

HAYS AREA PLANNING COMMISSION MEETING AGENDA
CITY COMMISSION CHAMBERS
1507 MAIN ST, HAYS, KS
February 17, 2020
6:30 PM

1. CALL TO ORDER BY CHAIRMAN.

2. CONSENT AGENDA.

A. Minutes of the meeting of January 27, 2020

Action: Consider approval of the minutes of the January 27, 2020

B. Citizen Comments

Action: None.

3. PUBLIC HEARING ITEMS.

A. None

4. NON- PUBLIC HEARING ITEMS.

A. Annual Comprehensive Plan Review

Action: None

B. Grow Hays Presentation – Doug Williams

Action: None

5. AGENDA ITEMS/COMMUNICATIONS.

A. Planning Commissioner Comments

i. Opportunity for Planning Commissioners to ask questions of staff or initiate topics for discussion.

6. ADJOURNMENT.

Any person with a disability and needing special accommodations to attend this meeting should contact the Planning, Inspection and Enforcement office (785-628-7310) 48 hours prior to the scheduled meeting time. Every attempt will be made to accommodate any requests for assistance.

DRAFT
HAYS AREA PLANNING COMMISSION
CITY HALL COMMISSION CHAMBERS
JANUARY 27, 2020
7:00 P.M.

1. CALL TO ORDER BY CHAIRMAN: The Hays Area Planning Commission met on Monday, January 27, 2020 at 7:00 p.m. in Commission Chambers at City Hall. The regularly scheduled meeting of January 20, 2020 was postponed to January 27, 2020 due to lack of a quorum. Chairman Paul Phillips declared that a quorum was present and called the meeting to order.

Roll Call:

Present: Paul Phillips, Lou Caplan, Robert Readle, Mike Vitztum, Jim Schreiber, Dustin Schlaefli and Matthew Wheeler.

City staff in attendance: Collin Bielser, Assistant City Manager, Jesse Rohr, Director of Public Works, Curtis Deines, Planning, Inspection and Enforcement Superintendent and Linda Bixenman, Administrative Assistant.

2. CONSENT AGENDA: Paul Phillips asked if there were any changes to the agenda. There were none.

A. Minutes: Dustin Schlaefli moved; Robert Readle seconded the motion to approve the minutes from the December 16, 2019 meeting. There were no corrections or additions to those minutes.

Vote: AYES Paul Phillips, Lou Caplan, Robert Readle, Mike Vitztum, Dustin Schlaefli, Jim Schreiber and Matthew Wheeler

B. Citizen Comments: None.

1. Assistant City Manager, Collin Bielser. Jesse Rohr introduced the new Assistant City Manager, Collin Bielser.

2. Matthew Wheeler, new Planning Commission Member. Jesse Rohr welcomed the new Planning Commissioner, Matthew Wheeler, representing the 3-mile exterritorial area. He had previously served on the commission.

3. PUBLIC HEARING ITEMS:

A. CONDUCT A PUBLIC HEARING TO CONSIDER A REZONING FROM "A-L" (AGRICULTURE DISTRICT) to "C-2" (COMMERCIAL GENERAL) ON A TRACT OF LAND AT 3301 U.S. ALTERNATE HWY 183: Curtis Deines provided a power point presentation for the public hearing on the above rezoning request. It is located on the west side of Hays at the 183 Alt bypass.

The property was annexed into the City in January 2019 and the RV Park was completed in August 2019.

He presented the area in red where Creek Side Resort RV park has recently opened. This included 36 RV stalls with the office building to the North. The blue indicates the area where the applicant is requesting a zoning change.

The north, west, and south side of the property is zoned Agriculture. There are 3 residences that are located to the north and west. On the east side of the bypass, it is zoned "NC.1" (Neighborhood Conservation Subdistrict – Single Family Homes) made up of residential lots.

The area is identified as Urban Reserve/ Agriculture in the current adopted Comprehensive Plan. The land use compatibility Matrix table has a rating of 4 out of 5 between Urban Reserve/Agriculture and Commercial zoning.

He pointed out the area of the current floodplain and the proposed floodplain that reduces the base flood elevation and removes portions from the floodplain. Even though this map will not take affect until the year of 2021, it can be taken into consideration from a previous rezoning request that the floodplain was one of the items discussed.

