

BOARD OF ADJUSTMENT

March 8, 2005

Minutes

Members Present: Scott Hay
Jim Salisbury
Morton Langholtz

Members Absent: Wayne Bradshaw
Rick Waldruff

Alternates Present: David Hejl

Staff Present Jeff Armstrong, Development Services Manager
Dan Santee, City Attorney
Rodney Fletcher, Permit Specialist
Gloria Brownell, Planner I

Mr. Hay, Vice Chair, called the meeting to order at 8:30 AM and declared a quorum present.

The minutes of the February 8, 2005 meeting were unanimously approved.

Agenda Item BA-2005-6, Request for a 12' variance from the 25' rear setback requirement at 17 Mission Hills.

Mr. Armstrong presented the staff report. The applicant wants to add a sunroom to the rear of the existing home. The addition will encroach the north 12 feet of the rear setback of 25', and will allow the structure to come within 13 feet of the rear property line. The rear property line is adjacent to the future extension of Forrest Hill Road, which has been designated as a collector to allow for the traffic created by future development in the area. The proposed structure will come unusually close to the right-of-way for Forrest Hill Road, which was dedicated when the lot was platted. One comment was returned in favor, none in opposition. Staff recommended denial due to lack of a hardship.

Mr. Hay opened the public hearing. Mr. Sasin, agent, spoke in favor of the request. He stated that both owners were physicians who were constantly on call. They require a live-in caretaker for their three children because of their unusual schedules. The sunroom would provide extra space to allow for the caretaker to reside in the house. He stated that there is a 9 foot rear privacy fence and that the road would not be an issue because the development that would require the extension of the road was well into the future. Mr. Langholtz asked why the house could not be extended to the east where it could comply with the current setback regulations. Mr. Sasin responded that the east side of the house had a small bedroom (approximately 10' x 10') that would become non-functional if another doorway was added as

the entry to the addition. The proposed addition was to be entered through the living room. Mr. Salisbury asked if the sunroom would actually be used as a bedroom and Mr. Sasin responded affirmatively. Mr. Hay asked Mr. Sasin if he, as the developer of the property, had any concerns about the proximity to the future road. Mr. Sasin responded that the owners had no concerns and that the setback was sufficient. Mr. Hay asked if the 9 foot privacy fence was typical for the area and Mr. Sasin responded affirmatively. He also noted that existing accessory structures are located closer than 25' from the rear property lines. Mr. Salisbury asked what the pitch of the proposed roof would be and Mr. Sasin responded that it would be 4, and the pitch of the existing structure is 9. Mr. Hay closed the public hearing.

Mr. Langholtz expressed his concern that the addition would be crowding the road while the subdivision was still new and the owners should have considered the size of home they required before purchasing. Mr. Hay noted that there was a considerable area nearby that has yet to be developed. He acknowledged the owners' need for extra space but was still concerned about the proximity to the future roadway. Mr. Langholtz made a motion to deny the request. Mr. Salisbury seconded the motion, which passed with 4 in favor and none opposed.

Agenda Item BA-2005-7, Request for a Special Exception to locate a carport in the front setback.

Mr. Armstrong presented the staff report. The applicant proposes constructing an open carport in the front yard over an existing driveway. The proposed carport would be 5 feet from the front property line and 35 feet from the edge of pavement on Maple Street. There are two other front carports in the immediate area. No comments were returned. Staff recommended approval because it was compatible with other properties in the immediate area.

Mr. Hay opened the public hearing. Mr. Faulkner, agent, spoke in favor of the request. He stated that the carport would be constructed completely from steel. Mr. Salisbury inquired about a garage on the premises. Mr. Faulkner responded that if there was ever a garage that it must have been incorporated into the living area a long time ago. Mr. Salisbury asked about the roof and Mr. Faulkner replied that it would be a flat steel roof.

Ms. Helen Kelly, 2698 Maple Street, spoke in favor of the request. She stated that a carport would be an asset to the property. Mr. Hay closed the public hearing. Mr. Hejl made a motion to approve the request. Mr. Langholtz seconded the motion, which passed with 4 in favor and none opposed.

Agenda Item BA-2005-8, Request for Special Exception to locate a carport in the front setback.
This item was withdrawn from this meeting.

Agenda Item BA-2005-9, Request for Special Exception to locate an electric substation in an AO zoning district.

Mr. Hay: A public hearing to consider a request from Taylor Electric Cooperative, Incorporated, agent Darryl W. Shriver, General Manager and CEO for a special exception to locate an electric substation in an AO zoning district. Legal description being out of tract 7 out of southwest one quarter of survey 12, Lunatic Asylum lands, Abilene, Taylor County, Texas located at 2582 Waldrop Drive.

Mr. Armstrong: This is a map showing the notification area again. It is on Waldrop Drive, which is east from Hardwick Road. This is just north of FM 707, between FM 707 and Antilley Road. This notification map isn't complete in that we have gotten a couple more comment forms since that time. That green dot represents a location in favor of the request and then we have two different locations in opposition to the request, being #'s 1 and # 4. So we didn't get that marked on the graph, but we did get comments in opposition from # 1 and # 4. We'll verify that during the public hearing and I'll let you know for sure. Yeah, in fact I might be able to do that now. I'll look at it in the public hearing and verify that. All this area is zoned agricultural open space. For the most part it is open land and homes. There are residential structures on larger parcels of land, generally in this area so the density is pretty low. The applicant is requesting a special exception to; I guess the right way to say it at this point is to continue to have or to begin operation of an electric substation. It has been constructed. It has not begun operation. There is over to the east AEP has an electrical substation in this area as well, over in this area. This, you'll have to reorient yourself here just a little bit; north is to the left now. But this is the parcel in question. They did construct, Taylor Electric Cooperative constructed this facility. In recent times the city is unsure of when it all occurred, other than we did receive a phone call from a property owner in the area expressing concern about it and that was the first the city became aware of it. At that time it was largely done. At that point the city contacted Taylor Electric Cooperative to let them know that there were some issues they needed to deal with, one being whether or not it could even go at this location. They have been cooperative to this point and trying to get into the proper channels to at least request the various things that really should have been requested prior to construction. When you look at something like an electric substation they are allowed only by special exception an AO zoning. That is why it is before you today. Of course electrical substations are public facilities that are needed at varying places around town to provide the kind of electrical service we expect in our society. There are many places that they are in close proximity to homes throughout Abilene. There is another larger electric substation less than half a mile, much less than a half a mile, to the east of this one. I have an aerial photograph and photographs that I failed to get into this slide show. If you need to see those I can get those. We'd do a short recess or something else. I can get those available if that becomes something you need to help you make a decision and I apologize for not getting those in this slide presentation. But back on the issue of the issues of criteria that you need to look at, certainly this is a public facility. It generates electricity, or it is intended to, not generate but to help provide electricity to various areas. It really has no other or would have no other impact on any other public facilities, water or sewer or anything else like that. Staff recognizes that there are homes in the immediate area and we also remind you that you do have the ability to put conditions on anything that you approve. Should you choose to approve this request, staff would suggest that among anything else you think is appropriate you can provide and require. Some landscaping buffering, for example, evergreen type trees. I know it doesn't block it all, but it can soften the appearance of it from the street and from adjacent properties. The staff is O.K. with this request. It is consistent with other types of facilities similar to this in other parts of Abilene and there is another one in near proximity to this one, another substation. If you have any questions I would be happy to answer them.

