

**PLANNING AND ZONING COMMISSION**  
**July 7, 2003**  
**MINUTES**

A regular meeting of the Planning and Zoning Commission was held on Monday, July 7, 2003, at 1:30 p.m., in the City Council Room, Second Floor, City Hall, Abilene, Texas.

MEMBERS PRESENT      Jack Harkins, Chairperson  
                                 Neomia Banks  
                                 Ovelia Campos  
                                 Eddie Boykin, Secretary  
                                 Tim McClarty  
                                 Jeff Luther

MEMBERS ABSENT:      Floyd Miller

CITY ATTORNEY:        Dan Santee, Asst. City Attorney

STAFF PRESENT:        Elizabeth Grindstaff, Asst. Director of Community Dev.  
                                 Jeff Armstrong, Development Services Manager  
                                 Shannon Meinhold, Planner I  
                                 Dustin Luensmann, Planner I  
                                 Helen Clanahan, Senior Secretary

NEWS MEDIA:            Katherine Sayre, Abilene Reporter-News

VISITORS:                Ray C. Cook  
                                 Aiko Cook  
                                 Ronnie Cheek  
                                 Linda Cheek  
                                 Larry Farr  
                                 Bruce Bixby  
                                 W.S. West  
                                 Rick Worley  
                                 Teri McQueen  
                                 James Clark  
                                 Sue Jackson  
                                 Jack Chamberlain  
                                 Terry St. Pierce  
                                 Mark White  
                                 Bob Childress  
                                 Randy Billings  
                                 Suzanne Carter  
                                 Kevin Watson  
                                 Bob Hammond  
                                 Jerry Vincent  
                                 Carla Vincent  
                                 and others

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Invocation: The invocation was given by Ovelia Campos.

Approval of Minutes: Eddie Boykin moved to approve the June 2, 2003, minutes. Ovelia Campos seconded the motion. The motion carried by voice vote and the June 2, 2003, minutes were approved.

AGENDA ITEMS:

Case No.: MP-1003, MP-2203, MP-2403, MP-2503, MP-2603, MRP-2703, FP-2803, FP-2903

Request: MP-1003  
Public hearing to consider minor plat of Lot 1, Block A, Dozier Addition, Abilene, Taylor County, Texas, located in the 2300 block of N. Treadaway.

MP-2203  
Public hearing to consider minor plat of Lot 13, Block C, Section 1, Oldham Forbes Estates, Abilene, Taylor County, Texas, located on Benz Road.

MP-2403  
Public hearing to consider minor plat of Lot 1, Block A, Longoria Addition, Abilene, Taylor County, Texas, located on FM 707, west of U.S. Hwy 83/84.

MP-2503  
Public hearing to consider minor plat of Lot 1, Block A, Section 1, Oldham Forbes Estates, Abilene, Taylor County, Texas, located at Lytle Shores & Forbes Drives.

MP-2603  
Public hearing to consider minor plat of Lot 12 and Lot 29, Block B, Section 1, Oldham Forbes Estates, Abilene, Taylor County, Texas, located on Cynthia Court and on Serrot Court.

MRP-2703  
Public hearing to consider minor plat of Lot 101, a replat of part of the west 272.32' of Lot 1, Block 9, Overplace Addition, Abilene, Taylor County, Texas, located in the 2900 block of South 27<sup>th</sup> Street.

FP-2803  
Public hearing to consider final plat of Lots 1-6, Block A, and Lots 1-4, Block B, Phase Two, Iberis Road South Subdivision, Taylor County, Texas, located at CR 377 & Clark Road. (2-5 mile ETJ)

FP-2903  
Public hearing to consider final plat of Section 1, Remington Estates Subdivision, Taylor County, Texas, located at CR 164 (Iberis Road) & CR 337 (Clark Road). (2-5 mile ETJ)

Discussion: Jeff Armstrong said these items are related to platting or replatting of land. All items meet plat requirements and staff recommends approval.

The public hearing was opened; then closed after no discussion.

Vote: Eddie Boykin moved to vote for approval. Ovelia Campos seconded the motion.

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MP-1003

- 4 approvals:
1. Eddie Boykin
  2. Ovelia Campos
  3. Jeff Luther
  4. Jack Harkins

- 1 abstention:
1. Tim McClarty

MP-2203, MP-2403, MP-2503, MP-2603, MRP-2703, FP-2803, FP-2903

- 5 approvals:
1. Eddie Boykin
  2. Ovelia Campos
  3. Jeff Luther
  4. Tim McClarty
  5. Jack Harkins

Decision: Cases MP-1003, MP-2203, MP-2403, MP-2503, MP-2603, MRP-2703, FP-2803, FP-2903 were approved.

Case No.: 2080-2

Request: Public hearing to consider plat vacation of Lot 9, Mystic Meadows Addition, Abilene, Taylor County, Texas, located on Beck Avenue.