He explained about the site requirements for a 25-foot district buffer yard requirement like landscaping to separate "C-2" from the adjacent "A-L" zoned district. They would have to adhere to the building setbacks of twenty-five foot in front, five feet on the side, and zero in the rear.

In 2011, a rezoning request for the entire project to "C-2" was denied by the Planning Commission and the City Commission because this area was not identified for commercial uses in the Comprehensive Plan and the property being in the floodplain. With the future (2021) updated flood maps, it will not be a factor as it moves forward.

Staff has been in contact with KDOT and how this development may affect traffic flow entering and exiting 183 Bypass. As the application moves forward, KDOT will be involved in case there is a need for turn lanes, deceleration lanes etc.

He presented the "C-2" zoning uses by right. He explained that with any rezoning, any of the those uses for that zoning district is "fair game". It is important to not rezone with one particular use in mind, even if it is known what may be planned.

He provided the considerations of the court cases of the 3 tests to determine the existence of spot zoning.

Staff does not recommend approval of the rezoning request as submitted due to the request being considered spot zoning. He provided the action requested.

Paul Phillips informed the audience that because of The Kansas Open Meetings Act, the first part is a public hearing. After the public hearing, the meeting will be closed for the commission members to discuss the issues relative to the request. There will be two motions; a motion to approve/disapprove staff finding of fact and the second is a substantive motion to approve or disapprove the rezoning request with justification from the list of approval criteria. He explained that with any change of zoning classification that any land use and special use permits listed within that zoning classification in the zoning and subdivision regulations, could be allowed within that zoning district. The purpose is not to respond to the applicant's proposed plan but to make sure the zoning classification accommodates all potential uses in that district.

Paul Phillips opened the public hearing. There were no comments from the audience.

He closed the public hearing for discussion among the members.

He entertained a motion on staff findings of fact.

Robert Readle moved; Lou Caplan seconded the motion to approve Staff Findings of Fact.

Vote: AYES Paul Phillips, Lou Caplan, Robert Readle, Mike Vitztum, Dustin Schlaefli, Jim Schreiber and Matthew Wheeler

Robert Readle asked to see the permit uses for "C-2". He asked for the limited and special uses under both the "C-2" and "A-L" zoning classifications. Jesse Rohr read the limited uses (administrative approval) and special uses (BZA approval) associated with the respective zoning districts.

Robert Readle asked if there is another appeal process if the applicant's request is unsuccessful. Jesse Rohr answered that he could modify the application or try to get the zoning regulations modified to try to accommodate his particular use.

Robert Readle asked if the request to rezone the entire property to commercial in the past was unsuccessful. Curtis Deines answered "Yes". The reasons given were that it did not meet the land use in the Comprehensive Plan and that the property was in the floodplain. The first request was for a larger tract. This request is for two lots with an area of 75 feet by 200 feet.

Mike Vitztum asked for clarification about staff's recommendation against the recommendation due to the request being considered spot zoning. He asked what is involved with spot zoning. Jesse Rohr read the three specific tests for spot zoning from the Unified Development Code. Robert Readle asked if the property

has to have any or all of the characteristics. Jesse Rohr answered that it can be spot zoning if it fits any one or combination.

Matthew Wheeler asked a hypothetical question; if the entire property was asked to be rezoned again since it is not in the floodplain moving forward, if staff would look at it differently. Curtis Deines answered that if the RV park was not there, it could be looked at. The RV park is under the "Limited Use" in the Agriculture zoning district. He could consider increasing the size. He would have to make that decision.

Robert Readle emphasized to that point, that it was a tragedy to see the whole thing get shot down because it has to be in commercial, when backing it into an agriculture district would have been acceptable. Going at it with this approach, that commercial is spot zoning, and having to submit another application that is not subject to that is unfortunate.

Matthew Wheeler asked that if the board would approve the request as submitted, if it would potentially open the city up to legal issues and challenges because it would be spot zoning. Curtis Deines answered "Correct".

Robert Readle added that either way it can be challenged.