Jeff, what kind of fence does it have around it to secure it?

Mr. Armstrong: I believe it is a chain link fence with barbed wire and I believe it encircles it entirely.

What about the other one?

Mr. Armstrong: I am uncertain.

Did they get all the necessary permits and exceptions?

Mr. Armstrong: It has been around quite a bit longer. I don't know. I can find that out, too.

Jeff, would you pull this one back up and then kind of just show us where that other one is.

Mr. Armstrong: I know that's why I wish I had the aerial photograph on here because I believe it is on this parcel at this location.

Is that a railroad track going through there?

Mr. Armstrong: It's the old railroad.

It's been abandoned.

Mr. Armstrong: Yeah, it's abandoned.

How many of those adjacent properties 1, 2, 3, 4, and 5 have homes on them?

Mr. Armstrong: Um...

Mr. Stricklin: 1, 2, and 3.

Mr. Armstrong: I think certainly 5 and 4 do.

Mr. Stricklin: All of them.

1, 2, 3, 4, and 5. I'm sorry 3 does not.

Three does not?

But 1, 2, 4, and 5.

Mr. Santee: Sir, you'll get your opportunity to speak in a moment please.

Mr. Armstrong: I apologize I had that stuff ready and it didn't get into the slide show somehow. I didn't get it in there.

How long will it take you to get it?

Mr. Armstrong: Five minutes.

O.K.

Mr. Hay: We can do the public hearing and then table it momentarily while Jeff does that and go onto the item E. I assume she can handle item E while you get that information.

Mr. Armstrong: Either she can handle it or she could get the photographs.

Mr. Hay: Either one and then bring it back...

Mr. Langholtz: I think we're going to need them.

Mr. Hay: Any other questions for Jeff?

Not at this time.

Mr. Hay: If not will the proponent please come forward? Let me open the public hearing, first of all. Will the proponent please come forward to the microphone and give your name, address, and why you're requesting this special exception.

Mr. McKee: My name is James McKee. I'm director of business development for Taylor Electric Cooperative. I think Jeff has already pretty much said that the need for the substation is to us a matter of service reliability for Wylie schools as well as the new Cisco Jr. College. Regrettably, as he said, the permits were not properly filed. Got Lee Red and he is currently our operations, or director of operations. He was not at the time this was done. The consultant and director of operations at that time should have filed those things. We were not aware that they were not filed until it was brought to our attention from the city through the contact of a citizen. That all being said there's nothing I can do about that other than since we found that out we have done our best to comply and certainly that is our intent of being here today is to comply with all regulations. If there are any conditions that are necessary we will certainly do our best to comply with all of those. The substation is fenced. It is not completed, but there is a fence around it now. There will be, I believe, additional fencing around there. Certainly landscaping is our intention already, but whatever conditions would be necessary we would be more than happy to comply with those. Again this is our first substation in the city limits so it's not an excuse, but just a reason. Again we thought these permits were done; they were not. The substation is really just an electrical intersection. We're tapping the transmission line. The substation that Jeff has referred to, to the east, is really a transmission substation. There is no distribution out of that substation. It is just an intersection of transmission lines and we are tapping one of those transmission lines and adding service reliability to those facilities and the growth in that area and that's our only intended purpose is to provide those people with reliable electricity. Any questions I'll try to answer them, but I am not the electrical person, but again the failing to file the permits there is nothing I can do about that. It wasn't done. We're just trying to take care of that.

Mr. Langholtz: Could you tell us why that location was chosen and what the impact would be if your request is denied?

Mr. McKee: Well the location was chosen because of its central ability to distribution lines that were already in place to a location relative to the Wylie school systems that we serve and the Cisco Jr. College that we serve. The distribution lines go down Waldrop to the west and then serve the older facilities there, the initial Wylie school systems and then also tie in and will be an alternate feed to the high school. The lines that go out of there to the east tie into our main 477 line over on 1750 that feed Cisco Jr. College and many of those housing developments that are out there now. So that location, that property became available for purchase. It was central. It has also required no virtually no construction of transmission line because it is basically sitting right under the transmission line. So that made it an ideal spot. We feel like that it is kind of an out of the way place, too in the fact that it sets in behind the existing house there on the road from it. But anyway that was the reason, more of a central location. As far as an impact if it is not there, is it the end of the world? Probably not, but certainly the survey, I mean the consulting work, the planning work that was done to put it there that is the best place for it. If it is not there we'll have to back up and try to figure out some other way to provide the reliability that has to be provided for those customers. As far as any plans for that, I don't have any today, but when you decide those things there are alternate, there is always another way to skin a cat, but we haven't looked at anything yet and to undo what has been done I just hate to go there. But that is you know again not anybody's fault but ours. The permits should have been filed, they weren't. Again, I can't do anything about that. Any other questions?

Yes, overlook my ignorance, but the lines going across there, the existings, are they high voltage lines?

Mr. McKee: Absolutely. That is what transmission is. I mean these are 138,000 volt lines. They have been there for years and years. There is an intersecting and that's what that substation is to the east of us, it's an intersection of transmission lines that come from various parts of the country to there and then leave. Ours is a distribution substation. Everything that is coming out of that substation is underground out to Waldrop Lane where it comes up and then goes east and west and it is a distribution voltage which our distribution system is 7200 volts and we have some 14,400 but this is 7200.

So I think what I hear you saying is that you are going to tap those lines.

Mr. McKee: Yes.

You're not going to produce any additional lines above ground.

Mr. McKee: Just those on Waldrop Lane and there were existing lines there. Now we have enhanced them. There is a double circuit, triple circuit going west to the schools and a single circuit going to the east which has always, it was a single-phase line and it's now a three-phase line. What we essentially did we build this substation as a matter of economies in a location. We built it right under the transmission line so some poles were inserted, cement poles were

inserted in the transmission line that simply drops over to our sub and powers the transformer in that substation. Now 138,000 volts and that is reduced to 7200 sent out on our line.

And those are somebody else's lines; they are not your lines.

Mr. McKee: The transmission lines are not our lines. No, they are we're tapping LCR or AEP, we're tapping AEP.

How long have you owned the property?

Mr. McKee: Two or three years. I don't have that exact date, I'm sorry, but for a couple of years I suppose.

And when you purchased it there wasn't any, it was well known who you were and your purchasing efforts and what the future might have been.

Mr. McKee: Yes. In fact when we purchased the property with the house and I forget I think there was five acres or whatever with the house, one of our employees actually turned around and bought the house and some acreage. But our intent with him when he bought that house we planned to build a substation there. I mean that has been the plan from the get go.

And so he still lives and owns that house.

McKee: Yes sir.

What lot is he?

McKee: He would be lot five.

O.K.

Any other questions for Mr. McKee? Thank you. If there are any persons in attendance that are in favor of this request we would like you to come forward at this time. Although we have one apparently that mailed in in favor, no folks are apparently in attendance. Any persons in attendance who are opposed to this request please come forward.

