



NOTICE OF MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF BURNET, TEXAS

This notice is posted pursuant to the Texas Local Government Code, Chapter §551 – Open Meetings.

Notice is hereby given that the **Public Hearing and Regular Meeting of the Planning and Zoning Commission** of the City of Burnet, Texas will be held on Monday, **April 5, 2021**, at **6:00 p.m.** at the City of Burnet's Community Center located at 401 E Jackson Street, Burnet, Texas 78611 at which time the following subjects will be discussed, to-wit:

1. CALL TO ORDER:

2. ROLL CALL:

3. CONSENT AGENDA ITEMS: All of the following items on the Consent Agenda are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these items unless a Commission member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Commission when the Consent Agenda is opened for Commission action.

- 3.1) Minutes of the meeting of the Planning and Zoning Commission of the City of Burnet, Texas held on March 8, 2021.

4. PUBLIC HEARINGS:

- 4.1) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 603 E Pecan St. (Legal Description: S8450 Vanderveer/Alexander, Lot 4 & Pt of 1, Block 38). The request is to rezone the property from its present designation of Duplex – District “R-2” to a designation of Multi-family Residential – District “R-3”: L. Kimbler
- 4.2) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of an application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1” located at the south east intersection of N Water St and Taggard St., legally described as ABS A0405 John Hamilton, .4839 acres: L. Kimbler
- 4.3) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a proposed Amendment to the Zoning Code for the purpose of authoring “bakeries without drive through service” in the Light Commercial – District “C-1”; authorizing “bakeries with drive through service” in the Medium Commercial

– District “C-2”, and authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan

- 4.4) The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a proposed Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-61 (Entitled “Construction Plans”): H. Erkan

5. ACTION ITEMS:

- 5.1) The Planning & Zoning Commission will discuss and consider a request to rezone property located at 603 E Pecan St. (Legal Description: S8450 Vanderveer/Alexander, Lot 4 & Pt of 1, Block 38). The request is to rezone the property from its present designation of Duplex – District “R-2” to a designation of Multi-family Residential – District “R-3”: L. Kimbler
- 5.2) The Planning & Zoning Commission will discuss and consider an application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1” located at the north east intersection of N Water St and Taggard St., legally described as ABS A0405 John Hamilton, .4839 acres: L Kimbler
- 5.3) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code for the purpose of authoring “bakeries without drive through service” in the Light Commercial – District “C-1”; authorizing “bakeries with drive through service” in the Medium Commercial – District “C-2”, and authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan
- 5.4) The Planning & Zoning Commission will discuss and consider a proposed Amendment to the Zoning Code, Chapter 118 (Entitled “Zoning”) Section 118-61 (Entitled “Construction Plans”): H. Erkan

6. STAFF REPORTS

- 6.1) As requested by Commissioner Wind report on possible future amendment to zoning code to require notice be mailed to owners of properties in the city’s extraterritorial jurisdiction as part of the rezoning applications process: H. Erkan
- 6.2) Report on possibility of updating the Planning & Zoning Commission’s City webpage: H. Erkan

7. REQUESTS FOR FUTURE AGENDA ITEMS:

ADJOURN

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Planning and Zoning Commission of the City of Burnet, is a true and correct copy of said notice and that I posted a true and correct copy of said notice on the bulletin board, in the City Hall of said City, Burnet, Texas, a place convenient and readily accessible to the general public at all times, and said notice was posted on January 29, 2021 at or before 5 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this the 1st day of April, 2021

Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City of Burnet Community Center is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the Development Services Department at (512) 715-3206, FAX (512) 756-8560 or e-mail at herkan@cityofburnet.com for information or assistance.



PLANNING & ZONING COMMISSION MINUTES

Notice is hereby given that the **Special Meeting of the Planning and Zoning Commission** of the City of Burnet, Texas will be held on Monday, **March 8, 2021**, at **6:00 p.m.** by teleconference pursuant to the Coronavirus (COVID-19), Declaration of Public Health Emergency by Mayor Bromley and executive orders of Governor Abbott. Pursuant to the declaration and order the meeting will be open to public attendance by Zoom Webinar or by Telephone. The following subjects will be discussed, to-wit:

1. CALL TO ORDER:

The meeting was called to order at 6:00 p.m. by Chairman Gaut.