Mike Viztum asked if the request for the entire property to be rezoned to commercial would stand a better chance. Curtis Deines answered that it would depend on the specific findings. It could maybe be justified versus this smaller tract.

Matthew Wheeler asked the City Attorney if this was like a legal case that if it was approved it would set precedence. Curtis Deines answered that setting precedence was one topic; but if there are other rulings throughout the state, then it is more challenging. If the criteria met spot zoning, then it would meet the intention and definition of spot zoning.

Paul Phillips asked about the number "three" test on spot zoning: The change to a less restrictive district would not be for the benefit for the community as a whole. What is the definition of "less restrictive district"? Jesse Rohr answered that what they are referring to is less restrictive in such a way that would allow the proposed use a developer wants to propose on a property to what they can do now.

Paul Phillips asked, for informational purposes, if there are more restrictions on commercial zoning classification than Agriculture. Jesse Rohr answered that Commercial is less restrictive than Agriculture based on the allowed uses within those respective zoning districts. There are many more uses in commercial.

Matthew Wheeler stated that he understands we cannot ask what the intended use is proposed; however, is there any other way the landowner can get to their

desired end result without rezoning it. Curtis Deines answered that the only other way is to look at the regulations if there is an option. Jesse Rohr explained the process to check for an option.

Robert Readle added that to your point, he would like the city to develop an appeal process, or a way to petition, rather than this is the only way. There are times it just makes sense. Jesse Rohr explained that there are limitations. The regulations are based on State Statute. He noted three ways to consider: a rezoning request, special or limited use request, or request for a change to the regulations.

Lou Caplan agreed to support a change in regulation.

Mike Vitztum asked what happens if the City Commission denies the request; if the applicant has to start all over again. Curtis Deines explained that if the Planning Commission denies the request, it would take a 2/3 majority vote by the City Commission to overturn the decision if they so desired.

Matthew Wheeler stated that he is pro-business, but he feels they would be putting the City in jeopardy in approving this.

Paul Phillips entertained a substantive motion based on the criteria for a rezoning request.

Matthew Wheeler moved; Lou Caplan seconded the motion to disapprove the rezoning case # 19-04Z to change the zoning for the subject tract at 3301 US Highway Alternate from "A-L" Agriculture to "C-2" Commercial General District with the recommendation to City Commission to disapprove based on Staff Findings of Fact and the potential spot zoning litigation.

Vote: AYES: Paul Phillips, Lou Caplan, Robert Readle, Dustin Schlaefli, Jim Schreiber and Matthew Wheeler

NAY: Mike Vitztum:

B. CONDUCT A PUBLIC HEARING TO CONSIDER A REZONING FROM P-I (PUBLIC AND INSTITUTIONAL DISTRICT) TO "R-G" (RESIDENTIAL GENERAL DISTRICT) FOR THE PROPERTY OF 2909 ROOSEVELT:

Curtis Deines provided a power point presentation for the public hearing on the above rezoning request. He explained that the property is on the northeast side of town, specifically north of 29th Street near Indian Trail.

This lot is from an approved lot split from the church property owned by the church that is sectioned out to be sold.

The adjacent neighborhood is zoned "NC.2" (Neighborhood Conservation – Single Family) and the area of the church is in the "P-I" (Public and Institution)

zoning district. The Comprehensive Plan identifies this area as Light Density Residential (LDR). It would be compatible with the area.

He explained the purpose of the general residential district is to provide for the development of residential neighborhoods with auto-urban character. These areas are required to utilize an urban level of services and are generally comprised of low to medium density residential uses, including single-family detached homes.

City Water is available. City sewer will have to be extended from the north to allow connection. The rezoning request conforms with the character of the neighborhood of residential surrounding the property.

He presented the "R-G" zoning uses by right.

He explained that with any rezoning, any of the those uses for that zoning district is "fair game". It is important to not rezone with one particular use in mind, even if it is known what may be planned.

The recommendation by Staff is to approve the rezoning request as submitted.

He presented the action requested in a motion format.