Mr. Stricklin: I will say that first of all I really am kind of appalled at what has taken place. The gentlemen from Taylor Electric Co-op they have not owned that property for two years. The property was previously owned by Ron Sharp and the original five acres there which is property 5 and the colored area there belonged to my family. My family purchased property out there back in the 1950's. I grew up on all that country out there. He sold five acres to Mr. Brewer a friend of his to build a house, which is the house that actually sits on property 5 now. And in the early 1980's I purchased 10 acres off my father which is property 4 and built a house out there. My family has owned a business in Abilene for over 40 years. We have paid city taxes. They annexed that country out there in 1980, '81, '82 something like that. So my family have paid city taxes on that property since 1980. I build a house in the early 80's and I have paid city taxes

on that property on my house and 10 acres for over 23 years. My wife, we've owned a business in Abilene, my wife owns a business in Abilene and we pay city taxes. My family has paid city taxes probably for 60 years here in Abilene. Now that particular property that I'm living on right now that I built a house on in the early 80's that was annexed right when I was building a house I have no services. I have water. We had water before we built the property. We had Potosi water supply. So we had a water meter and we had water. I have no sewer system. I have septic tanks. But I have never come to the city and I have never complained one bit about any services that I wasn't getting. I have always paid my taxes on time and I have been a part in participating in a lot of city activities. Several weeks ago there was some property out on Maple Street that was up for annexation and there was a dispute between certain people out there that wanted to be annexed and a property developer that was going to build a housing deal out there. You took in his 70 acres and you left the rest of it out. And in the paper several days later there was an article in there that listed some benefits from Abilene and listed some benefits for residents. Residents gain city services including police and fire protection, able to participate in city government as city residents and elected or appointed officials. Assess the city facilities and amenities. Gain assurance of quality building construction of compatible land uses on neighboring property. This isn't it, guys. There was a house on that five acres. They sold the house to an employee of Taylor Electric. He told me that he got a heck of a deal on that house because Taylor Electric knew that they could not sell that house to anybody else by building a substation on there. I have called the public utilities commission. I have called...they sent me to the Natural Resource Council of Texas whenever this project first began to find out who had any jurisdiction over building this substation. They didn't even know. They got curious about it. When it first started going up I called the city. The city told me, "We can't do anything. Utility companies they have all the power." The further they went along then I guess the more upset that I got. Finally I called back to the zoning and planning board and I talked to a lady named Shannon and she said, "I have no idea." She said, "Let me look and see, we'll go investigate, and I'll get back with you." A few weeks later I hadn't heard anything. I called her back. She said, "Oh yea we stopped construction on that property." I said, "O.K." Each day they were out there building away, Saturdays, Sundays fast and furious. I called Jeff. I said, "Jeff they are still building out there." I've got all this documented now. He said, "O.K. we'll go look." Two or three days later they're back out there building away on it. I go down and see Jeff and I said, "Jeff what's the deal." He said, "Well I'll tell you what, we can't really stop them from doing anything. We can fine them, but we can't really stop them from doing anything." They just kept building fast and furious. The other day I started, less than two weeks ago, they are out there putting more telephone poles up. I called Jeff again. He said, "You know I was just out there. I guess I should have gone by and seen about it." Now I have requested from the city through open records all correspondence between Taylor Electric and the City of Abilene. I would like to know how many times they were fined. I would also like to know when exactly the people knew about this stuff. You can't tell me that a company like Taylor Electric doesn't know the rules and regulations and permits that they have to get to build a substation. This is not about providing electricity for their customers. Everybody out there in that area has got electricity. There's a substation, AEP. They didn't even know whose substation it was. Jeff got up here and hummed and hawed and didn't even bring pictures showing the overview. The property that we're talking about is between Buffalo Gap Road, 83/84, Antilley, and 707. Now I built my house out there 20 years ago. I didn't really build it with the intentions of selling. That's my home place. That's the place I grew up. That's the place of my mother and daddy. It has been

in the family nearly 60 years. But it is going to be developed, yes. The new retirement center borders my estate on the left. If you'll go to the north of this picture up here is that new Sears Retirement Development. All of this country that we're talking about right here is prime land to be developed. It is land that is going to bring in income to the city because there is going to be apartments, there's going to be houses. Even Sears Methodist is looking because that has been so successful. _____ (TAPE DISTORTED). If you'll look at the circle right there property 4 makes an L-shape and it borders that whole substation. This land right here behind that substation is absolutely worthless. Anybody do a study? Did the city have them do a study as to how did it de-evaluate the land around that? Have they had any studies economic development what impact is it going to have on that land? That is not out in the middle of nowhere guys. That is not just agricultural open land. I've got pictures here. There is three, probably six transmission lines that runs off this substation here. My little 10 acres right here has three easements on it, easements that I had no control over because all of them used the intimate domain. There is 48 acres that belongs to my brothers and my sisters that borders my property right here. This substation has an economic impact and they have no say so in this matter. This 40 acres of land right here has six easements on it. You know, this is a really great country that we live in and I'm proud to be able to pay my taxes, but that is a jungle out there guys. They have lied to you about this substation. They had it on that property for two years. They bought the property and immediately started building the substation on that. There are transmission lines that run to the east. That same transmission line, there are two transmission lines that runs north. There is one transmission line that runs west that they tapped in on and there is another transmission line that runs on AEP property all the way to the east. They could pick a lot more locations out there that would not have the economic impact that it's going to have on this area right here. You've got four out of the six property owners that oppose. Now # 6 is Paul Graham. I've talked to Paul Graham last night. Paul Graham owns all this property right here. He's an elderly gentleman. He has had a stroke. It took him about 30 minutes to recognize who I was. And I asked him, I said, "Paul did you get a deal from the city? Did you sign it?" He said, "Yeah I did." I said, "Did you oppose it or are you in favor of it?" And he said, "Well it's already built." He said, "I didn't know I had anything to do except be in favor of it. I didn't know." You don't build this thing and then go get permits. You don't build this thing and then go get approval for it. I've called the city manager, I've called the city attorney, and I've called the city mayor. Nobody will return my call. If the city is in favor of building or allowing this substation to remain then I cannot believe that they can manage the future as to what kind of development is going to go where. I mean it is absolutely absurd. It is built in my backyard. I have a two-story house out there, an A-frame house metal with a sun deck. My house is closer to that substation than the house that the employee for Taylor Electric bought on property 5. My house is closer to the substation. I have a bedroom on the north side there with a sun deck and a sliding glass window that I see every single bit of that substation. It's within 100, less than 100 yards of my house. Now there's transmission lines running in all directions that Taylor Electric could have picked a location. There's a location on 83/84 that is just right up the southwest corner of Kirby Lake that I'm sure the city owns that is right under that transmission line. If the city thinks this is a good location maybe they'd like to settle on that property. If I'd have known, this property was in my family, sold it to a friend. If I'd have known this property was going to be bought by Taylor Electric to build a substation on it I would have bought it back. I wouldn't give them that opportunity. Taylor Electric never came to me and ever told me what their intention was. I didn't know Taylor Electric bought that property. So don't believe when they

