

6/17/13 Zoning Ordinance Change Request Issues

Issue #1 – Technical Errors

1. The stated premise in the Public Hearing agenda (Figure 3) that “there were only three uses allowed” in the SF1 overlay district is not true. If it were, all but the dentist would be illegal.
2. The current ordinance (Figure 1) and the list of uses (Figure 4) show 43 uses.
3. The requested uses and the new Use Table (Figure 2) would reduce the number of uses to 11 and would not include, for example, SF Dwelling and would require SUP’s for uses that are now permitted uses – Home Occupations for example.
4. If the intent was that the overlay district in Use Table (Figure 2) was to be additive to the SF1 column, this would be equally messy and not the proper way to use the table.
5. Most of the requested uses (Figure 2) are already in the ordinance with the exception of Palm Reading, Gunsmith, and Beauty Shop - the latter being the only one actually requested by a property owner.
6. Thus, passing this ordinance change would cause more problems than the one it tries, but fails, to resolve.

Issue #2 – Legal Violations

1. Violation of City Ordinance Section 110-53 (Figure 5) and State Laws 211.006, 211.007. City did not properly notify property owners.
2. City manager, Brenton Lewis, and P&Z Chairman, Dianne Firestone, said no notification was necessary because the changes are only text changes which do not require notification as required by 110-53 (Figure 5). The meeting agenda (Figure 3) states that the changes will be text and usage. State Statutes 211.003(5) (Figure 6) and 211.005 (Figure 6) show that usages are regulations and thus require notification.
3. Violation of State Statute 211.007 (b) (Figure 7) no preliminary report describing the change was created prior to the public hearing. There was no preliminary report on the requested text and usage changes. The changes were fabricated in the P&Z meeting.
4. Violation of State Statute 211.004, changes requested not in compliance with the Comprehensive Plan. The Comprehensive Plan was never completed by the previous city manager. A citizen’s task force met numerous times for two years but it was never completed. The old plan does not say we need a palm reader on Ford St, nor any changes to Ford St.
5. State Statute 211.012(b) (Figure 8) describes the misdemeanor penalty for these violations as fine, imprisonment, or both.

Issue #3 – No Respect for Property Owners

1. The bigger issue is that no effort, at all, was made to involve the property owners. Even if it were not required by law, which it is, property owners should be involved.
2. When the Dentist Overlay District was going through the process, 12 property owners came forward to object to the overlay and only the dentist was for it. After it passed, the property owners were outraged that they were ignored. What will they think now that they were not even notified?
3. The P&Z Commission acted like the city owned the property and it was their choice as to what to do with the property. It was disgusting and not at all what zoning should be.

Issue #4 – Complete Zoning Ordinance Overhaul Concerns

1. The biggest issue is that a P&Z Commission and city manager cannot even correctly make a simple change to the zoning ordinance. How can we trust them to do a complete overhaul?
2. The first meeting is on Thursday. No citizens will be involved.
3. No workshop scheduled.
4. No videotaping.

Recommendations

1. Do not approve the ordinance change.
2. Combine into one ordinance change: Beauty Shop addition to the Use Table, property owner requested changes, and SUP for beauty shop owner. Do proper notification and even a workshop for property owners.
3. Cease Zoning Ordinance Overhaul until a more experienced P& Z Commission is appointed or assign a task force to do it.
4. Finish the Comprehensive Plan before Overhaul. This is the law.

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Municode is the most current up-to-date version of the City’s Zoning Ordinance. Toni Milam

Section 110-242

Sec. 110-242. Specific uses.

In the SF-1 overlay district the following permitted specific uses shall be allowed, in addition to specific uses defined in [section 110-451](#), City of Llano Zoning Regulations, and Ordinance 735:

Attorney office;

Dental office;

Medical office.

All other conditions for approval are outlined in [section 110-432](#), City of Llano Zoning Regulations, and Ordinance 735.

(Ord. No. 1231, 11-5-2012)

DIVISION 4. USE OF LAND AND BUILDINGS BY DISTRICT

[Sec. 110-451 Established.](#)
[Secs. 110-452—110-480 Reserved.](#)

Sec. 110-451. Established.

- (a) *Compliance required.* Land and buildings in each of the zoning districts may be used for any of the indicated uses, but no land shall be used, and no building or structure shall be erected, altered or converted, which is arranged, designed or used for a use other than the uses specified as permitted uses in the district in which it is located, according to the schedule of uses set forth in subsection (b) of this section, and in accordance with [section 110-141](#) and the provisions of this chapter.
- (b) *Schedule of uses.* The schedule of uses shall be set forth in the following charts:

1.	Legend for the Following Schedule of Uses
	• Use permitted in district indicated.
	* Use prohibited in district indicated.
	S Use may be approved as a specific use permit (see article V, division 5 of this chapter).