2. ROLL CALL:

Members Present: Tommy Gaut, Derek Fortin, Ricky Langley, Calib Williams, Cesar Arreaza and Jennifer Wind (Commissioner Wind joined the meeting at 6:03, after the voting of the minutes.)

Members Absent: Jennifer Wind and Cesar Arreaza

Guests: Louise Lary and Marcus Horner

Others Present: Habib Erkan, Jr., Assist. City Manager
Leslie Kimbler, Development Services Admin.Tech.

3. CONSENT AGENDA:

3.1) Minutes of the regular meeting of the Planning and Zoning Commission of the City of Burnet, Texas held on February 1, 2021.

A motion to approve the consent agenda was made by Commissioner Fortin. The motion was seconded by Commissioner Langley and carried by a vote of 5 to 0.

4. ACTION ITEMS:

4.1) The Planning and Zoning Commission will discuss and consider action regarding a proposed "Final Plat" of Wandering Oaks, a proposed 23-lot residential subdivision consisting of approximately 105.08 acres, being generally located north of County Road 100 (Scenic Oaks Drive), south and west of County Road 100 (Oak Vista Drive), and east of Billy Joe Fox Drive: H. Erkan

Commissioner Langley made a motion to approve the proposed "Final Plat" of Wandering Oaks, a proposed 23-lot residential subdivision consisting of approximately 105.08 acres. The motion was seconded by Commissioner Arreaza, and carried by a vote of 6 to 0.

5. STAFF REPORTS:

None

- 6. REQUESTS FOR FUTURE AGENDA ITEMS:** Commissioner Wind requested an opportunity a report in regards to adding buffers on commercial properties that abut residential uses in the ETJ.

7. ADJOURN:

There being no further business, Chairperson, Tommy Gaut adjourned the meeting at 6:11 p.m.

Tommy Gaut, Chair
City of Burnet Planning and Zoning Commission

Attest: _____
Herve Derek Fortin, Secretary



Community Development Services

ITEM 4.1 & 5.1

Leslie Kimbler
Community Development Services
Coordinator
512-715-3206
lkimbler@cityofburnet.com

Agenda Item Brief

Meeting Date: Monday, April 5, 2021

Public Hearing 4.1: The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 603 E Pecan St. (Legal Description: S8450 Vanderveer/Alexander, Lot 4 & Pt of 1, Block 38). The request is to rezone the property from its present designation of Duplex – District “R-2” to a designation of Multi-family Residential – District “R-3”: L. Kimbler

Action Item 5.1: Discuss and consider action: The Planning & Zoning Commission shall discuss and consider action regarding a request to rezone property located at 603 E Pecan St. (Legal Description: S8450 Vanderveer/Alexander, Lot 4 & Pt of 1, Block 38). The request is to rezone the property from its present designation of Duplex – District “R-2” to a designation of Multi-family Residential – District “R-3”

Background: The subject property was rezoned to Duplex – District “R-2” from Manufactured home – District “M-1” in 2016. The applicant owns the property directly south of the subject property. That property was rezoned to Multi-family Residential – District “R-3” to allow the development of an apartment complex.

Information: Multi-family Residential – District “R-3” allows apartments provided each dwelling unit has a minimum of 500 square feet of living area; and buildings do not exceed two stories.

This rezoning will allow the applicant to increase the buildable space of the proposed apartment complex.

Staff Analysis: The Future Land Use Map (Exhibit B) designation for the area is residential. The proposed Multi-family Residential – District “R-3” zoning is appropriate in this area.

Properties adjacent to the subject property are zoned as follows:

	North	South	East	West
Zoning	“R-1”	“R-3”	“R-1”	“R-1”
FLUM	Residential	Residential	Residential	Residential
Land Use	Single-Family Residential	Multi-Family Residential / Vacant	Single-Family Residential	Single-Family Residential

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on March 24, 2021, and written notices were mailed to sixteen (16) surrounding property owners within 200 feet of the subject property.

Recommendation: Staff recommends approval of the request to rezone.