Discussion: Jeff Armstrong said proposed is vacation of a portion of a plat. The lot is located at the end of Beck. The property owner wishes to vacate this lot, which is required for Beck to be abandoned. The proponent owns all the property. If vacated, it would leave this property as unplatted property. It is my understanding they do not have any plans regardless of what happens to the street abandonment.

Mr. Luther asked if it was zoned AO.

Mr. Armstrong said, yes. It may stay as unplatted land until they decide to develop the property.

Mr. Harkins said the only access would be to the east.

Mr. Armstrong said this vacation came about because of the thoroughfare abandonment request.

The public hearing was opened.

Larry Farr said he owns property in the area. The property is in use and he has the deed to the property. When you say abandon it, what happens.

Mr. Harkins said Lot 9 will remain under your ownership.

Mr. Farr said he was not aware it was platted.

The public hearing was closed.

Vote: Tim McClarty moved to vote for approval. Eddie Boykin seconded the motion.

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- 5 approvals:
1. Tim McClarty
  2. Eddie Boykin
  3. Ovelia Campos
  4. Jeff Luther
  5. Jack Harkins

Decision: Case 2080-2 was approved.

Case No.: Z-02303

Request: From Randy Billings to rezone property at 4302 Oldham Lane from AO (Agricultural Open Space) to LC (Limited Commercial) zoning district.

Legal

Description: 2.99 acres out of the northeast ¼ of Section 67, Blind Asylum Lands, Abilene, Taylor County, Texas.

Discussion: Dustin Luensmann gave the staff presentation. He said the request is to rezone property from AO to LC. There is some LC to the north. The proposed use is Pecan sales and unspecified commercial. They could do Pecan sales with a special exception from the Board of Adjustment. The property was annexed in 1968 and zoned AO. The LC property was zoned in 1983. Oldham Lane is an arterial street.

He said one thing to look at is whether major commercial uses will follow the proposed comprehensive plan. The request follows the Southeast Land Use study.

Notification: Ten comment forms were mailed. None were returned in favor; eight in opposition. The reason for the opposition was the residential across the street and it will lower property values. Another comment was commercial is not compatible with residential.

Staff

Recommendation: Staff recommends approval.

Mr. Boykin said AO is a holding zone and will eventually be zoned to something else. Staff would not recommend rezoning to RS. He said at some point the residences across the street now zoned AO will be rezoned.

Mr. Luensmann said no, residences are allowed in AO.

The public hearing was opened.

Bruce Bixby, 4349 Oldham Lane, said the zoning of the residences across the street was stated as being AO. They are zoned residential. He has heard that the area on the west side and south of the property in question will be developed residential. The residential use is established. If Mr. Billings wants to sell Pecans, he will support going before the Board of Adjustment for a special exception. It is his opinion that property values will go down. An example is property across the street just recently went on the market and if this is rezoned to LC, they will have to go to the realtor and it will have to be indicated that the property was rezoned to LC. He would hope the Planning Commission would not be in favor of the rezoning.

Mark Horn, 1249 Princeton, said he is building a house across the street. He does not want commercial across the street. He also believes the property to the west of the property in question will be used for residences.

Carla Varner Vincent, 4457 Oldham Lane, said she lives across the street. It is her understanding that the existing LC will be rezoned to residential and they plan to have a cul-de-sac that will back up to Oldham Lane. The LC would allow a convenience store but could go to residential.

Randy Billings, proponent, presented information. He said he does own the 2.9 acre tract. Page 1 is a drawing of the current zoning. There is no GC on the west side of Oldham. The only GC zoning is a tract Mr. Bixby owns. The next two pages include traffic counts. With development of the new junior college there will be a tremendous amount of traffic. The only potential for GC use is on the other side. The only LC parcel is to the north. It was mentioned he may want to sell Pecans. He just thinks there needs to be commercial and would be beneficial for people in Abilene. Oldham Lane does not have a turn lane and there is no space for one. The GC backs up to the residential. His property backs up to AO. The LC zoning was granted in 1983. Mr. Bixby knew that property was zoned LC. When L.E. Haley had that property, it was a pipe yard. He has a setback requirement of 170'. This is a main arterial thoroughfare. It seems GC is appropriate.

Steve West, 7502 Patricia, said on the first lot on the corner he has plans to build a house. If it will be GC, he will have to think about building somewhere else. It was mentioned that the residences on Notre Dame backed up to GC. The people who bought those houses knew it was GC. He knows there is commercial in the area.