stand up here and tell y'all that they, people knew what was going on out there. I promise you it's a lie. He stammered and stuttered. Jeff kind of did the same thing. Now again, I cannot believe that in this day and age you've got houses going up all over that country in the south and you're crying about taxes about people not building within the city limits, development within the city limits to increase your tax base and yet if you allow something like this to take place that was built illegally without any permits, without any rezoning without anything. They just went there and built it. If you allow something like that to happen then I don't know what to think. I don't think that I'm getting my assurance of quality compatible land use on neighboring properties. I can throw that out the window guys. Now another thing, what kind of impact study have they done? It's a jungle out there. Where there used to be two telephone lines or two utility lines across the street there is four now with multiple poles. You can see the multiple poles that they built, five there. There is a view from southwest of my house. Along Hardwick Road they have constructed new utility poles in front of the school and there is ten utility wires on those poles. Ten. Has anybody gone out there? Has the city requested anybody to go out there because of that AEP substation because of those transmission lines and had a test done as far as electric magnetic field? What have y'all required of them? What permits? What study? I don't think anything. And least to say I'm not happy guys. I mean this impacts me more than anyone else. My 10 acres are worthless and my house I cannot sell. The house that was purchased, they didn't purchase open land, they purchased a house that had a five acre tract behind it and they sold that house. The only way they could sell that house was to an employee of those who told me that he got that house at a heck of a price. It's a shame. I've lived out there for 20 something years. I pay taxes. I paid on my house and whether anybody likes it or not that's an investment. That's a huge investment in one lifetime is this land and this property. I cannot give my house away guys and my 10 acres are worthless and the 48 acres that belongs to the state that I'm a partner in has been greatly devaluated. And it's a crying shame when your fate rests in the hands of someone else. I would like to ask you how many substations do y'all live next to? I'd like to ask these gentlemen how many substations do y'all live next to? When they say it's important to furnish electricity to Wylie schools. Wylie school's got electricity guys. Wylie schools have been there longer than I have. The middle school and the other school was built when I built my house and I haven't seen the lights go off out there one time. Now I'm not saying that there's not a need or a right to build a substation. Something is fishy about this one guys. I'm gonna get to the bottom of it. I'm not gonna stop here. I mean Abilene drastically dropped the ball if they allowed this thing to be built and they didn't even know one thing about it and they wouldn't have known anything about it if I hadn't called and it took me three or four months before I really ever found somebody that said, "Hey, we don't know." But after they found out they did absolutely nothing about it. It was like O.K. well now we got caught so now we're gonna have to go through and we're gonna have to get permits or we're gonna have to do this right. I don't know whether they was trying to get it built before anybody questioned it so that no one...have you got the guts to make them tear it down? This is not progress out there. There is transmission lines running everywhere. They can build that substation a different place. It is not going to be the death of not getting electricity to Cisco. Cisco Junior College is four miles away. Something is wrong here, guys. Something is drastically wrong and I don't appreciate it. I don't appreciate being put in this position. Like I said, I've lived out there for 23 years. I've invested my life out there and I've got a lot of money invested out there. And one way or the other. You know I certainly hope that as representatives of either this committee or the city that you understand the nature and the impact of what is

happening here and what transpired before we got here. And I hope you guys have the character to do the right thing. Waldrop Drive was a dirt road when I built my house out there. It rained, the city said, "No that's the county. The county's gotta maintain that road." The county said, "No you're in the city now. The city's gotta maintain that road." Guys I don't care who maintains it. I pay city taxes and I pay county taxes. All I'm asking for is someone to bring a maintainer out there and grade that road. Finally bless my hoarse wife she bugged them enough that they came out there and asphalted it. That's the last thing that has ever been done to it. There is potholes in it now. They have run those trucks. They use this ground right here as a staging area. They've got cables. They've got telephone poles and they park all their trucks out there. And they run up and down Waldrop Drive all day long. It is barely wide enough for one car to get by. And now it's got potholes in it. It never had maybe once every five years it would wear enough to get a pot hole and somebody would come out there and throw some asphalt on it. It's got potholes on it. They are going to put lights on this substation. You know they are gonna light it up. It's gonna shine right in my back bedroom. They can't grow trees or fences big enough to hide that thing. A lot of people go up and down Waldrop. It is really a very nice area. You have people jogging up that road. Nearly every day in the summertime there is people jogging, riding bicycles, walking their dogs, but you created a mess out there right now. And like I said, I don't know who dropped the ball here. I think the city badly dropped the ball. I mean if they build a structure like this in the city limits...

Mr. Santee: Do you have any new information or do we have 45 more minutes of this?

Mr. Stricklin: 45 more minutes maybe.

Mr. Santee: You have five minutes at the chair's discretion.

Mr. Stricklin: Well they haven't stopped me. I'm fixin' to stop, but they haven't said anything. You have, but they haven't.

Mr. Santee: Well sir a lot of the information you have given us has been re...

Mr. Stricklin: Well I understand and the only other point, like I said, is that again this was constructed without handling it. Do the right thing; make them tear it down. Now make them tear it down and then if they apply for stuff and you approve it and they put it back I can't say anything. But if you approve it this way it won't be the end of it. I'm gonna get to the bottom of it. Thank you guys.

Mr. Hay: Thank you. Are there any others that would like to speak in opposition to this? Please come forward and do so.

Mr. Poorman: Good morning. I'm Brad Poorman. I live at 7425 Hardwick. That's # 2 on the map and I bought my property 14 years ago and we run a few head of cattle out back and things like that, but our long term belief was that Abilene was continuing to grow south and that it would eventually be developed and I know that through conversations with Paula Shahan who owns property 3 and Dr. Blackwood who owns property 1, they also bought their property under that same assumption. We can see the substation from our house. It's a pretty tall thing and we

believe it will diminish our ability to sell our property for development in the future and you just hate to see; I just assumed that everything had been properly done. I didn't even know that there was a permit that should have been applied for beforehand. So I never said anything or called anybody because I just assumed that it was all being done. That didn't mean that I particularly liked it. As far as locations I feel like it is sitting under a transmission line, but that transmission line runs all the way across there and there could have been a lot of other locations that could have been chosen underneath that transmission line that were not adjacent to places where people lived. I don't necessarily blame the city. Y'all wouldn't know that they were or y'all didn't approve anything or give any O.K. I lay all the blame at the feet of Taylor. But I would appreciate them taking it down and building it somewhere else, thank you.

Mr. Hay: Thank you Mr. Poorman. Any others to speak in opposition?

Mrs. Stricklin: My name is Linda Stricklin. I live at 2650 Waldrop Drive. Once again you have the photos that I took. It is in our backyard. The high lines go directly across our land. AEP has a substation on the east so I just feel it is very, very unfair that we now have to be sandwiched between two substations. This could have been relocated somewhere else and I'm very concerned about the high voltage and the high lines that go across our property. I have been hearing this humming, deep, deep, deep humming sound periodically. They store all of their trucks there. 7:45, 6:45 they start up the trucks; Saturdays, Sundays. It's just like we now live in a construction zone. And I just feel...I'm sorry.

When you get through I have a question.

Mrs. Stricklin: O.K. and it's just not right the way it was done and where it is.

Your photos you took, are all of them of the Taylor facility or are some of them AEP?

Mrs. Stricklin: There are some I can show you that are AEP's just to show you that on the east we have a substation.