Exhibit "A"
Location & Current Zoning Map

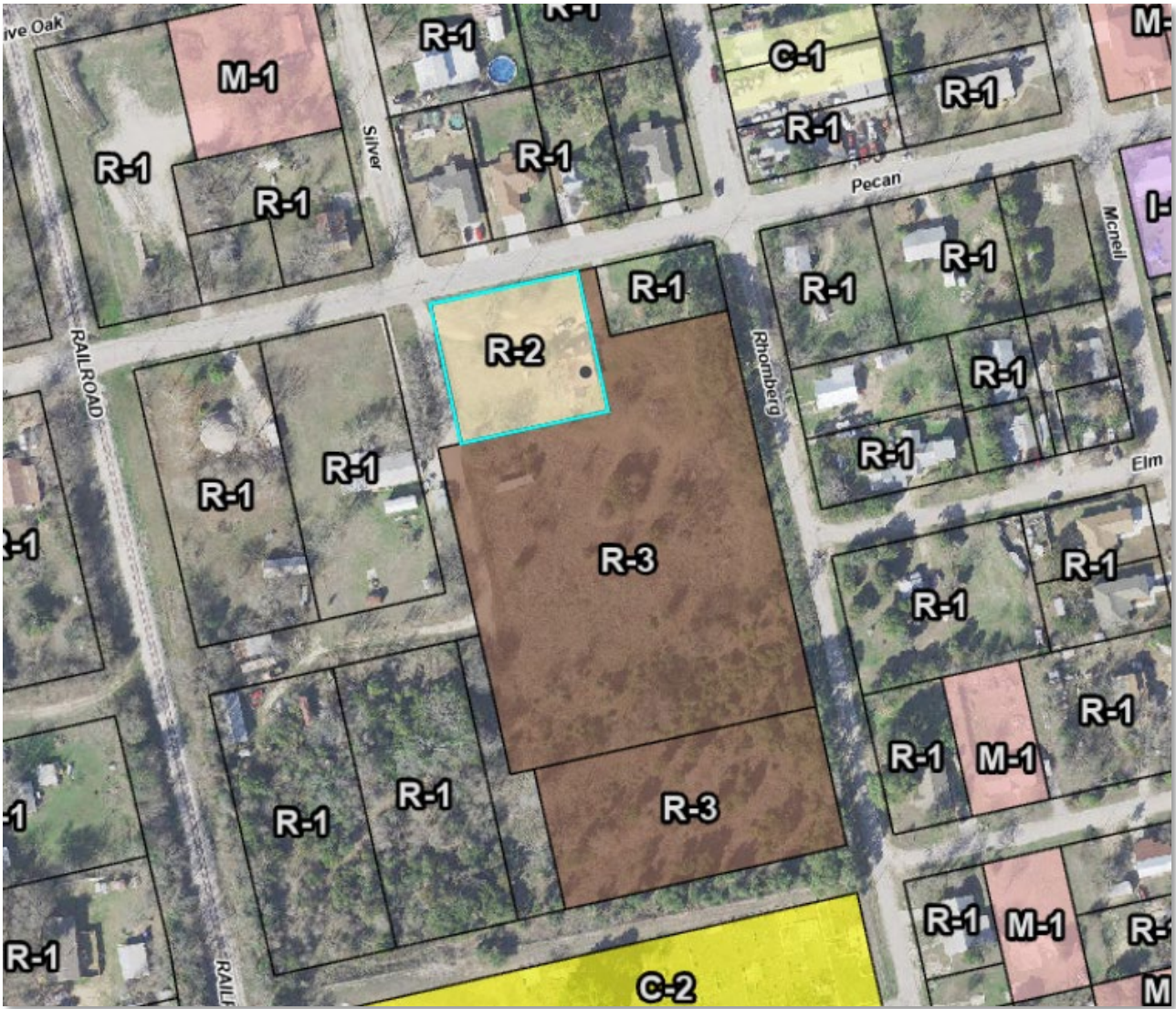






Exhibit “B”
Future Land Use Map



- 

Government
- 

Commercial
- 

Residential
- 

Open Space



Community Development Services **ITEM 4.2 & 5.2**

Leslie Kimbler
Community Development Services
Coordinator
512-715-3206
lkimbler@cityofburnet.com

Agenda Item Brief

Meeting Date: Monday, April 5, 2021

Agenda Item 4.2: The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of an application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1” located at the south east intersection of N Water St and Taggard St., legally described as ABS A0405 John Hamilton, .4839 acres:
L. Kimbler