Mr. Armstrong said the property on the east side in October 1996 requested a variance to reduce the minimum lot size from the minimum two acre size to less. It is zoned AO and has never been zoned anything else. Most everything else is speculative. What is going on with all the property Cisco Junior College owns is nearly all zoned GC. The PDD was zoned for residential, a park and other uses. It was never developed. He will say a request for a new PDD has been submitted on a portion of the property. They are still working with us on the request. At Loop 322 we are talking about intensive commercial. Residential uses are allowed in LC districts. He does not know what Mr. Johnson will do with his property. Limited Commercial zoning is in close proximity and compatible with residential uses. General Commercial is larger and more major type commercial. The problem that we have is when residential is adjacent to an arterial.

Mr. Boykin said directly across the street is not zoned residential.

Mr. Armstrong said it is zoned AO and not residential.

Mr. Boykin said the PDD is currently undeveloped.

Mr. Armstrong said it was zoned PDD in 1998 and the expiration date for development to occur is 2004. If nothing occurs, the Planning staff will bring back a proposal to rezone the property back to AO.

Mr. Boykin asked why Cisco Junior College property is zoned GC.

Mr. Armstrong said when Cisco rezoned the property there was a lot of discussion. Staff initially looked at CU for the property but the proponent wanted to rezone the property to GC. At one time they had hoped that a portion of the land could be sold for revenue purposes. At that time, that is why it was rezoned to GC.

Mr. Bixby said he thought his property was residential. The GC is very typical to back up to homes but unusual to have commercial in front of homes.

Mr. Billings said the area will make a rectangle of commercial. He believes this is the highest and best use.

Mrs. Vincent said someone said that property could not be residential use.

Mr. Boykin asked if the residential development on the east side will remain AO.

Mr. Armstrong said when he stated AO is a holding zone that is true but that is not its only function. However, a trait we have seen over the last several years is large lots keeping the AO zoning to allow horses.

Mr. Boykin said he finds himself in a difficult position because the request goes along with the Southeast Land Use study and the proposed Comprehensive Plan.

Mr. Luensmann said the Commission has not decided how far the activities will stretch out.

Mrs. Grindstaff said intersections like Oldham and Industrial will be a high intensity traffic area.

Mr. Harkins said maybe any action on this request should be taken after the special meeting. He thinks it would be clearer after that meeting. He would prefer for this item to be postponed.

Mrs. Grindstaff said we would like to have this special meeting before the August meeting.

Mr. Armstrong said when there is property one lot deep, we generally do not recommend residential adjacent to an arterial.

Mrs. Grindstaff said there is a large activity center planned at Loop 322 and Industrial. We are not talking about just boundaries on maps but larger planning areas and this perhaps falls within that area.

Mrs. Suzanne Carter, 4557 Oldham, said they own three lots to the south and are opposed to the request. We do not feel this is good for the area. When we bought the property, we bought it as residential.

The public hearing was closed.

Mr. Harkins said this is a major area that is demanding attention beyond the request before us today. He thinks it would be best to table or withdraw the request for further study.

Mr. Luther said if the request is denied today, it cannot come back for 12 months.

Mr. Billings said he would be willing to have the request tabled.

Decision: Ovelia Campos moved to table the request. Eddie Boykin seconded the motion.

6 approvals:           1. Ovelia Campos  
                              2. Eddie Boykin  
                              3. Tim McClarty  
                              4. Jeff Luther  
                              5. Neomia Banks  
                              6. Jack Harkins

Decision: Case Z-02303 was tabled.

Case No.: TC-02503

Request: From Permian Real Estate; agent, Tammy Worley, for a thoroughfare abandonment.

Legal

Description: Beck Avenue from the north line of Meadow Drive north for a distance of 512.2', Abilene, Taylor County, Texas.

Discussion: Dustin Luensmann gave the staff presentation. He said the area to the north is proposed to be residential. Proposed is to close Beck so they will not have to extend Beck to Crystal Creek or provide a cul-de-sac.

Notification: Ten comment forms were returned. One was returned in favor; one in opposition.

Mr. Armstrong said the issue that comes up is it is a 60' right-of-way and they would either have to cul-de-sac or extend the street. There are several things that need to be addressed. It carries a lot of storm water in addition to needing an open utility easement. Also Planning staff is developing a hike and bike trail. There was discussion about abandoning the west 30' and keeping the east 30'. All these problems begin coming up and we are not comfortable on how to proceed.

Staff

Recommendation: Staff recommends approval with the condition that the entire right-of-way of Beck be kept as an accessible open utility, drainage and pedestrian and bike easement.

Mr. Harkins asked about keeping the entire right-of-way as an access easement.

Mr. Armstrong said we are trying to plan ahead and ask for what we need. We are pretty comfortable that we can use the creek.

The public hearing was opened.

Ronnie Cheek said if he understands correctly there were several people against the request. He has lived on lot 1 since 1976. He has seen the water flow there. Coming across lot 7 is the west branch of Catclaw Creek into lot 6 and then went north to lot 9. There is a house that sets between the proposed extension. That area does not carry water and goes to Catclaw Creek. He would not want a pedestrian and bike path next to

his house. His garage opens to the east. If he has to take care of lot 10, he will have to use the street. He would not want it turned into a bike and pedestrian path. He is in favor of closing the street.