Mr. Salisbury: Point them out to me would you. Which ones are AEP?

Mrs. Stricklin: Now this is directly in the backyard. This is AEP. So you can tell just really close to us. This is Taylor. This is the front house and this is Taylor.

Mr. Salisbury: You said this one is Taylor?

Mrs. Stricklin: That one is Taylor.

The second house is what?

Mrs. Stricklin: This is the house that they rented to the people. And the substation is directly behind it. And these high lines, like I said this is AEP and this is where they hooked onto AEP and stringing...

This line was already existing is what you are saying? The transmission lines had already went across the property for AEP. These lines that are running are what they tapped into?

Mrs. Stricklin: A smaller version. They have increased the number of lines. So from AEP to Taylor. I also show a clearance of where they bulldozed. They had to go out in our pasture and they literally bulldozed everything down under those high lines. And we had no say so in that, the trees and everything. Because where they tapped on from AEP to Taylor they had to tear it all down.

Mr. Santee: They have an easement to do that.

This is your fence on the east side.

Mrs. Stricklin: Yes this is our fence.

How long has this been here?

Mrs. Stricklin: I don't know. We've been there 23 years. But they have increased the size. They have gone in and added new transformers and increased the size of all these transformers. It is almost like electricity runs in our family room.

Mr. Armstrong: We're looking at pictures and she's giving us a lot of information that we're not picking up on tape.

We need you in front of the microphone if you are going to give us other information.

Mrs. Stricklin: Any other questions? Thank you.

Mr. Hay: Any others to speak in opposition? If not we'll close the public hearing.

Jeff, were you able to come up with any other pictures of the aerial views or anything?

Mr. Armstrong: Yes we do have another file that I can shut this one down and pull that one up if you'd like to and show you what we have. It's just the aerials apparently, but at least we have some real photographs. O.K. I'll orient you a bit. Waldrop Drive, Hardwick Road over here. Recognize this photo was taken three to four years ago so obviously it doesn't show what Taylor Electric has done. You can see the house that Mr. Stricklin was referring to. It is on property, the label is # 5. Stricklin's property. This is the AEP location just east of the old abandoned railroad right of way. You can see other homes in the area. I did look, we had on our listing Mr. Poorman spoke I believe and he has shown as the owner of # 1. As far as # 2 and # 3 the information we get for these notifications comes from the Central Appraisal District and they show Paula Shahan as the owner of both 2 and 3. Perhaps that has changed, but that is the information we have gotten. We do have a comment from Barbara Blackwood who Mr. Foreman mentioned I believe, the Blackwood's. They don't appear on our list, but apparently they may. They show being addressed at 6329 Hardwick Road. So we had some of the information on the notification sheet doesn't match the comments we got. We did not receive

anything from the Shahan's. It is a little bit zoomed in. Again, Mr. and Mrs. Stricklin's property. This is the area we are talking about back here where the Taylor Electric has built. If you look close enough you can see some of those transmission lines were in place even a few years ago that run from northwest to southeast across there.

Jeff, could you go back to the one that has the AEP. How much of that property is AEP owned? Is it just around the substation or is it all of it?

Mr. Armstrong: No I'm basing this on how our geographical information is set up. This is the parcel line here so according to the information we have they own this entire parcel of land.

I would like if any of those in opposition know anything contrary to what Jeff has just said, would you please stand and state what.

Mr. Stricklin: I've been in contact with Paula Shahan and she had to go to Arkansas and she mailed her opposition and she also wrote comments on why she was opposed.

I just meant the property ownership.

Mr. Stricklin: O.K. the property. I do know that West Texas Utilities owns a strip of land that runs back east that runs parallel to Waldrop Drive off of 83/84. So they own that property a little ways to the north around their substation and they also own the property that runs east parallel to Waldrop Drive all the way to 83/84.

Mr. Langholtz: I would like to ask Taylor a question if I could.

O.K.

Mr. Langholtz: Did y'all ask AEP and is there any reason you did not co-locate the near or adjacent to the current location? Was that addressed at all in your planning?

Mr. McKee: It was not addressed and typically it is a different company all together we just don't share location sites particularly with them. It just wasn't a consideration. We just haven't done business that way with them. Their land and their wires and their substations are theirs and ours are ours and it's just not a good business situation. Is there another question?

Mr. Hay: Sir I think I would be, it would be helpful to me if you would clarify the difference between a transmission substation and a distribution substation. One of the people opposed indicated that other substation sitting right there could have done what yours is doing.

Mr. McKee: Absolutely not. That substation, a substation is an intersection of high voltage lines. That substation is an intersection of transmission lines where there is some 69,000, some 138,000 that comes into that substation and it is dispersed to other locations. Our substation is a distribution substation where we tap that transmission line, the existing transmission line and we send out distribution voltage which is what goes to houses. The transmission substation that exists there now is to go to different substations. That is about as good an explanation as I can

give you as far as what they do. But no, that substation, AEP substation forms no or has no value to residential/commercial electrical customers and other than the fact that it's kind of like your interstate highway. It may get the products there, but until they get on an RTO or until they get to a substation and the voltage is reduced from that 138 to 7200 or 14,400 then it becomes useable to commercial or residential customers.

Mr. Hay: Any other questions for Mr. McKee?

Mr. McKee: Would it be possible, I did want to state that I did ask, we did close on that property 3/20/03. So it has been nearly two years. I did call and get the closing date and that is when we bought that property.

Mr. Hay: I do have one question and that is they brought up the perspective of you exercising your ability to clear that easement for the work that needed to be done out there. Do you typically go about doing something like that without any contact with the neighbors or the owners that have that easement? I'm getting the impression that you have not been a very good neighbor to this point in this process.

Mr. McKee: Right and you're probably right. Generally we don't do things in that close of proximity to people. This is a new experience for us. We did not, if you were to see the property and I know Ms. Stricklin had some pictures and I didn't see them. But that area all around that substation those trees are left. We just cleared out what we had to, to build our substation and those perimeter trees are left to basically hide the substation. But obviously there was if you'll look at the aerial photograph you'll see what we really removed was some old fallen down caved in barns and some old lot fences and a bunch of scrubby mesquite trees. There weren't like a, I mean it's just an old grewed up lot was what it was and those were all removed, cleaned off, cleared off. As far as the equipment and the jobs that is going on out there now, yes it is. But when that substation is finished and completed and energized there is maybe a pick-up going in there once every 30 days unless we have a problem. It becomes almost to me I mean it's just there. We hope we never have to, we just send people in there every 30 days to get some readings and to perform some site maintenance and those kind of things, but it's not that busy of a place.

Yes sir.

Mr. McKee: I also, if I could be allowed, I feel compelled to say also that when we met with the city out there construction at this site did stop. We have not done anything inside that substation area since then. Now we operate under a franchise with the city and we have a franchise to build a line on Waldrop Lane and that has continued, but that is under our franchise agreement and is a separate. Those lines are going to be there whether this substation is there or if they contend if we move it somewhere else. Those distribution lines were there and will continue to be there. That construction has continued. There has been no construction inside that substation from the day that we met with the city out there. That ceased and stopped until this hearing to determine whether we could get a permit or not.