Action Item 5.2: Discuss and consider action: The Planning and Zoning Commission shall discuss and consider action regarding an application for a conditional use permit to allow a Car Wash in a Light Commercial – District “C-1” located at the south east intersection of N Water St and Taggard St., legally described as ABS A0405 John Hamilton, .4839 acres

Background: The subject property is currently undeveloped and is located at the intersection of north highway 281 and Taggard (Exhibit A). Under the City of Burnet’s Code of Ordinances, Sec. 118-45 (b), “Carwash” is an allowable use in a C-1 district with a conditional use permit. Conditional Use Permits may be granted, by the City Council, after receiving a recommendation from the Planning and Zoning Commission.

Information: The Conditional Use Permit approval process is established by Code of Ordinances Sec. 118-64; Subsection (e). Per the cited section in making its recommendation the Commission should consider the following:

- Appearance, size, density and operating characteristics are compatible with surrounding neighborhood and uses;
- Proposed use will not adversely affect value of surrounding properties nor impede their proper development;
- Proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of property or operation of business;
- Traffic generated on existing streets will not create nor add significantly to congestion, safety hazards, or parking problems, and will not disturb peace and quiet of neighborhood;
- Comply with other applicable ordinances and regulations.

The Future Land Use Map (Exhibit B) designation for the subject property is Commercial.
Properties adjacent to the subject property are zoned as follows:

	North	South	East	West
Zoning	“C-1”	“C-1”	“R-1”	“R-1”
FLUM	Commercial	Commercial	Commercial	Commercial
Land Use	Light Commercial/ Hair Salon	Light Commercial/ Office	Single-Family Residential	Single-Family Residential

Staff Analysis: Staff has reviewed the information provided by applicant (Exhibit C) and can confirm the general criteria for a Conditional Use Permit will be met.

- A car wash is consistent with other commercial development in the area.
- The subject property is a vacant lot surrounded by developed lots and therefore will not impede any neighboring development.
- Code of Ordinances, Sec. 118-62 (4) Screening of incompatible uses protects the single-family residential property owners to the east of the subject property.
- A car wash will not significantly increase traffic more than other allowable uses in this C-1 district.

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on March 24, 2021, and written notices were mailed to nineteen (19) surrounding property owners within 200 feet of the subject property.

Recommendation: Staff recommends approval of the Conditional Use Permit.