Larry Farr said he owns lot 2 and he is opposed to any bike trail. He would like to see the street abandoned. The city needs to be careful about having residential in that area because of flooding. They proposed one time that along lot 2 to clean out the area and use to hold water.

Rick Worley, 5433 Meadow Dr., said he is in agreement that water does not really go down Beck. He has done a very extensive flood study. As to hike and bike trails, and talking about using the creek area. He would be glad to give an easement for that use. He feels the best thing would be to abandon that portion of Beck.

Linda Cheek said they own lot 1. The lady who owns lot 5 talked with us. They were in favor of closing the street. Some of the people misread the letter.

The public hearing was closed.

Vote: Eddie Boykin moved to vote to table the request. Tim McClarty seconded the motion.

- 6 approvals:
1. Eddie Boykin
  2. Tim McClarty
  3. Ovelia Campos
  4. Jeff Luther
  5. Neomia Banks
  6. Jack Harkins

Decision: Case TC-02503 was tabled.

Case No.: Z-02403

Request: From Permian Real Estate, Inc.; agent, Tammy Worley, to rezone property south of Crystal Creek and west of Rio Mesa from AO (Agricultural Open Space) to RS-8 (Residential Single Family) zoning district.

Legal

Description: 1.07 acres out of a 20.624 acre tract out of the M. Talbot Survey 102, Abilene, Taylor County, Texas.

Discussion: Dustin Luensmann gave the staff presentation. He said the request is to rezone property from AO to RS-8. This area is in the 100 year flood plain. This is 1.07 acres out of a 20 acre subdivision. The Southside Land Use study recommended residential for this area. It is more consistent.

Notification: Ten comment forms were mailed. Two were returned in favor; none in opposition.

Staff

Recommendation: Staff recommends approval.

Mr. McClarty asked about the flooding and water flow.



Mr. Luensmann said they would need to build up.

Mr. Armstrong said as stated earlier the owner has done an extensive flood study. Many of the lots are in the 100 year flood plain and they have to elevate the finished floor elevation. In addressing adjacent properties, they have to do a plan showing storm water does not leave the property at a faster rate.

The public hearing was opened.

Rick Worley, proponent, said as to flood potential we have done an extensive flood study. We will have to build up the houses properly. We do not know why this area was not rezoned with the rest of the land.

Mr. Luther asked where is the flood way or creek way ownership.

Mr. Worley said it will be under his ownership and he will keep it mowed and maintained.

Mr. Luther asked if he has talked with city staff about some type linear park.

Ronnie Cheek said he has lived on his lot since 1976 and has been around this area since 1963. The area has been leveled and graded when they worked on that portion of Crystal Creek Road. That land has never been under water. The work they have done did not do anything to slow the water. They have done an excellent job.

Mr. Worley said he has also had to put in detention ponds.

The public hearing was closed.

Vote: Neomia Banks moved to vote for approval. Ovelia Campos seconded the motion.

- 6 approvals:
1. Neomia Banks
  2. Ovelia Campos
  3. Eddie Boykin
  4. Jeff Luther
  5. Tim McClarty
  6. Jack Harkins

Decision: Case Z-02403 was approved.

Case No.: Z-02603

Request: From Bobby Cox Companies, Inc.; agent, Kenneth R. Taft, to amend PDD 36 on property at 1026 N. Judge Ely Blvd. To allow a restaurant with drive thru and video rental in Tract 1.

Legal

Description: Lot 7 and the north 191' of Lot 8, Block A, Continuation 5, Abilene Heights Addition, Abilene, Taylor County, Texas.

Discussion: Shannon Meinhold gave the staff presentation. She said this is an amendment to PDD-36. This amendment would allow a drive-thru window and a video store on the tract.

The PDD ordinance currently allows only a standard restaurant on Tract 1. It will not change any uses. There is a nice brick wall on the north side.

Notification: Twenty-three comment forms were mailed. None were returned.

The existing pole sign will be utilized as well as the parking. The drive-thru will be located on the north side of the building.

Staff

Recommendation: Staff recommends approval.

The public hearing was opened.

Kenneth Taft, agent, said we have 19 Rosa Cafes. We also have the Blockbuster franchise. He will answer any questions.

The public hearing was closed.

Vote: Tim McClarty moved to vote for approval. Jeff Luther seconded the motion.

- 6 approvals:
1. Tim McClarty
  2. Jeff Luther
  3. Eddie Boykin
  4. Ovelia Campos
  5. Neomia Banks
  6. Jack Harkins

Decision: Case Z-02603 was approved.