Paul Phillips informed the audience that because of The Kansas Open Meetings Act, the first part is a public hearing. After the public hearing, the meeting will be closed for the commission members to discuss the issues relative to the request. There will be two motions; a motion to approve/disapprove staff finding of fact and the second is a substantive motion to approve or disapprove the rezoning request with justification from the list of approval criteria. He explained that with any change of zoning classification that any land use and special use permits listed within that zoning classification in the Unified Development Code could be allowed within that zoning district.

Paul Phillips opened the public hearing. There were no comments from the audience.

He closed the public hearing for discussion among the members.

He entertained a motion on staff findings of fact.

Lou Caplan moved; Robert Readle seconded the motion to approve Staff Findings of Fact.

Vote: AYES Paul Phillips, Lou Caplan, Robert Readle, Mike Vitztum, Dustin Schlaefli, Jim Schreiber and Matthew Wheeler

Paul Phillips asked who is requesting the change of zoning classification. Curtis Deines answered that it is the church, which is the applicant and owner.

He asked, for informational purposes, if the tax base would change when the zoning classification changes from "P-I" to "R-G". Robert Readle answered that the tax base will change with the use. He pointed out another property that rents out smaller pieces; the tax is based on the use.

Paul Phillips entertained a substantive motion.

Lou Caplan moved, Robert Readle seconded the motion to approve rezoning case # 19-05Z to change the zoning for 2909 Roosevelt Ave from "P-I" Public and Institutional District to "R-G" Residential General District and recommend approval to the City Commission based on the fact it is identical to the neighborhood adjoining it.

Vote: AYES Paul Phillips, Lou Caplan, Robert Readle, Mike Vitztum, Dustin Schlaefli, Jim Schreiber and Matthew Wheeler

4. NON-PUBLIC HEARING ITEMS:

A. PRELIMINARY AND FINAL PLAT OF THE PROPOSED HESS FIRST ADDITION LOCATED AT 5809 230TH AVENUE: Curtis Deines provided a power point presentation for the information and location and the draft of the proposed preliminary and final plat for Hess First Addition.

The tract has been annexed into the city limits and has been rezoned to "C-2" (Commercial General).

It is located on the north side of I-70 exit 157 northwest of Hays. He pointed out how it would align with 55th, 56th and 58th Street that come from the east. There will be a privately named street there. There are a couple lots of City property that was formerly the KDOT mixing strip.

He pointed out that with the change in regulations to allow different sizes of lots has made it easier to develop.

The preliminary plat consists of 17 lots, ranging in size from one to ten acres. The final plat will consist of 10 lots to be available for development. It is ready for utilities. The lots are designed to allow for commercial uses such as restaurants, hotels, travel centers, and vehicle washes to accommodate the traveling public on I-70.

Final Plat - Curtis Deines explained that the lots from 58th Street north from the preliminary plat are not included in the final plat. The final plat consists the south 10 lots to be available for development.

The developer is moving forward with all the incentive to get utilities across Interstate 70 as well as the state getting funding for the infrastructure for 55th Street and 230th Avenue. The developer will build the interior streets to City Standard.

He read the options to the commission. Staff recommends approving the preliminary and final plat as submitted. The preliminary and final plat appear to meet the requirements of the current subdivision regulations regarding lot size, setbacks, and specific utility requirements.

He provided the action requested. He asked for questions.

Robert Readle asked if there was any push back from the state on two intersections right together at 55th and 56th Street entry.

Jesse Rohr answered that was outside of the state's scope because of the distance from the Interstate 70 ramps. The streets would conform to the Unified Development code.

He summarized the different aspects of the project. The county had received a 1.5-million-dollar grant for improvement to 230th Avenue and 55th Street Intersection. It is KDOT held but is a city project now. That project along with the development will still happen.

The city is going through a Tax Increment Financing process that the developer can use for financing of the infrastructure of the water, sewer and streets internal to the project. Pending approval, the process will take until about mid-May. Beyond that is the 6.5-million-dollar Federal Bill Grant to the county to improve 230th Avenue to Feedlot Road and from Feedlot Road over to U.S. 183 Alt.

The annexation and rezoning have been done. Assuming the plat is approved, the last step would be the Tax Increment Financing. They are already working on design of the infrastructure. The water and sewer will be across Interstate 70 going north and is already approved by KDHE to build in.

Curtis Deines pointed out that when 230th Avenue north of this development is improved through the build grant; it will remain a county road.