USE CHART
 CITY OF LLANO, TEXAS
 ZONING ORDINANCE

	DISTRICT												
	A Agricultural	SF-1 Single-family-1	SF-2 Single-family-2	SF-3 Single-family-3	SF-4 Single-family-4	GR General Residential	OM Office Medical	R Retail	NBD North Business District	CBD Central Business	C Commercial	I Industrial	
1. Primary Residential Uses													
Accessory dwelling unit	S	S	S	S	S	S				S			
Caretaker/guard residence	*										*	*	
Community home	*	*	*	*	*	*	*	*			*	*	
Detached private garage	*	*	*	*	*		;bullet;	*	S				
Detached single-family dwelling	*	*	*	*	*		;bullet;	*		*	*	*	
Garage apartment	*	*	*	*	*		;bullet;	*	S				
Home occupations	*	*	*	*	*	*	*	*	S				
Industrialized housing	*	*	*	*	*		;bullet;	*	*				

Figure 2 - Proposed Zoning Ordinance Changes from P&Z and CC Packet

Section 4. Specific Uses

In the SF-1 Overlay District the following Permitted Specific Uses shall be allowed, in addition to Specific Uses defined in Section 8B, City of Llano Zoning Regulations, Ordinance 735, and Ordinance 1231:

- | | | |
|-----------------------------|----------------------------------|-------------------------------|
| Home Occupation | Accountant or Bookkeeping Office | Architect's Office |
| Engineering Office | Insurance Office | Office, General, Professional |
| Barber Shop or Beauty Salon | Florist | Gunsmith |
| Palm Reading | Soil Testing Laboratory | |

All other conditions for approval are outlined in Section 20, City of Llano Zoning Regulations, Ordinance 735, and Ordinance 1231.

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	USE CHART														
2	CITY OF LLANO, TEXAS														
3	ZONING ORDINANCE														
4															
		A Agricultural	SF-1 Single-family-1	SF-1 Single-Family Overlay District	SF-2 Single-family-2	SF-3 Single-family-3	SF-4 Single-family-4	GR General Residential	OM Office Medical	R Retail	NBD North Business District	CBD Central Business	C Commercial	I Industrial	
5															
6	1. Primary Residential Uses														
7	Accessory dwelling unit	*	S	S		S	S	S	S				S		
8	Caretaker/guard residence	*	*											*	*
9	Community home	*	*	*	*	*	*	*	*	*				*	*
10	Detached private garage	*	*	*	*	*	*	bullet	*		S			*	*
11	Detached single-family dwelling	*	*	*	*	*	*	bullet	*					*	*
12	Home occupations	*	*	*	*	*	*	bullet	*		S			*	*
13	Home occupations	*	*	*	*	*	*	bullet	*		S			*	*
14	Industrialized housing	*	*	*	*	*	*	bullet	*		*				
15	Manufactured housing, less than five years old					S	*								
16	Manufactured housing, greater than five years old						S								
17	Manufactured home park	*					*								
18	Multiple-family dwelling	*					*		*						
19	Recreational vehicle park	*												S	
20	Retirement home and/or nursing home	*				S	S	S	*	*	*			*	*
21	Single-family dwelling with retail use	*							S	S	*	S	S	S	
22	Single-, two- or multifamily use above first floor level	*							*		*	*	*	*	
23	Two-family dwelling	*				*	*	*	*						
24	2. Educational, Institutional, Public and Special Uses														



Planning and Zoning Agenda Item Report

June 13, 2013

Public Hearing Agenda Item

Contact – Brenton Lewis – 325-247-4158 x 207

AGENDA TITLE: The City of Llano Planning and Zoning Commission will hold a public hearing on Thursday, June 13, 2013 at 5:30 p.m. in City Hall Council Chambers located at 301 W. Main Street to receive written and/or oral comments from the public, regarding amending the **text and defining uses** of the Zoning Ordinance No. 735; specifically in the SF-1 overlay district.

- 1. BACKGROUND/HISTORY –** On September 24, 2012 the Planning and Zoning Commission met and heard comments amending Ordinance No. 735, creating an overlay district in the Single Family 1 (SF-1) zoning district. The City Council also held a public hearing to receive oral or written comments regarding the creation of the SF-1 Overlay District zoned area. At the conclusion of the public hearing held by the Planning and Zoning Commission, a letter of recommendation was sent to Council and Council voted to approve the Ordinance creating the overlay SF-1 area. At the time the overlay zoning district was created **there were only three uses allowed in that particular area,** medical, dental, and attorney.