Case No.: Z-02803

Request: From Jack D. Chamberlain to rezone property at 1141 South 6<sup>th</sup> Street from RM-3 (Residential Multi-Family) to CB (Central Business) zoning district.

Legal

Description: Lot 12 and the north ½ of Lot 11, Block 127, Original Town, Abilene, Taylor County, Texas.

Discussion: Shannon Meinhold gave the staff presentation. She said the request is to rezone an office building from RM-3 to CB. Currently the property is a nonconforming use. The proposed use is not specified. Staff believes LC would be most appropriate because of development regulations.

Notification: Eighteen comment forms were mailed. None were returned.

Staff

Recommendation: Staff is in favor of commercial zoning but for LC.

The public hearing was opened.

Jack Chamberlain, proponent, said he has owned this building about 14 months and have been real limited in marketing it because of its nonconforming use. He has had several

uses he had to turn down because of this status. A radio station will not work in LC. Staff has recommended the LC. There is a lot of different zoning in the area. He believes the LC zoning would add to the different zoning. If zoned LC, a convenience store could be built. He believes all the businesses he is talking about would operate eight hours a day and that would be better for the area. He has talked with two of the former chairmen of this board and they felt that CB should be expanded to more of this area. He has been renting it to maintain its office use. He believes it would be compatible with the proposed Comp. Plan.

Mrs. Meinhold said there are some vacant parcels in the area. There are some dilapidated homes but there are some that are well maintained. The LC would be more protective than CB.

Mr. Boykin asked if the main restriction would be height, setbacks and fencing.

Mrs. Meinhold said, yes.

Mr. Boykin asked if he would rather leave as is rather than rezone to LC.

Mr. Chamberlain said he would take LC reluctantly but would go to the City Council for CB.

The public hearing was closed.

Mr. Boykin said there are some houses in need of repair but there are also some neat homes. It is already used for office.

Mr. Luther asked if CB zoning could build to the lot line.

Mr. Boykin asked if a motion was made for approval of CB and it was defeated, what would happen.

Mr. McClarty said another motion could be made.

Mr. Harkins said if we could extend the CB all the way to S. 7<sup>th</sup>, it would be more uniform rather than for one CB lot.

Vote: Eddie Boykin moved to vote for approval. Tim McClarty seconded the motion.

- 6 approvals:
1. Eddie Boykin
  2. Tim McClarty
  3. Ovelia Campos
  4. Jeff Luther
  5. Neomia Banks
  6. Jack Harkins

Decision: Case Z-02803 was approved.

Case No.: Z-03103

Request: From the City of Abilene; agent, Richard Gertson, to rezone property at 6164 Hartford from PDD (Planned Development) to RS-6 (Residential Single Family) zoning district.

Legal

Description: 2.57 acres out of Lot 5, Anderson & Berry Subdivision, Abilene, Taylor County, Texas.

Discussion: Shannon Meinhold said this request is to consider whether PDD-55 should revert back to RS-6. Nothing has developed on the property since 1994. The property is vacant. The Dyess Area Study recommends keeping the property as PDD to allow insurance of high quality development.

Notification: Nine comment forms were mailed. None were returned.

Staff

Recommendation: Staff recommends PDD 55 be retained with the amendment to Part 8 to create a new 3 year period for development to occur.

Mrs. Banks said staff is stating the property should remain as PDD.

Mrs. Meinhold said, yes, we are recommending it remain as PDD.

Mr. Armstrong said it states that because the ordinance states it. It does not say we have to support it.

Mr. Harkins said if the Commission goes with staff's recommendation, we will be denying the request and amend the PDD ordinance for the three year extension.

Mr. Boykin said if all PDDs stated that and there is no development, we would have to go through this for them all. Why not change all PDDs to 36 months.

Mrs. Grindstaff said there are reasons we may not want to do that. What the Commission has before them is this PDD has some good guidelines and staff feels the timeframe needs to be extended.

Mrs. Meinhold said the owner is in support of keeping the PDD in place.

The public hearing was opened.

Ray Cook, 6216 Waldemar, said he owns the property close by that is RS/AO. At the time he bought the property, it was for commercial use. The City turned down commercial for property he had. The PDD is something he never voted for. We do not agree with it. As far as zoning the property RS, that is spot zoning. He thinks Abilene has a problem with spot zoning all over town. It should include a larger area, not just a small area.

Mr. Harkins said the problem we have today is the property would revert back.

The public hearing was closed.

Mr. Harkins said to clarify the request, staff would like to keep the PDD and extend the timeframe for development to 3 years.

Vote: Jack Harkins moved to vote to deny the request and to amend Part 8 of PDD-55 to a new 3 year timeframe for development to occur. Tim McClarty seconded the motion.