Exhibit "A"
Location & Current Zoning Map



Exhibit “B”
Future Land Use Map



Government



Commercial



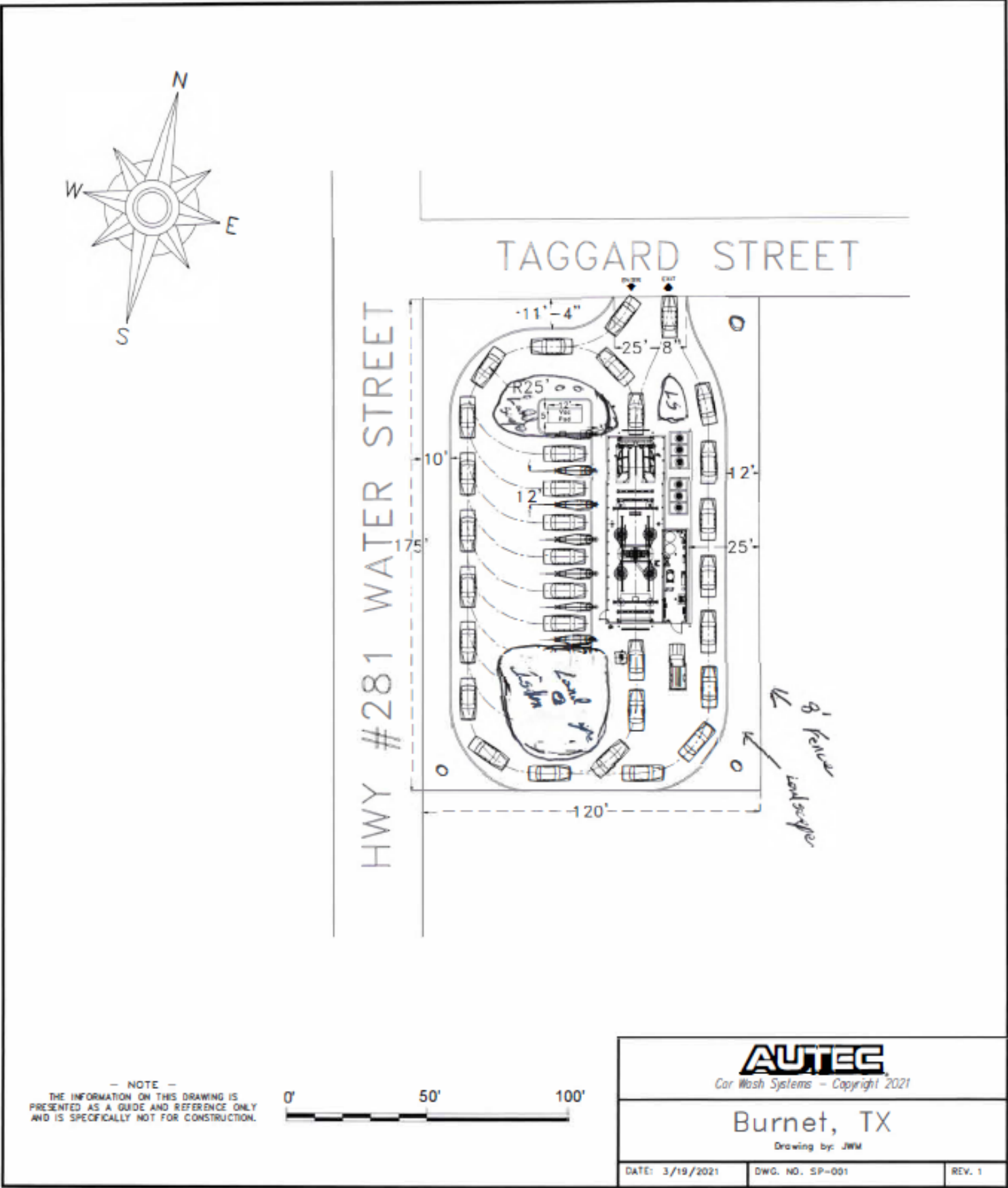
Residential



Open Space

Exhibit "C"

Preliminary Site Plan





Community Development

ITEMS 4.3 & 5.3

Habib Erkan Jr.
Assistant City Manager
512-715-3201
herkan@cityofburnet.com

Planning and Zoning Commission Agenda Item Brief

Meeting Date: Monday, April 5, 2021

Agenda Item: **Item 4.3:** The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a proposed Amendment to the Zoning Code for the purpose of authoring “bakeries without drive through service” in the Light Commercial – District “C-1”; authorizing “bakeries with drive through service” in the Medium Commercial – District “C-2”, and authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan

Item 5.3 Discuss and consider action on a proposed amendment to the Zoning Code for the purpose of authoring “bakeries without drive through service” in the Light Commercial – District “C-1”; authorizing “bakeries with drive through service” in the Medium Commercial – District “C-2”; and authorizing boat and recreational vehicle sales, service and storage in the Heavy Commercial – District “C-3”: H. Erkan

Background: **Bakeries:** Currently, retail bakeries are authorized in the Medium Commercial – District “C-2”, without distinction to whether a bakery provides drive-thru service. However, restaurants, cafés or cafeteria, and drive-in eating establishment with alcoholic beverage sales, wineries and brewers are allowed in the Light Commercial-District “C-1.” It is noted that this discrepancy was brought to staff’s attention when it was discovered that a bakery was opening on the square in a Light Commercial-District “C-1.” **Boat and recreational vehicle sales, service and storage:** Currently, this use is not on the table of permitted uses. Similar uses allowed in the Heavy Commercial – District “C-3” includes: automobile sales (outdoor) and heavy machinery sales, storage and service.

Information: This code amendment would allow:

- bakeries without drive-thru service in the Light Commercial-District “C-1”; and bakeries with drive-thru service would be allowed in the Medium Commercial-District “C-2;” and

- boat and recreational vehicle sales, service and storage allowed in the Heavy Commercial – District “C-3”

Fiscal Impact:

These Zoning Code Amendment shall have no direct financial impact.