Mr. Hay: Thank you sir. What about lighting? She mentioned lighting.

Oh yeah is there going to be lighting at the facility?

Mr. McKee: Typically we have lighting that we can turn on when we're in there. It is not always in our best interest to light those substations just as we have on 83/84. We don't typically light those it sometimes just invites vandalism and people to be in the substation that we don't want anybody in there typically. They are only lit if we go in there if we do some work at night we need to be able to turn on some lights. But typically we do not light the substation at night. We try to be as inconspicuous as we can is what I'm trying to say.

I don't have any question about the pictures. They show both AEP's facilities and Taylor's facilities. I would like to ask you, would you like to see the pictures?

Mr. McKee: I've seen both sites, but yes sir. I guess. I think this, while it does depict some transmission line, a little bit of this. Really our addition is this right here. That transmission line, all the other things that are depicted.

This is your addition also?

Mr. McKee: Yes, that's where we tapped to come to our substation. All that other stuff that is there. I mean we didn't have anything to do with that. That's existing.

Now she said that before you came this was her comment that there wasn't as many lines on that pole.

Mr. McKee: This pole?

Uh huh.

Mr. McKee: That is an AEP reconditioning that they did. They went from an 8 structure I believe there to a single structure. That had absolutely nothing to do with what we were doing. That line in fact extends from there completely to Esco to where there is another transmission substation there on Interstate 20. That line was refurbished and put on a single pole structure. It had nothing to do with us. That is their business. Yes that is the AEP and it is an older substation, obviously.

Mr. Hay: Well Mr. McKee one thing I would like to say is that in the future I would hope that you would do a better job of being a good neighbor with the folks that the easement goes across their property that you are working next to, to try to keep them involved in the situation and hopefully some of these issues could be avoided in the future if they are approached that way.

Mr. McKee: And we'd certainly be agreeable to that. As far as any, this is my first time to meet Mr. Stricklin or any of these folks. I hadn't met them. Of course that is probably our fault. We hadn't tried to meet them. But absolutely, I agree.

Mr. Hay: Any other questions for Mr. McKee? Thank you. I've got a couple of questions for Jeff if you could come back up Jeff. The issue was brought up about studies. Can you give me an indication of what the city typically requires when a substation type of facility is proposed as far as what kind of studies are required or typically required by the city?

Mr. Armstrong: No I can't. As far as economic impact studies or electromagnetic studies, things like that I don't know of any. I don't do any kind of; I'm not in the permit office for one thing. My understanding from our building inspection staff is the required permits that they have are for, there is a small building. They would need a building permit for. Some electrical permits, I don't know what else. I'm not sure.

Rodney, do you know from the building inspection any other requirements that would typically be levied on an electrical provider?

Mr. Fletcher: No I don't.

Mr. Hay: I would like Mr. McKee to come forward one more time please. Sir in your experience do you typically have to do any or have been asked to do any kind of studies?

Mr. McKee: We always hire a consultant. We did in this case to comply with all the national rural electric safety codes and everything else and that has been done. Can I have a little bit of help with these guys because this is not really my area of expertise?

Can we have one of you come forward and let us know what has been done in that regard to address the issues that have been brought up by those opposed.

Lee Red: Good morning I'm Lee Red and director of operations at Taylor Electric Co-op. The studies that are done, the filings are done with Public Utilities Commission of Texas, the environmental impact studies; these are taken care of by consulting firms in Lubbock and Oklahoma. And that has been our experience as James stated earlier. We haven't ever built a substation inside city limits. This would be our first and we were just going with past experience and doing everything we knew that was required to be done.

So there was an environmental impact study completed?

Mr. Red: I believe that is correct, yes. However, I have been in this position since October. I can't guarantee that it has been done. It should have been done.

But it would not have been a requirement that the city would have had; it would have been by the utilities themselves as a matter of business in putting in a facility like this.

Mr. Red: Yes. It is required by the Public Utilities Commission of Texas.

Thank you.

Mr. McKee: I think it might be worth comment; we did try to do some research on our own to see what possibly AEP or even the old WTU as far as filing permits that they had done, if exemptions were made. We didn't find anything like that. In fact we found their substations pretty much exist, in whatever zoning areas they exist in they exist there. And in most cases that may precede current laws, I don't know. I did do a little looking out in the Five Points Industrial Park which is I think probably one of the more newer substations that they have and I believe that exists on open agricultural land out there and could not find, at least on the internet, any permits or anything that was applied for. Now given it does not have a control house like this substation does, which is a building that, what is it 12 x 20 building that houses electronic equipment. And from my limited understanding of this that is one of the building permits that we did not get was for this 12 x 20 building.

Thank you Mr. McKee.

Mr. Hay: Is there any other public hearing requirement or interests I should say? If not we'll reclose the public hearing for discussion.

Mr. Langholtz: The first question that comes to my mind is if this didn't exist I mean just came to us asking for permission and we heard all of this, what would we do? And I think that is the way we have to tackle this. The fact that it exists or doesn't exist should not be a player. That's the question I have.

Mr. Salisbury: Well I can tell you from personal experience that you're gonna have an economic value on the land. (VOICE IS TOO QUIET...CAN'T MAKE OUT EXACTLY WHAT IS SAID) I use the example ofextremely difficult to sell because of the high lines...bring this much money...How much more than has already been done.

The ones across the street from there border on the golf course, though.

Not near Antilley.

But on that side.

Any other discussion?

Mr. Armstrong: While y'all are trying to go forward on this and I know you know this, but just to point out kind of the way these go. It came as a special exception. As y'all know it's a question of compatibility. Also you do have the ability to place any safeguards on any approval if you choose to approve it, which would be fencing around the outside perimeter if you want it, any type of landscaping, also limitations on any lighting, although they said what their intentions were on lighting, you could make that part of any approval as a safeguard to the surrounding properties. Anyway I just want to throw that out there as you go forward.

I would like to make a couple of comments. One in regard to what Mr. Stricklin brought up earlier; you just don't go out there and build something without a permit. Yes sir, that is absolutely correct, you don't. This is an unusual situation. This typically does not happen. But

this isn't the first time this has happened believe it or not and I'm sure it won't be the last time either. But things like this do happen. They do slip under the radar for whatever reason and we have to address them now. The appropriate way to do it I feel also is what Mr. Langholtz's brought up. Approach it from the perspective of how would we have acted on this if it had been done in the proper channels and with the proper procedures and I think we are trying to do that. This board does have a history of making people tear something down. So for you to stand there and challenge us to do the right thing, we do the right thing on a regular basis. That's what we are here for and that's what we will try to do in this case as in any case. The issue of compatibility is obviously a very important one here. From my own experience I do live next to a substation. There are transmission lines where I live. Those are a fact of life with development. Wherever development occurs there is going to have to be substation improvements done to support the infrastructure, the electrical infrastructure in those areas and no one wants to have them next to them. I'm not trying to discount your position there, but there are two different animals, the two that you have. The transmission substation is a whole different purpose and in my opinion is not even part of this issue because it is pre-existing; it serves a completely different purpose. The transmission substations are few and far between. The distribution substations have to develop as development occurs. And you yourself brought up how valuable this area is in development and how much development is likely in this part of the area. And my personal opinion is the distribution substations are a necessary evil to development and they've got to occur where development occurs and we need to do what we can do to mitigate the impact to the local people as much as possible and make it as easy as we can to live next door to one another. It looks to me like this could have been done a little bit differently and I wish that they would have been better neighbors to y'all in the dealings that have taken place today. But I do believe that we've got to, the issue about not in my backyard, if it goes to some other location that other person is going to have the exact same perspective on that I believe.