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- 6 approvals:
1. Jack Harkins
  2. Tim McClarty
  3. Eddie Boykin
  4. Ovelia Campos
  5. Jeff Luther
  6. Neomia Banks

Decision: Case Z-03103 was denied and Part 8 of PDD-55 was amended to a new 3 year timeframe for development to occur.

Case No.: Z-03203

Request: From the City of Abilene; agent, Richard Gertson, to rezone property at Ambler and Avenue D from PDD (Planned Development) to RS-8 (Residential Single Family) zoning district.

Legal

Description: Lots 1-9, Block 60, 2nd Continuation, Abilene, Heights Addition, Abilene, Taylor County, Texas.

Discussion: Shannon Meinhold said this is the same type request as the previous case. The PDD was created in 1999. The requested action is to consider whether the property should revert back to RS-8. The property is owned by ACU.

Notification: Thirty-one comment forms were mailed. One was returned in favor; none in opposition.  
  
She said the PDD recommends single family and duplexes.

Staff

Recommendation: Staff recommends PDD 66 be retained with the amendment to Part 8 to create a new 3 year period for development to occur.

Mr. McClarty said we had a lot of problems when they previously came before us. We did the PDD to help control development in the future. That is very important because it is dangerous area for people to back onto Ambler. He thinks it should be more than a 3 year period. What about putting a 6 or 10 year period.

Mrs. Grindstaff said we might recommend a 5 year term.

The public hearing was opened; then closed after no discussion.

Vote: Tim McClarty moved to vote to deny the request and to amend Part 8 of PDD-66 to a new 5 year timeframe for development to occur. Eddie Boykin seconded the motion.

- 6 approvals:
1. Tim McClarty
  2. Eddie Boykin
  3. Ovelia Campos
  4. Jeff Luther
  5. Neomia Banks
  6. Jack Harkins

Decision: Case Z-03403 was denied and Part 8 of PDD-66 was amended to a new 5 year timeframe for development to occur.

Case No.: Item 4.q.

Public hearing and possible vote to recommend approval or denial to City Council to consider Subdivision Regulations amendment of Section 23-262.4 pertaining to lots and “remainder” lots.

Eddie Boykin moved to remove Item 4.q. from the table. Tim McClarty seconded the motion. The motion carried by voice.

Jeff Armstrong said this amendment will eliminate the option of creating remainder lots. What this is when replatting property, all the property is not replatted. By our ordinance that has the same affect of not being platted. When property is cut into pieces, it leaves bits of a platted lot and when sold off the new owner cannot get a building permit. We also get remainder lots that are unplattable. It is our opinion that remainder lots should not be done. In the 17 cities we called, none of the 17 allowed remainder lots. It has caused a lot of problems for a lot of people.

Staff

Recommendation: Staff recommends approval.

Mr. Harkins said the only down side is it could increase the cost of platting at the time.

Mr. McClarty asked if it is a possibility that the different pieces of property would have different owners.

Mr. Armstrong said it could have but it should not happen.

The public hearing was opened; then closed after no discussion.

Vote: Tim McClarty moved to vote for approval. Eddie Boykin seconded the motion.

- 6 approvals:
1. Tim McClarty
  2. Eddie Boykin
  3. Ovelia Campos
  4. Jeff Luther
  5. Neomia Banks
  6. Jack Harkins

Decision: Case Item 4.q. was approved.

Case No.: 4.r.

Public hearing and possible vote to recommend approval or denial to City Council to consider Zoning Ordinance amendment of Section 23-306.5.B, Accessory and Incidental Use; and Section 23-363, Definitions, regarding shipping and storage containers, accessory storage, and the definition of buildings.

Shannon Meinhold said Planning has been working on the amendment of the freight containers. They are presently in all districts and have become permanent storage for commercial businesses. She presented photos. Think about how they look to motorists and they are not permitted. Some containers are in the rear and out of public view. In the spring of 2003 the Commission approved the community appearance of the proposed Comp Plan. We need to address these containers in the gateway centers. We need to foster the design of high quality image and freight containers do not promote that image. Also visibility is another

concern. None are permitted. Staff believes that developing a new ordinance would help. We could allow them in certain districts.

She said some history concerning these containers included in November 2002 a new definition was adopted. In January 2003 enforcement was halted pending further study. We did research and brought it back in March but it was tabled. We are back with more information. We talked with 17 cities and most have taken action. Lubbock stated they are required to be in the rear. San Angelo does not allow them.

She discussed the conditions and what districts they would be allowed.

Staff would urge the Commission to consider the amendment.

Mr. McClarty said the Commission approved this and sent it to City Council.

Mrs. Meinhold said City Council approved a new definition for building.

Mr. Santee said this item needs to be removed from the table.

Eddie Boykin moved to remove Item 4.r. from the table. Neomia Banks seconded the motion. The motion passed by voice vote.