City of Llano

MEMO

To: Members, City of Llano Planning and Zoning Commission
From: Finley deGraffenried
Re: Modifications to the SF-1 District
Date: 8 June 2012

As a result of a request for the placement of a Dental Office in a SF-1 Zoning District, Staff is now seeking Planning Commission input and direction for the possible modification to the SF-1 District, or portion of the District, to allow a permitted Specific Use for this use. If the Planning Commission wishes to proceed, language could also be drafted for the area that would provide some protection for the residential character of the neighborhood.

Allowed Uses Current Allowed Uses in the SF-1 District include:

<u>Permitted Uses</u>	<u>Permitted Specific Uses</u>
Detached Private Garages	Accessory Dwelling Unit
Community Home	Athletic Field/Stadium
Single Family Dwelling	Child/Day Care Center
Garage Apartment	Private Community Center
Home Occupations	Radio/TV Communication Facilities
Industrialized Housing	Religious/Philanthropic Institutions
Churches and related	Accountant/Bookkeeper Office
Government Uses	Architect's Office
Farm, Ranch, Garden, Orchard	Engineering Office
Library	Insurance Office
Metal Accessory Building >200 sq ft	Office, general, Professional
Municipal Uses	Florist
Private School	Retail Nursery
Private Park	Electric Sub Station
Private Utilities	Gas Regulating Station
Park/Playground	Bed and Breakfast
Public School	Cemetery or Mausoleum
Trade/Business School	Golf Course, Country Club
Local Utilities	Private Kindergarten
Amateur Radio/CB Antenna	Private Stable

Amendment Related to Specific Uses Rather than a Change of Zoning

The amendment to allow an additional Specific Use is more acceptable to staff to allow the land use to be reviewed and specified, as opposed to a change of Zoning to Office/Medical or Retail that would allow a greater number of allowed permitted uses in a new Zoning District.

Sec. 110-53. Public hearing and notice.

Prior to making its report to the city council, the planning and zoning commission shall hold at least one public hearing on each application. Before the tenth day before the hearing date before the planning and zoning commission, written notice of each public hearing before the planning and 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 property within 300 feet of the property in which the change in classification is proposed. The notice shall be served by its deposit in the municipality, properly addressed with certified postage paid, return receipt requested in the United States Mail. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality. Before the 20th day before the date of the hearing, property subject to zoning action will be posted with notice of the time and place of the planning/zoning hearing and the time and place of the city council hearing. Sign shall be a minimum of 18 inches × 18 inches and posted to be visible from frontage street. Sign shall state in a minimum of two-inch letters, CITY OF LLANO NOTICE OF PUBLIC HEARING. Specifics regarding time, place and content of the public hearing shall be in at least 16 point type below. Notice shall include city staff contact and phone number if additional information is required. **Changes in the ordinance text which do not change zoning regulations and/or zoning district boundaries do not require written notification to individual property owners.**

Notices for the public hearing for changes to the ordinance text before the city council will also be published at the same time notice of the planning and zoning commission meeting is published but before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(Ord. No. 735, § I(30.3), 7-21-1997; Ord. No. 1037, § I, 5-1-2006; Ord. No. 1152, 12-21-2009)

State law reference— Hearing and notice, V.T.C.A., Local Government Code §§ 211.006, 211.007

Figure 6 – Text vs. Regulate

Sec. 211.003. ZONING REGULATIONS GENERALLY. (a) The governing body of a municipality may regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential,

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN. (a) Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets;
- (2) secure safety from fire, panic, and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population; or
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

Sec. 211.005. DISTRICTS. (a) The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out this subchapter. Within each district, the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

Figure 7 - Report Requirement

Sec. 211.007. ZONING COMMISSION. (b) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the governing body. The governing body may not hold a public hearing until it receives the final report of the zoning commission unless the governing body by ordinance provides that a public hearing is to be held, after the notice required by Section 211.006(a), jointly with a public hearing required to be held by the zoning commission. In either case, the governing body may not take action on the matter until it receives the final report of the zoning commission.

Figure 8 - Penalty

Sec. 211.012. ENFORCEMENT; PENALTY; REMEDIES. (a) The governing body of a municipality may adopt ordinances to enforce this subchapter or any ordinance or regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an ordinance or regulation adopted under this subchapter. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the governing body. The governing body may also provide civil penalties for a violation.