Paul Phillips had a question on drainage since they are changing a stream corridor and have an area for stormwater. He asked how significant that will be on the far west side.

Jesse Rohr explained that there is 3.4 acres for stormwater on the west side. The entire project will have to meet the City Stormwater regulations. Rather than every lot having their own stormwater management plan, the stormwater will drain to the one designated area of 3.4 acres. The area will retain as much stormwater as it would on each separate lot. It is easier to manage in the long term.

James Meis, Land Surveyor of Driggs Design Group, surveyor working on the plat, came before the commission. He stated that the stream corridor was already identified by the Federal Government so that stream was already there. In order to take advantage of that is where they decided to put the storm water reserve which allows more development space on the lots and meet the storm water regulations. They did a similar thing with the Ottley Addition behind Walmart. There was a stream corridor running down from Carrico to I-70.

Paul Phillips asked what kind of vegetation. James Meis answered that this is a bigger area that may retain water on a more consistent basis. There will be native grasses and maybe some wetland plants in the bottom area.

Curtis Deines added that there will be internal infrastructure with stormwater drainage between the curb and gutter with underground piping that drains the water to that area. The benefit is that each lot owners will not have a plan on each lot, and this lessens the development costs.

Paul Phillips asked if this was the first stage to development. Curtis Deines answered that was correct.

Paul Phillips asked for any additional questions. There were none.

He entertained a motion for the Hess First Addition Preliminary Plat.

Lou Caplan moved; Mike Vitztum seconded the motion to approve the Hess First Addition Preliminary Plat.

Vote: AYES Paul Phillips, Lou Caplan, Robert Readle, Mike Vitztum, Dustin Schlaefli, Jim Schreiber and Matthew Wheeler

He entertained a motion for the Hess First Addition Final Plat.

Lou Caplan moved; Robert Readle seconded the motion to approve the Hess First Addition Final Plat with a recommendation of approval to the City Commission

Vote: AYES Paul Phillips, Lou Caplan, Robert Readle, Mike Vitztum, Dustin Schlaefli, Jim Schreiber and Matthew Wheeler

5. AGENDA ITEMS/COMMUNICATIONS:

A. Planning Commission Comments:

I. Opportunity for Planning Commissioners to ask questions of staff or initiate topics for discussion.

- a. Changes to Regulations: Curtis Deines explained the process if the Planning Commission considered any potential changes to parts of the Unified Development Code.
- b. Houston Planning Conference – April 25- 28th: Curtis Deines invited the Planning Commission Members to the above conference if any of them would like to attend.
- c. Spring Symposium in Lawrence, KS – April 10th - Lawrence Public Library: Curtis Deines invited the Commission to the above symposium if any of them would like to attend.
- d. American Planning Association Conference – Topeka – Oct 22-23rd Curtis Deines invited the Commission to the above conference if any of them would like to attend.
- e. Follow up to Changes to Regulations – Rezoning case 3301 US HWY 183 Lou Caplan asked the provision to get a special use permit added to a zoning classification. He would have liked to have approved the above case.

Robert Readle thought on a case by case basis it could make sense to grant those cases.

Jesse Rohr explained the process for potential changes to the zoning regulations.

Lou Caplan asked Staff to come up with a provision the Planning Commission could consider. Curtis Deines answered that they could.

There was discussion. Robert Riedel noted that on the development of the Unified Development code that some things could be administrative decisions.

Paul Phillips asked about “accessory use” if the “primary use” would change, would that force the accessory use to go away. He used the RV park as the example. Jesse Rohr answered that if the primary use would go away, the accessory would go away as well. Paul Phillips suggested doing it that way. It would be a clean way to do it.

Jesse Rohr stated that would be the cleanest and simplest way to do it if the regulations are changed and limited on that matter. It would not have to come before the commissions.

They used examples such as a pro-shop with a golf course etc.

Mike Vitztum asked if the staff could bring something back to the commission.

Curtis Deines added that he would check with the State Regulations too.

Lou Caplan pointed out to cover that the accessory use can only be tied to the one use it was approved for and not changed to another use.