Recommendation:

Staff recommends the Commission take action in support of the proposed Zoning Code Amendment.

ORDINANCE NO. 2020-XX

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED “ZONING”) FOR THE PURPOSE OF AUTHORIZING “BAKERIES WITHOUT DRIVE THROUGH SERVICE” IN THE LIGHT COMMERCIAL – DISTRICT “C-1”; AUTHORIZING “BAKERIES WITH DRIVE THROUGH SERVICE” IN THE MEDIUM COMMERCIAL – DISTRICT “C-2”, AND AUTHORIZING BOAT AND RECREATIONAL VEHICLE SALES, SERVICE AND STORAGE IN THE HEAVY COMMERCIAL – DISTRICT “C-3”; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the zoning districts and regulations in Section 118-20 of the City Code; and

WHEREAS, on April 5, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on April 27, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Amendment. The Code of Ordinances, Chapter 118 (entitled “Zoning”) Section 118-45 (entitled “Light commercial – District ‘C-1’”) is hereby amended by adding the language that is italics (*italics*) as new subsection 118-45(a)(1) as follows:

(1) *Bakeries with goods primarily prepared for in-store retail sales on site, with no drive-thru service.*

Note to Publisher: Existing subsections 118-45(a)(1) to 118-45(a)(11) shall be recodified as subsections 118-45(a)(2) to 118-45(a)(12).

Section 2. Amendment. The Code of Ordinances, Chapter 118 (entitled “Zoning”) Section 118-46 (entitled “Medium commercial – District ‘C-2’”) is hereby amended by adding the language that is underlined (underlined) to subsection 118-46(a)(7) as follows:

- (7) Bakeries with goods primarily prepared for in-store retail sales on site with drive-thru service.

Section 3. Amendment. The Code of Ordinances, Chapter 118 (entitled “Zoning”) Section 118-47 (entitled “Heavy commercial – District ‘C-3’”) is hereby amended by adding the language that is italics (*italics*) as new subsection 118-47(a)(4) as follows:

- (4) *Boats and Recreational Vehicles sales, service, and storage.*

Note to Publisher: Existing subsections 118-47(a)(4) to 118-47(a)(21) shall be recodified as subsections 118-47(a)(5) to 118-47(a)(22).

Section 4. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 5. Penalty. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “general penalty”).

Section 6. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled “Repealer”) shall be controlling.

Section 7. Repealer. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 9. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

Section 10. Publication. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section 11. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 27th day of April, 2021

Passed and Adopted on the 11 day of May, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



Community Development

ITEMS 4.4 & 5.4

Habib Erkan Jr.
Assistant City Manager
512-715-3201
herkan@cityofburnet.com

Planning and Zoning Commission Agenda Item Brief

Meeting Date: Monday, April 5, 2021

Agenda Items: **Item 4.4:** The Planning and Zoning Commission will conduct a public hearing to receive public testimony and comments on the merits of a proposed Amendment to the Zoning Code, Chapter 118 (Entitled "Zoning") Section 118-61 (Entitled "Construction Plans"): H. Erkan

Item 5.4: Discuss and consider action: Report and recommendation to City Council on the merits of an amendment to the Zoning Code for the purpose of amending Section 118-61 (entitled "construction plans"): H. Erkan

Background: Article III of the Zoning Code addresses "site development plan requirements and special provisions." Included therein is Section 118-61, which addresses construction plans. Subsection (a) thereof reads:

***Purpose and applicability.** Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes. When required, construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter, and not otherwise required by the city's subdivision ordinance. **Construction plans will not be required for development of existing lots or short form subdivisions which have adequate utilities and public access as determined by the city engineer.** (Emphasis added).*

The language in bold and italics above is addressed by this proposed Zoning Code Amendment. The purpose of the language is to assure that construction plans would not be required both at the Chapter 98 subdivision stage and the Section 118-61 building permit stage of a project. This amendment is necessary because the existing language can be construed to excuse any requirement for Section 118-61 construction plans at the building permit stage if the property in question was platted. As the Section 118-61

construction plan requirements includes many elements (i.e. utility plans, building plans, landscape plan) not required for Chapter 98 plans there is a legitimate public purpose for requiring such plans regardless of whether a property was platted.