Mr. Langholtz: But it would have been nice if they would have bellied up next to the other one that was there and have more co-located as much as possible as close as they could have done them. So if there is any deterioration to an area the area is as small as possible. Now we have two substations as opposed to one larger one, if you would, even though they are separate entities. I would have preferred to see them snuggle next to each other.

Mr. Hay: I have one other question for Jeff and that is the issue was brought up why wasn't this brought up to zoning and rezoned appropriately for a substation before it was ever done. Would rezoning had even been an issue if this had been done in the normal course of action?

Mr. Armstrong: Had Taylor Electric come to us at some point in the past and said, "We want to put this here. What do we need to do?" The first thing we would have told them is under the current zoning you can only go there if you get a special exception from the Board of Adjustment. If you want to go there you need to apply for that. We would have told them the other things they need to do as well as far as building permits and things of that nature. But had they come to us one year ago or two years ago or however long ago it was that's what we would have told them. I suspect we would have been here. I don't think rezoning the property is the answer to some other zoning that might not, that would effectively just take this board out of the

mix. Our zoning ordinance allows these kinds of facilities in almost every zoning district either by right or via your approval. So that's what would have happened.

So we would have been in this exact same...

Mr. Armstrong: Sometime in the past. Had they chosen to proceed with it, yes.

Mr. Hay: You've answered my question, Jeff, thank you. Any other discussion?

Mr. Langholtz: It was said, put them together to minimize the area. I wish that had happened.

One thing on that is we can't require that and AEP doesn't have to agree to it, they are competitors.

But there is other property that may have been...

We are able to require co-location only like with cell tower antennas and things because the Federal Telecommunications Act states that we can and that they have to when and where possible. So unless a different authority has said that we can require that or that they have to cooperate with each other it doesn't have to.

Mr. Langholtz: So what Scott said was very valid in the fact that this substation has to go somewhere and wherever it goes people are going to be unhappy. Unfortunately you guys are the unhappy ones at the moment, but the distribution network is necessary for us to have power in our homes and facilities and expansions for each place. It's a necessary evil.

You guys ready to take action?

Mr. Langholtz: Let's talk about what if just for a second. Should we consider just making the thing as restricted as possible as far as the appearance goes? I mean the fact that it is necessary it has to go somewhere, it's here. Trees, inward lighting, more fencing, does that help anybody make a decision one way or the other or is that just intended too?

Mr. Hay: Well I will open the public hearing long enough to ask those in opposition that question. Specifically is there any requirement that would satisfy you to allow this to be located where it is proposed? Or anything that would even help mitigate the situation.

No one ain't never gonna be happy.

Mrs. Stricklin: I know, but if you look at the photos there is no way you can put a tree or a fence because it is so high. I mean those loops are so high. It still devalues the land. They still could relocate it to a less habitated area. I mean there still is that option. I mean we are sandwiched between two, I know AEP that's out of the question, but we are still sandwiched between two substations. I mean they move it somewhere yes someone else is going to be unhappy, but they don't have two substations. I'm just asking you to reconsider.

Mr. Hay: One comment I would have with that you know moving them to a less populated area, that's typically what the distribution substation is just to serve development.

Mrs. Stricklin: But he said this is the first one they have built in the city limits, so.

Well they are a rural system.

Mrs. Stricklin: Well why don't they build outside the city limits?

Mr. Hay: Because they serve, they are located near the customers they serve.

Mrs. Stricklin: I understand that, but we're on the edge of the city limits, so why can't they relocate outside the city limits and still be serving the area they need to serve.

Mr. Hay: I understand now. My answer would be, the way I understand it, to be located near those people that they serve. To answer my question of is there anything that could be done to mitigate this situation from your perspective, that's what I would like you to answer.

Mr. Stricklin: No. If you'll take a look at the pictures, like I said, we have a sun deck that overlooks this property and there is absolutely no way that whatever they come up with that it's not going to be detrimental at that space. I don't know if this is proper or not. I would like to ask something if I'm allowed. It's a short question that maybe they can answer.

Mr. Hay: I've reopened the public hearing.

Mr. Stricklin: O.K. Waldrop is separated by on the south side by utility poles that say Taylor Electric and it's my understanding that they have the right on that side and on the north side of Waldrop Drive there is a sign that says AEP. Now I don't know about deregulations, but for a long time it was my understanding that AEP had the rights to service people on that side of Waldrop and Taylor Electric had the right to service people on the south side of Waldrop. Is that correct? Not anymore? You know again, like I said, AEP has property that runs all the way down Waldrop Drive. There are no houses that have been developed there. Those transmission lines run from a long ways in all directions to where the property that is going to be developed is not near as significant as what this property is right here. There are other places. It's not a matter of furnishing electricity for that area. They bought a house with five acres.

Mr. Hay: Thank you sir. I would like to give Mr. Poorman the same opportunity to ask if there is anything that would help mitigate the situation for you.

Mr. Poorman: That would be a good gesture and still not my first preference. My first preference is I don't know it just seems like as Mr. Langholtz said, if they had come to y'all and we had expressed our opinions a year ago, would you still have approved it to be right at that location rather than asking them to move to a location down the power line to where there are no houses. And I believe that y'all wouldn't be considering putting it right there or allowing them to put it right there. I understand the need for development and as we build more houses and things like that stuff has to go in. But right now there are options where they can put it. Shoot!

They are talking about serving Cisco from this thing four miles away. So it doesn't have to be right at that location behind those houses.

Mr. Hay: I will re-close the public hearing.

Mr. Langholtz: I gotta tell you I am really torn, really torn.

Well I think what Mort said is right. I'm gonna vote exactly like I would if nothing was ever done.

Well that's to me how we have to approach this.

Mr. Langholtz: And I certainly would have asked the question that I asked earlier. Are there alternate locations? You've got to recognize they've sunk a lot of money into this thing and all that, but...

That's not a factor.

Mr. Langholtz: I know.

Mr. Hay: Are we ready to take action? If we are ready to take action I would entertain a motion.

Mr. Langholtz: O.K. well we gotta bite the bullet and vote one way or the other. Let's see what we have in front of us. Give me a second guys. I recommend that we deny the recommendation for the request for the special exemption.

Mr. Salisbury: I'll second that.

Miss Brownell: Mr. Langholtz?

Mr. Langholtz: Yes.

Miss Brownell: Mr. Salisbury?

Mr. Salisbury: Yes

Miss Brownell: Mr. Hejl?

Mr. Hejl: Yes.

And Mr. Hay?

Mr. Hay: No.

Mr. Santee: You can discuss it further and the floor is open for further motions. It did not carry.

Mr. Langholtz: Why is that?

Mr. Santee: Because it did not carry.

Mr. Langholtz: Oh we have to have all four. How interesting.