Mr. McClarty said if placed in these three districts, why are these different from buying a portable building and placing it behind a house. Both are storage containers if they have to meet all building and development regulations and be permitted. If they are over 120 square feet, they have to meet codes.

Mr. Boykin said he thinks this is a conflict with what went to the City Council before.

Mrs. Grindstaff said she thinks if an owner wants to use them as storage units, they should be permitted for that use. What we heard in that prior meeting was to recommend their existence in certain zoning categories, however, we are asking that they still meet our building and development requirements and be screened from public right-of-way.

Mr. Boykin said if in HI, LI and HC maybe should be screened. If used for something other than storage, it should meet building codes.

David Sartor, Interim Building Official, said the reason it needs to meet the building codes is it is used for storage. Any storage building over 120 square feet has to meet the building codes.

Mr. McClarty said if it is a storage container and does not have adequate ventilation, a person could die. If large enough to have a storage area, they should consider a storage facility. What are the minimum requirements for a storage building.

Mr. Sartor said there are a minimum amount of requirements for light, ventilation, etc.

Mr. Harkins asked what triggers accessibility.

Mr. Sartor stated there is a possible option if used for accessory storage and not having to comply with ADA requirements. If primary storage is in the store, it is possible they would not have to

comply with ADA requirements. This will have to be considered on a case by case basis. The code would require it to be tied down and if over 400 square feet be on permanent foundation. It would have to have lighting. It would have to maintain the minimum fire requirements.

Mr. Luther asked about meeting setback requirements and other building codes.

Mr. Harkins asked if they had individual containers, would each building have to meet the fire requirements, etc.

Van Watson said the new code does allow a certain amount of structures as one as long as they do not exceed the allowable area.

Mr. Harkins asked if the door would meet the requirements.

Mr. Santee said if these specifications are being required for this use, then the manufacturers will probably making the adjustments.

Mr. Boykin asked the purpose of the foundation.

Mr. Sartor said it is for safety.

Mr. Harkins asked about the appropriate size that would be applicable.

Mrs. Grindstaff said what we are doing from a Planning prospective is whether to allow these in certain zoning districts. If they are to extend that, it should be controlled.

Mr. McClarty said his concern is the health and safety issue. Someone could be locked in one accidentally. In addition, another concern is proper ventilation and proper exiting. Also is there an alternate way out. Why are some people now hurt because they did things according to rules while some did not.

Mr. Harkins said there are all kinds of screening, one being corrugated metal fencing. He feels it should state that it would be berms and landscaping.

The public hearing was opened.

Bob Hammond, Director of AAIBO, described how these containers are being used. What was the reason in the very beginning for this. It is because of aesthetics. Almost every business owner was interested in aesthetics. One point is safety and that is an issue. These containers are being used because of security and because they are portable. These are very useable. They need to be looked at very carefully. Why would you want to make them cost more than necessary just because they are ugly. These are tools and they are safe. There can be an ordinance written.

Robert Fain said he has one of the sea containers at his business that is used for overflow. He is in GC so would not qualify with the proposed ordinance. If he has to get rid of it, the portable building would be broken into. His structure is just used for overflow.



Mr. McClarty said if someone is locked in one of these, a business owner may have wished he had done something differently.

Mr. Fain said he cannot prevent everything from happening.

Crystal Hale said she is the manager of Michaels. Their container is at the back of the building. If they had to put up a fence, it would have to be taken down when the containers are brought in. These are temporary. As far as off site storage, we checked into sites next door and they wanted to charge us retail. As to off site, it would require another staff and someone with a truck. Our store is considered a low end store because of income generated. Behind us there is nothing and it is all ugly.

Mr. Harkins asked the zoning.

Mr. Armstrong said it is zoned GC.

Mr. McClarty asked if Building Inspection could look at these units and what is the very minimum to make them compliant.

Van Watson said he believes it might be possible. The problem we run into is what is the definition for a building. We are now looking at minimum requirements.

Mr. McClarty said we would have to create a definition for them.

Mr. Santee said this board can decide if they have to meet the building code but the Board of Building Standards would have to approve the other things.

Mr. Sartor said the code requirements would be Board of Building Standards.

Mrs. Banks asked about the zoning guidelines.

Mrs. Grindstaff said that is what we are recommending to you but you can amend it.

Mr. Santee said some will not be on permanent foundation because they will not be there that long.

Mrs. Grindstaff said we have an aesthetic and building code issue. We need to leave the building code issue for the Board of Building Standards.

Mr. Hammond said he took a poll and 80% of their members were in favor of using the containers. There were 11% that have used or is currently using them. The containers should be taken on a case by case basis. There is one large business that is waiting and if the ordinance is too strict, they will move outside the City limits.

Mr. Boykin said you are saying why build 8000 square feet when the business will need only 1000 square feet for six months a year.