Information:

The proposed Zoning Code amendment would clarify that Section 118-61 construction plans are required at the time of development (building permit stage) but would require duplication of any information provided with Chapter 98 construction plans. The new Subsection will read:

(a) *Purpose, scope, and exceptions.*

(1) *Purpose. Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes.*

(2) *Scope. Construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter.*

(3) *Exceptions. It is an exception to the construction plan approval requirement of this section if:*

(A) *The construction plans for the development or improvement of the land was approved by the city engineer under chapter 98 (entitled "Subdivisions"); or*

(B) *The development or improvement of the land consists of remodeling of an existing building that does not increase the building footprint more than 20%; and, construction plans for the existing building received prior city engineer approval under this section.*

Fiscal Impact:

These Zoning Code Amendment shall have no direct financial impact.

Recommendation:

Staff recommends the Commission take action in support of the proposed Zoning Code Amendment.

ORDINANCE NO. 2021-XX

AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED “ZONING”) SECTION 118-61 (ENTITLED “CONSTRUCTION PLANS”); PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the setback requirements in Section 118-61 of the City Code; and

WHEREAS, on April 6, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on April 27, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote the public health, safety, morals, and the general welfare of the city and its present and future residents;

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

Section 1. Amendment. The Code of Ordinances, Chapter 118 (entitled “Zoning”) Section 118-61 (entitled “Construction plans”) is hereby amended by replacing the existing language in subsection (a) (entitled “Purpose and applicability”) with the language that is italics (*italics*) below:

(a) *Purpose, scope, and exceptions.*

- (1) *Purpose. Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes.*
- (2) *Scope. Construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter.*

(3) *Exceptions. It is an exception to the construction plan approval requirement of this section if:*

- (A) *The construction plans for the development or improvement of the land was approved by the city engineer under chapter 98 (entitled "Subdivisions"); or*
- (B) *The development or improvement of the land consists of remodeling of an existing building that does not increase the building footprint more than 20%; and, construction plans for the existing building received prior city engineer approval under this section.*

Note to Publisher: Existing subsections 118-61(b) through (i) are not amended by this ordinance and shall remain in full force and effect as currently published.

Section 2. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. Penalty. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section 4. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled "Repealer") shall be controlling.

Section 5. Repealer. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act.

Section 8. Publication. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section 9. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 27th day of April, 2021

Passed and Adopted on the 11 day of May, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



Community Development

ITEM 6.1

Habib Erkan Jr.
Assistant City Manager
512-715-3201
herkan@cityofburnet.com

Planning and Zoning Commission Agenda Item Brief

Meeting Date: Monday, April 5, 2021

Agenda Item: Discuss and direction: Revision to the zoning code to require notification of the commission's public hearings on applications for proposed changes to zoning classification of properties located 200 feet or less from the extraterritorial jurisdiction be sent to owners of such properties: H. Erkan

Background: Texas Local Government Code § 211.007(c) provides: "*before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed.*"

Staff was asked to report on whether written notice of the commission's public hearing could also be provided to owners of property in the extraterritorial jurisdiction if the property on which the change in classification is proposed is located within 200 feet.

Information: While there are no cases or attorney general opinions addressing the issue, it appears the requested action can be accomplished by code amendment. However, there are public policy concerns that should be considered before council's adoption of such an amendment.

First, zoning is akin to the property law doctrine of "reciprocal negative easements". The city restricts my use of my property to protect my neighbor, but in exchange my neighbor's property is restricted for my protection. There is no such reciprocity with property in the extraterritorial jurisdiction. Moreover, city property tax is assessed against property located within the city limits but not against property in the extraterritorial jurisdiction. And, finally, any owner of property located in the extraterritorial jurisdiction wishing to enjoy the benefits of zoning can asked to be annexed into the city's corporate limits.

Fiscal Impact: The provision of notices to property owners in the extraterritorial jurisdiction would cause a slight increase on the costs of some zoning case; which could be passed onto the applicant.

Recommendation:

As this is a discussion item, staff is looking for commission direction on how to proceed with the proposed amendment? If the commission is of the opinion that extending the notice provision to owners of property in the extraterritorial jurisdiction in certain cases; staff will forward the recommendation to city council with the commission's recommendation.