6. ADJOURNMENT: Paul Phillips adjourned the meeting at 7:54 p.m.

Submitted by Linda K. Bixenman, Administrative Assistant
Planning, Inspection and Enforcement

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Planning Commission Action Report

AGENDA ITEM: Comprehensive Plan Annual Review
TYPE OF REVIEW: Comprehensive Plan Annual Review
PRESENTED BY: Curtis W. Deines, P.I.E. Superintendent
PREPARED DATE: February 6, 2020
AGENDA DATE: February 17, 2020

Summary

On an annual basis, City of Hays staff and the Planning Commission perform a review of the current Comprehensive Plan, which in this case is the 2012 Plan adopted in August 2012. The purpose of the review is to update the plan if necessary, review the future land use map, and generally review the environmental, economic, zoning and land use trends.

The 2012 plan is intended to be a 15-20-year plan, so this plan is still considered to be in its early years. Population growth remains slow and steady, new construction housing numbers appear to be decreasing, and commercial projects have steadily increased in the past year north of I-70 and in the Downtown area. Hays continues to be the regional center for retail, healthcare, and a major employer for Western Kansas. (pg. 20, 2012 Comp. Plan)

Throughout the 2012 plan, there are various recommendations for key districts throughout Hays. Below are some notable highlights of progress within each district:

1. Downtown –
 - a. Downtown development has been steady and only will increase after the sale of Liberty Group properties. Several new property owners have met with PIE Staff and State Historical Preservation Office for the redevelopment of the property they own. Notable projects are: 717 & 719 Main and 109 W. 11th. Many others are in the planning stage.
 - b. New residential apartments being built near downtown that increase foot traffic after normal business hours.
2. North Vine District –
 - a. The North Vine Street project is expected to start in the summer of 2020 and take approximately 2 years to complete.

- b. Hotels – 2 Hotels north of I-70 are under construction and are expected to be completed in 2020. The Hilton Garden Inn and Convention Center is a key part of the development of Hays and many venues and conferences will be able to take advantage of this space.

What has the City of Hays Implemented-

1. Public Facilities, Parks, Transportation, Infrastructure
 - a. Park Improvements –
 - i. King's Gate Park completed
 - ii. Continued planning and development of the ARC Park
 - b. Water Resources Department
 - i. New Water Reclamation and Reuse Facility completed
 - ii. Water source development for R9 Ranch
 - iii. Water Conservation program implemented for low flow fixtures and landscaping practices
 - iv. Continued sewer maintenance program for aging infrastructure
 - c. Public Works
 - i. New automated trash trucks for poly cart pickup.
 - d. Infrastructure
 - i. Continued Street Maintenance program
 - ii. State of Kansas has continued a project to update Ellis County's flood plain mapping (study and model flood risk areas) Expecting draft maps and regulations in 2020.
 - iii. Northwest Corridor Build grant that will impact NW Hays and ETJ.
 - iv. Continuing to increase the construction of walking paths connecting areas of the city.

What's next?

