit, he would be required to pay an additional application fee.

A list of the uses permitted in the C-1 zoning district is attached to this message. If the request to rezone is granted, the property will be required to be platted for any building permits will be issued, and staff can work with the property owner or developer to encourage site design that fits the intent of the Neighborhood Corridor.

IV. Notification:

Letters were sent to owners of real property of the requested rezoning, and notice was published in the *Fort Worth Star-Telegram*.

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

None

VIII. Alternative Actions:

IX. Attachments:

1.	Uses Permitted in C-1 Zoning Districts	Uses Allowed Per District -- C-1.doc
2.	Ordinance adopting zoning change, PZ 11-08	Ordinance rezoning PZ 11-08.doc
3.	Site of request rezoning, showing current zoning designation	PZ 11-08 with zoning.pdf

USES ALLOWED PER DISTRICT: C-0 AND C-1

C-1 RESTRICTED COMMERCIAL

Permitted

Agricultural Uses:

Orchard
Produce Stand

Utility Uses:

Cable TV Lines
Sewer lift station
Telephone Exchange
Utility Poles and lines

Utility Mains and lines
Water Pump Station
Water Storage Tank

Government and Institutional Uses:

Auditorium or amphitheater
Church or Rectory
College or University
Community center
Convalescent center
Fire Station
Government Office
Library

Museum or art gallery
Park or playground
Police station
Post Office
School (nursery or kindergarten)
School (elementary or middle)
School (high school)

Commercial Uses:

Antique shop
Apparel or clothing store
Appliance store (retail)
Appliance repair shop
Arcade
Art supply store
Athletic or fitness club
Auction
Audio store (retail)
Auto parts store
Bakery (retail)
Bank or financial institution
Bed & breakfast accommodations
Barber or beauty shop
Bicycle sales and repair
Book store
Bowling alley

Bus terminal
Business office
Camera store (retail)
Carpet store (retail)
Child care center or facility
Computer store (retail/service)
Convenience store
Dental clinic or office
Department store
Electrical sales & service
Electronics store (retail)
Employment agency
Florist shop
Fraternity/sorority lodge
Furniture store (retail)
Gift or novelty shop
Grocery store

Gunsmith shop
 Hardware store
 Heating A/C sales & service
 Hobby shop
 Insurance sales office
 Jewelry store
 Laundry or dry cleaners
 Leather goods shop (retail)
 Lithographic shop
 Locksmith shop
 Meat, poultry & fish market
 Medical clinic or office
 Movie theater (indoor)
 Musical instrument store
 Newspaper office
 Newsstand
 Office supply store
 Optical clinic or office
 Optical dispensary store
 Paint sales store (retail)
 Pet grooming shop
 Pet shop
 Pharmacy or drug store
 Photography studio
 Picture framing shop
 Plumbing sales & service

Print shop
 Professional offices
 Racquetball court
 Real estate leasing office
 Recording studio
 Rental store
 Restaurant or café (inside)
 Restaurant (drive-in)
 Restaurant (kiosk)
 Secondhand store
 Service stations
 Shoe or boot store
 Sign shop
 Skating rink
 Snow cone stand
 Sporting goods store
 Tack store
 Tailor or seamstress shop
 Tanning salon
 Title & abstract office
 Travel agency
 Upholstery shop
 Veterinary clinic
 Video store
 Washateria (self-service)

Permitted with Special Exception

Utility Uses:

Electric Substations
 Gas regulations/gate station
 Microwave tower
 Radio & television tower

Recycling collection facility
 Wastewater Treatment Plant
 Water Treatment Plant
 Water Well

Government and Institutional Uses:

Cemetery or Mausoleum
 School (Trade or Business)

Commercial Uses:

Auto inspection station
 Auto rental
 Cabinet shop
 Car wash
 Carnival or circus

Christmas tree sales
 Furrier
 Game hall
 Hotel or motel
 Kennel

Laboratory, medical or dental
Lawnmower sales & service
Mortuary or funeral home
Nightclub or dancehall
Parking lot (commercial, for fee)

Pawnshop
Pool or billiard hall
Private club (serving alcohol)
Tattoo shop
Tire sales, repair, & installation

Industrial Uses:

Distribution center (small)
Radio transmitting station
Television transmitting station
Temporary construction office

Use Permitted with Conditional Use Permit

Commercial Uses:

Large retail facility

**CITY OF KENNEDALE
ORDINANCE NO. ____**

AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF KENNEDALE; BY CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY WITHIN THE CITY OF KENNEDALE, BEING APPROXIMATELY 0.95 ACRES ENCOMPASSING ROBERT C RICHEY SURVEY A1327 Tracts 2C & 2M; FROM “R-2” SINGLE FAMILY RESIDENTIAL DISTRICT TO “C-1” RESTRICTED COMMERCIAL DISTRICT; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government;

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, a change in the zoning classification of the property listed below was requested by a person or entity having a proprietary interest in said property; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City of Kennedale on March 15, 2012 and by the City Council of the City of Kennedale on April 12, with respect to the zoning change described herein; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City of Kennedale, Texas does hereby deem it advisable and in the public interest to amend Ordinance No. 40, as amended, as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

SECTION 1.

Ordinance No. 40, as amended, is hereby amended so that the permitted uses in the hereinafter described area shall be altered, changed and amended as shown and described below:

Approximately 0.95 acres, being described as Robert C Richey Survey A1327 Tracts 2C & 2M, Tarrant County, Texas, on the illustration attached hereto as

Exhibit “A” and incorporated herein for all purposes of this ordinance, is hereby rezoned from “R-2” Single Family Residential District to “C-1” Restricted Commercial District.

SECTION 2.

The zoning districts and boundaries as herein established have been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration among other things of the character of the district and its peculiar suitability for the particular uses allowed and with a view of conserving the value of the buildings and encouraging the most appropriate use of land throughout the community.

SECTION 3.

The City Secretary is hereby directed to amend the official zoning map to reflect the changes in classifications approved herein.

SECTION 4.

The use of the property hereinabove described shall be subject to all the applicable regulations contained in the Comprehensive Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale, Texas.

SECTION 5.

This Ordinance shall be cumulative of Ordinance No. 40, as amended, and all other Ordinances of the City of Kennedale affecting zoning and land use, and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 6.

All rights or remedies of the City of Kennedale, Texas are expressly saved as to any and all violations of Ordinance No. 40 or of any amendments thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 7.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance,

since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 8.

This ordinance shall be in full force and effect from and after its passage and it is so ordained.

PASSED AND APPROVED this 12th day of **April 2012**.

Mayor, Bryan Lankhorst

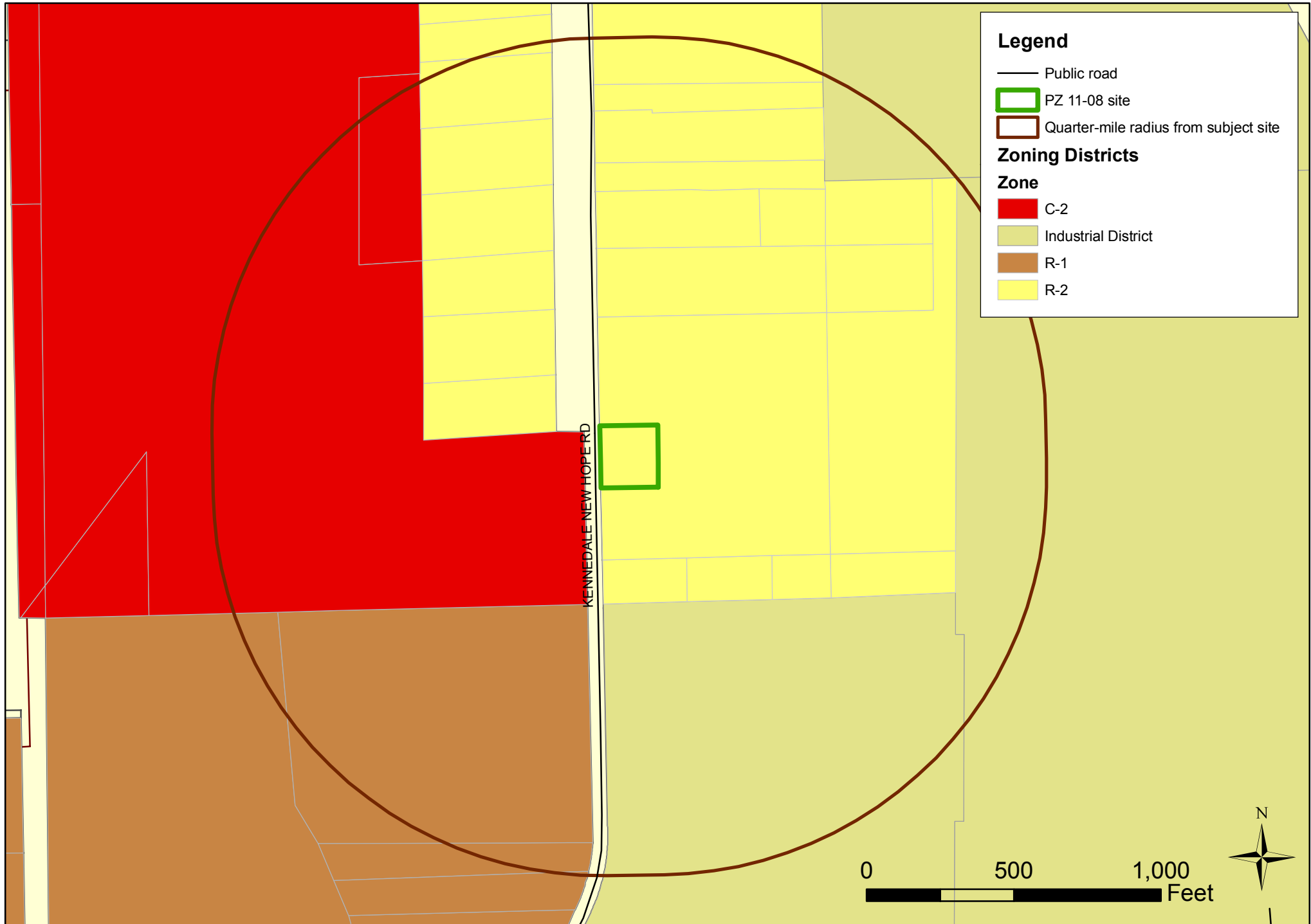
ATTEST:

City Secretary

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Site for Case PZ 11-08 showing zoning within a quarter-mile radius





Date: March 15, 2012

Agenda Item No: REGULAR ITEMS - B.

I. Subject:

CASE # PZ 11-12 to hold a public hearing and consider action on a request for a change in zoning from "R3" Single Family Residential to "PD" Planned Development District for approximately 16 acres located at 5306 Kennedale Sublett, 3190 Joplin Rd, and 3196 Hawkins Joplin Rd, 3 unaddressed parcels on Kennedale Sublett Rd, and 1 unaddressed parcel on Hawkins Joplin Rd, more particularly described as James R Hawkins Survey A-792 Tr 1, 1E, 1F, 1G, 1H, 1J, 1K, 1L, & 1M. The rezoning is requested by Vera Coker, Carolyn Williamson, Judith Coker Helms, Donald Coker, Martin & Maria Guevara, and James McDuff.

- A. Staff Presentation
- B. Applicant Presentation
- C. Public Hearing
- D. Applicant Response
- E. Staff Response and Summary
- F. Action by the Commission

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

During the January meeting, the Commission considered this case and tabled it until after adoption of the updated the comprehensive plan. The plan will be considered by the City Council this week, so this item was placed on the P&Z agenda in case the comprehensive plan is approved.

At the January meeting, staff mentioned that the site plan was still missing some information, and there were other details to be worked out where staff's recommendation differed from what was requested. The Commission indicated the tabling of the case would allow time for the applicant to supply missing information and have discussions with staff on what would be included in the site plan. So far, staff has not received the missing information from the applicants. Also, we have received email messages from several of the residents of Steeplechase who are concerned about the project. Staff believes more time is needed to work out site plan details and ensure public concerns can be addressed. Tabling the case could provide more opportunities to develop standards for the district that meet the goals of the applicants, comply with the city's vision, and address concerns of neighboring property owners. We therefore recommend the case be tabled for 30 or 60 days.

If the Commission tables the case as requested by staff, we also request you specify the time period for the delay so that any members of the public in attendance will know when the case will return to the Commission.

IV. Notification:

Letters were sent to owners of real property within 200 feet of the requested rezoning, and notice was placed in the *Fort Worth Star-Telegram*.

V. Fiscal Impact Summary:

VI. Legal Impact:

VII. Recommendation:

Postpone

VIII. Alternative Actions:

IX. Attachments:

1.	Site of Requested Rezoning	PZ 11-12.pdf
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Case PZ 11-12: Request for Rezoning