Mr. Hay: The reason that I voted against it was because I feel that this is, like I said, a necessary evil. It meets the requirements. From the people's perspective that it's in their backyard it does not meet compatibility with the surrounding area. But when I try to look at it objectively from a broader perspective, it does meet the compatibility with the surrounding land uses. It does have actually a positive effect on public facilities and it does meet the relationship of the intention of the regulation that allows them to come forward with it. And that is my rationale for because no matter where it's located the people it is next door to will oppose it. It has to be there for development and we need to mitigate the issues that are involved that the people are concerned about to make the least impact as possible. That's how I feel and that's why I voted that way.

If this had been done right without any action done would you have the same?

Mr. Hay: Yes sir I would.

You wouldn't have thought that they would do better at a better location, not that we could require that.

Mr. Langholtz: Would we have asked them what other locations were possible and looked at the net effect in the whole general area as well?

That we might have done.

Mr. Santee: I would just throw out some insight that to burden on them or anyone else when you have to go out and try to find property to purchase, you know I guess we would have expected them to come to you while they had something under contract is what you're saying or while they are looking to purchase. But again with the substation already in place out there, whatever kind of substation it is, likely they are going to be looking probably pretty much where they ended up. Even if they knew ahead of time, key criteria on special exception is compatibility with the area. With carports, we always look in the surrounding areas as to what other ones are there. It's hard to find a lot of these so you're gonna go compatibility wise where there is one. I mean I think that's what I hear you saying is that and I'm just saying we were gonna be right here anyway. They were gonna find something close to this. That's where they wanted to be. There is one already there. As far as valuation on properties, I have no doubt it might affect them. Those transmission lines already ran across there. They built a house with a substation already in place, which is more directly adjacent to this other acreage that he says this is further devaluing. And that thing has already been expanded; AEP's has, and will likely expand further. So all of that goes into the equation as far as compatibility, not just the most neighboring houses, but the fact that we require as a special exception that we look to the entire area as to what else is there and I think that's why Jeff, and Jeff might be able to speak to this, would have

recommended approval from the city's perspective if they had come even before was the fact that there was already one in close proximity. Jeff is that correct?

Mr. Armstrong: Yes, we don't base our recommendation on whether something has been built or not. We base it on whether it is appropriate to recommend a certain way or not and that's what we did in this case. We would have brought the same recommendation to you whether or not that structure was there.

Mr. Santee: Y'all also have the option to table it if you don't feel like you have the information that you need then you can direct staff and you can direct the proponent to bring back more information from whatever sources you desire. And maybe tackle it with the five members. That is also an option.

Mr. Hay: What other type of information would you guys like to see if we did table it?

Mr. Langholtz: Well I go back to the same thing. If it was an adjacent property on either side of the current AEP location, if it bordered at any place at all on any side I would not have any second doubts at all that it had to be there because of the necessity of the thing to be someplace. It just seems to me that not, pardon the bad choice of words, co-locating I don't mean co-locating, I mean adjacent location. You know I just think we're spreading the eyesore. It's just too bad that the eyesores aren't all in one place as opposed in different places and that's the only rub I have against the thing. I'm listening; do you want to open it again? That's fine with me.

Do you want to hear some more information from them?

Mr. Langholtz: Yeah I would like to.

I think anything else is going to be redundant. I mean we've heard everything there is to hear. Anything else would just be hashing the same thing over again.

I'm not hearing you say anything in particular that you would want them to bring forward that would help us make a better decision if we were to table it.

Mr. Langholtz: Other than if this were the first time around and nothing had been done and we were where we were, I would ask for alternate locations if there were any other alternate locations.

I don't think that they could do that.

I'm not sure it is either. They purchased the property and they can use the property for what they desire to.

Mr. Langholtz: I guess I don't know where we are then.

Mr. Hay: Well then I'm gonna make a motion that we approve the request for the special exception with the caveats that any lighting that is on site would not be continually lit at night

time. It would only be lit when those folks are there to do maintenance on the facility and that it have an opaque fence around the entire property.

Mr. Hejl: I second that.

Miss Brownell: Mr. Langholtz?

Mr. Langholtz: Can I wait?

Mr. Santee: Yes you can. Typically you ask a person who made the motion then the person who seconded it and then go forth from there.

Miss Brownell: If Mr. Hay is the Vice Chair and he usually goes last, do I ask him first?

Mr. Santee: Ask him first.

Miss Brownell: O.K. Mr. Hay?

Mr. Hay: Yes.

Miss Brownell: Mr. Hejl?

Mr. Hejl: Yes.

Miss Brownell: Mr. Salisbury?

Mr. Salisbury: No.

Miss Brownell: And Mr. Langholtz?

Mr. Langholtz: It is sort of moot at this point. Then I'll say no again just to be consistent.

Mr. Hay: O.K. that motion did not pass either.

Mr. Santee: Actually that was a motion to approve though, which requires four votes, so it failed. So the request has been denied.
The request has been denied.

Agenda Item BA-2005-10, Request for a Special Exception to locate a residence in an existing building in an LI zoning district.

Mr. Armstrong presented the staff report. The applicant wants to lease the building for residential occupancy. The building has a residential appearance but has been used for commercial purposes in the past. LI zoning surrounds it on all sides. If approved by the Board, the applicant must bring the building into compliance with the residential building codes. Staff recommended denial since the request did not meet the criteria for a Special Exception.

Mr. Hay opened the public hearing. Mr. Gully, applicant, spoke in favor. He stated that he bought the property when Lockheed closed and it was previously occupied by an adult entertainment business. He has paid taxes for the last two years while it has remained vacant. He wants to build self storage units in the rear and use the existing building as a security residence. Mr. Salisbury asked why he chose residential use. Mr. Gully responded that he was hoping for the revenue of having a residence in one area and an office in another area of the building. Mr. Salisbury asked if it was built like a house and Mr. Gully explained that it already had restrooms and a kitchen, and that a plumber had already performed some of the necessary updates. Mr. Salisbury asked if the same amount of revenue could be obtained from renting the building as a residence or as office space. Mr. Gully said that he had originally bought the building with the intention to use it as office space for a game business, but decided later that it was not suited to that use. Mr. Salisbury stated that if it was undesirable for office use, then it must also be undesirable for residential use. Mr. Gully replied that the structure was not conducive to shipping and storing large items. Mr. Salisbury reminded the applicant that they could not consider monetary issues when making their decision. Mr. Hay stated that he was concerned with allowing residential use in an LI district because of compatibility and that he had heard no compelling reasons to change his mind. Mr. Gully stated that the building provided adequate living quarters and the current resident was perfectly happy there. Mr. Hay admitted that the building could be brought into compliance with the residential building code but he was still concerned with the zoning. Mr. Salisbury stated that residential use of the property was not the best option.

Mr. G.B. Adams, 801 Briarwood Street, spoke in opposition. He has owned a warehouse nearby on North 3rd Street for the last 35 years. He stated that the area is strictly industrial and he does not want a part of it to be residential. Mr. Hay closed the public hearing. Mr. Langholtz made a motion to deny the request. Mr. Salisbury seconded the motion, which passed with 4 in favor and none opposed.

There being no further business, the meeting was adjourned at 11:55 AM.

Approved: _____, Chairman