Mr. Harkins said if the Commission sends something to City Council, we need to indicate that a lot of the containers are currently in GC and add that zone. He would rather screen by landscaping rather than possibly fencing.

Mr. Boykin asked how one would landscape behind Michaels.

The public hearing was closed.

Mr. Santee said there will be some options to rezone.

Mr. Boykin said one problem is with enforcement and he does not think they should pass anything if it cannot be enforced. Some of these came about by complaints.

Mrs. Grindstaff said enforcement is on a complaint basis but we have become more pro enforcement. Out intent and City Council's desire is heightened code enforcement in the future and that includes aesthetic issues.

Mrs. Campos said she believes that brings us back to aesthetics.

Mrs. Grindstaff said if an action was taken today, then something could be taken to the Board of Building Standards.

Mrs. Banks said she still thinks the Commission should address the GC zoning.

Mr. Luther said he does not think one could add aesthetics in GC.

Mrs. Banks said if they could not comply with the aesthetics, then they could not have the containers.

Mr. Harkins said there are probably very few businesses in the HI, LI or HC districts that are using the containers. Generally the most are in GC.

Vote: Eddie Boykin moved to vote for approval by amending the type fencing to wood fencing, masonry walls, berms or landscaping. There was no second.

Mr. Santee said it is possible to take these items separately.

(1) Eddie Boykin moved to approve Section 23-363, Definitions. Neomia Banks seconded the motion.

5 approvals:      1. Eddie Boykin  
                         2. Neomia Banks  
                         3. Ovelia Campos  
                         4. Jeff Luther  
                         5. Jack Harkins

Section 23-363, Definitions, was approved.

Eddie Boykin moved to approve Section 23-306.4 as stated. The motion died for lack of a second.

(2) Ovelia Campos moved to approve Section 23-306.4, Permitted Uses, as amended by adding GC to the list. Jack Harkins seconded the motion.

3 approvals:       1. Ovelia Campos  
                          2. Jack Harkins  
                          3. Neomia Banks

2 denials:         1. Jeff Luther  
                          2. Eddie Boykin

The motion to approve Section 23-306.4, Permitted Uses, did not pass.

Eddie Boykin moved to approve Section 23-306.5.B as amended.

Mrs. Grindstaff said there are some containers that have not been permitted.

Mrs. Banks asked about leaving GC out.

Mrs. Grindstaff said the major commercial areas are some of the most visible areas of the city. We were trying to take them out of view from the public.

There was discussion about screening and adding the GC zoning to the ordinance.

Mr. Boykin asked if we would rather see the containers in the rear of the building or in front and screened.

The motion died for lack of a second.

(3) Eddie Boykin moved to approve Section 23-306.5.B(26)(a) to read “Freight Containers shall be screened from the public right-of-way, except alleys, and adjacent properties with zoning designations other than HI, LI, HC, and GC. The screening shall be of an opaque material consisting of wood fencing, masonry walls, berms, or landscaping, of equal or greater height than the structure.” and (b) to read “In GC districts, the freight containers shall be located in the rear of the main structure, and must be screened with an opaque material consisting of wood fencing, masonry walls, berms, or landscaping of equal or greater height than the structure.” Neomia Banks seconded the motion.

5 approvals:       1. Eddie Boykin  
                          2. Neomia Banks  
                          3. Ovelia Campos  
                          4. Jeff Luther  
                          5. Jack Harkins

Section 23-306.5.B(26)(a) was approved to read “Freight Containers shall be screened from the public right-of-way, except alleys, and adjacent properties with zoning designations other than HI, LI, HC, and GC. The screening shall be of an opaque material consisting of wood fencing, masonry walls, berms, or landscaping, of equal or greater height than the structure.” and (b) to read “In GC districts, the freight containers shall be located in the rear of the main structure, and must be screened with an opaque material consisting of wood fencing, masonry walls, berms, or landscaping of equal or greater height than the structure.”

(4) Eddie Boykin moved to approve Section 23-306.5.B(26)(c) to add “being used for storage “ Neomia Banks seconded the motion.

- 5 approvals:
1. Eddie Boykin
  2. Neomia Banks
  3. Ovelia Campos
  4. Jeff Luther
  5. Jack Harkins

Section 23-306.5.B(26)(c) was approved by adding “being used for storage “

(5) Eddie Boykin moved to approve Section 23-306.4, Permitted Uses, as amended by including GC to the list. Neomia Banks seconded the motion.

- 5 approvals:
1. Eddie Boykin
  2. Neomia Banks
  3. Ovelia Campos
  4. Jeff Luther
  5. Jack Harkins

Section 23-306.4, Permitted Uses, was approved as amended by including GC to the list.

There being no further business, the Planning and Zoning Commission meeting was adjourned at 6:10 p.m.

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Jack Harkins, Chairperson

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Eddie Boykin, Secretary