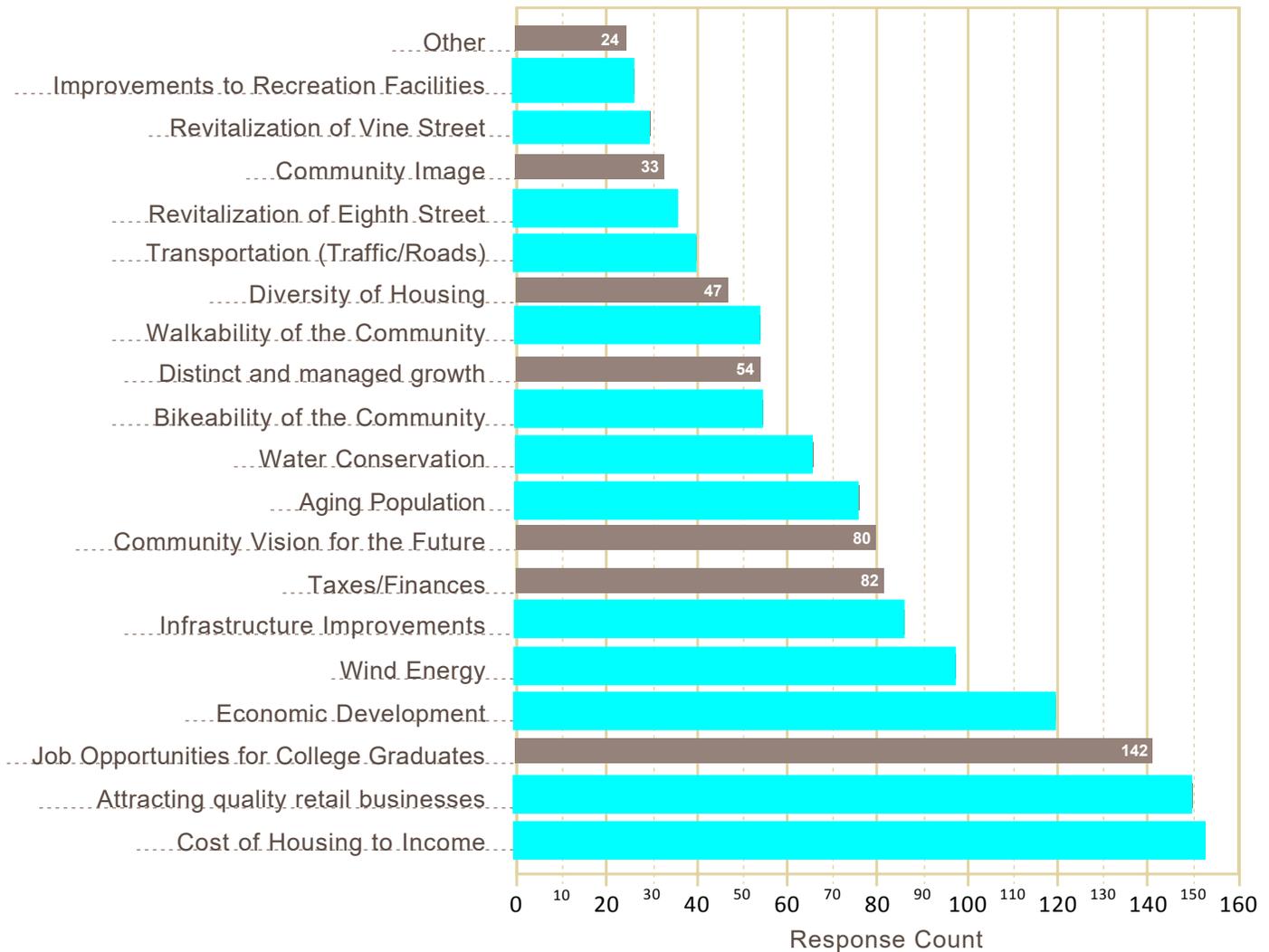
- Core to Campus Corridor
- Downtown continue to revitalize with new owners
 - Upper story rehabilitation
- Continue to connect the City with trails and walking paths
- Continue to replace and complete maintenance on our old infrastructure

Supporting Documentation

- Progress Sheet

Figure 4.1: Most Important Issues or Projects

Blue indicates the City has taken action



HOUSING

Availability of higher end housing (3.81)

Questionnaire Respondents identified the following as primary perceived weaknesses of Hays:

HOUSING

- › Cost of housing relative to income (1.90)
- › Quality of the rental housing stock (2.20)
- › Quality of off-campus housing for students (2.34)
- › Availability of entry level housing (2.36)

TRANSPORTATION ALTERNATIVES

- › Bicycle friendliness (2.19)
- › Public transportation (2.13)
- › Access to trail networks (2.52)

ECONOMIC DIVERSITY

- › Job creation and growth (2.32)
- › Ability to retain young adults/recent graduates (2.36)
- › Retail growth (2.38)
- › Diversity of job opportunities (2.42)

The questionnaire also asked participants, what specific actions or projects they would like to see Hays accomplish during the next 10 years. Over 150 respondents replied that the cost of housing relative to area incomes need to be addressed, followed by attracting quality retail businesses, and the creation of job opportunities for college graduates. Figure 4.1 further illustrates the projects and actions that participants selected as being important to undertake.

Participants were also asked more detailed questions regarding housing needs and opportunities. The greatest demands