

PLANNING AND ZONING COMMISSION
August 4, 2003
MINUTES

A regular meeting of the Planning and Zoning Commission was held on Monday, August 4, 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
 Floyd Miller

MEMBERS ABSENT:

CITY ATTORNEY: Dan Santee, Asst. City Attorney

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

NEWS MEDIA: Jerry Reed, Abilene Reporter-News
 Toby Maynard, KTAB-TV

VISITORS: David Todd
 Terry & Janet Franklin
 William Robinson
 Randy Billings
 Larry Farr
 Linda Cheek
 Ronnie Cheek
 Randy Darden
 Steve West
 and others

Invocation: The invocation was given by Floyd Miller.

Approval of Minutes: Neomia Banks moved to approve the July 7, 2003, minutes. Tim McClarty seconded the motion. The motion carried by voice vote and the July 7, 2003, minutes were approved.

AGENDA ITEMS:

Case No.: MRP-3003, MRP-3103

Request: MRP-3003
Public hearing to consider minor plat of Lot 201, Block A, a replat of part of Lot 101, Block A, of a replat of part of Lot 1 & all of Lots 2 & 3, C.W. Kenner Subdivision, Abilene, Taylor County, Texas, located in the 3800 block of Buffalo Gap Road.

MRP-3103
Public hearing to consider minor plat of Lot 106, a replat of part of Lots 4, 5 & 10 and all of Lots 6-9, Block 96, Original Town, Abilene, Taylor County, Texas, located at South 3rd & Treadaway.

Discussion: Jeff Armstrong said neither of the above items is ready and will not be considered.

No further action was taken.

Request: Z-02303 (tabled 7-7-03)

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: Eddie Boykin moved to remove Z-02303 from the table. Neomia Banks seconded the motion. The motion passed unanimously by voice vote.

Jeff Armstrong gave the staff presentation. He said this item was tabled at the July meeting pending a special meeting to discuss special activity centers in this area. This request is to rezone the property to LC. One of the proposed uses mentioned was Pecan sales. However, at the last meeting the proponent stated he wanted to open up options. The property was annexed in 1968. There are some improvements on the property. He said across Oldham to the east are single family homes on property zoned AO. That property received a variance to allow smaller lots in AO districts.

He said there is LC zoning to the north. Oldham is an arterial street. The activity center was determined to be a multi use area – high-tech employee center.

Notification: Ten comment forms were mailed. None were returned in favor; eight in opposition.

He said LC is by definition intended to be in proximity and compatible with residential zoning. It is not often that houses face LC zoning.

Staff

Recommendation: Staff recommends approval.

Mr. Boykin asked if Oldham is an arterial and one of the streets also an FM road.

Mr. Armstrong said, yes.

The public hearing was opened.

Randy Billings, proponent, said his property falls within the core activity center. There have been changes from residential use to GC zoning in this area. He is requesting LC zoning.

Mr. Boykin asked if he stated he has a setback requirement of 170'.

Mr. Billings said, no, that is Mr. Bixby's property.

Steve West, 7502 Patricia, said he owns a lot across the street and is in the process of buying another lot. He does not think it will help his property if there is commercial across the street.

Mrs. Campos asked in building a house, would he consider landscaping to block the view.

Mr. West said there are some berms and trees there now. Even though he owns one lot, if the zoning is approved, he will look at some other place to build.

Mr. Boykin said he does not understand why he could not build a brick fence down one side and not another.

Terry Franklin, 1473 Beltway South, said he owns property that joins on the south. He is proposing residential development to the south and is not necessarily opposed to the commercial. In the 1970s we rezoned property at Chimney Rock and Buffalo Gap Road to LC. It is vacant. His concern is the LC and the two large tracts of LC to the north. This would be a hard piece of land to develop. He believes they will be back here at a later date wanting to upgrade the zoning.

The public hearing was closed.

Mr. Boykin said this request is in line with the Comp. Plan and will follow the recommendation made to the City Council.

Mr. Harkins said what Mr. Franklin mentioned about the LC zoning from a planning standpoint makes sense.

Mr. Armstrong said a number of years ago the Planning Commission and City Council made some changes. One affected the size of LC and the SC districts.

Eddie Boykin moved to table the request until later in the meeting to allow some research. Ovelia Campos. The motion passed by voice vote by a vote of 6-1 with Tim McClarty voting in opposition.

Case No.: TC-02503 (tabled 7-7-03)

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: Eddie Boykin moved to remove TC-02503 from the table. Ovelia Campos seconded the motion. The motion carried by voice vote.

Jeff Armstrong gave the staff presentation. He said the request is to abandon Beck north of Meadow Drive. It was dedicated when adjacent lots were platted. This is before the Commission because the property owner to the north is developing a subdivision. One of the requirements of the street is either extension to the north or provide a cul-de-sac. The property owner would like to put some lots in the area to the north of the street. Beck is not open on the ground. Staff asked the Commission to table the request last month because of possibly using part of the right-of-way as a hike and bike trail. The issue became how to handle it administratively and what should be right-of-way and what should be easements. The Plat Review Committee requested the entire area be kept as a utility easement and as a drainage easement. The idea of having a hike and bike trail would not require the entire street. What staff is proposing is abandoning the west 30' and keep the east 30' to be used as a hike and bike trail as well as the entire area for a utility easement.

Notification: Ten comment forms were mailed. Two were returned in favor of the abandonment but not for a hike and bike trail; none in opposition.

Staff

Recommendation: Staff recommends approval of abandonment of the west 30' and retain as a utility and drainage easement.

Mr. Luther said since the hike and bike trail is an issue, he asked Elizabeth Grindstaff to speak on the issue.

Elizabeth Grindstaff said several years ago the City Council approved a pedestrian plan. We did not receive a grant but the City Council has set aside about 60 miles of area. A part of this is to use creeks as part of the path. What we are doing is looking at ways to see this implemented as land is developed.

Mr. Boykin asked if this area is on the plan.

Mrs. Grindstaff said what we have now is a conceptual plan. We have a path planned for this general area.

Mr. Harkins said to make it work a lane will have to be designated.

Mr. McClarty asked if the Commission can abandon the entire street and provide an easement.

James Condry said to keep as a utility and drainage easement as well as a hike and bike trail he will refer that question to Legal.

Mr. McClarty said we could keep the entire area if needed.

Mr. Harkins asked about retaining as an easement for a hike and bike trail.

Mr. Santee said abandoning the thoroughfare but retaining as an easement reverts to the property owner and they pay taxes. However nothing can be built on it. He would not be in favor of that for a hike and bike trail.

Mr. Luther asked how they can relieve the proponent from the obligation of providing a cul-de-sac or dedicating it on to the north.

Mr. Santee said the staff is restricted by regulations.

Mr. McClarty said currently the city owns the property.

Mr. Condry said the city owns it by dedication. This came about when a property owner wanted to subdivide property to the north. We usually request them to continue the street.

Mr. Luther said he feels there should be a way to not require the property owner to have to do improvements and still retain it as a street.

There was discussion concerning alternatives.

The public hearing was opened.

Rick Worley, proponent, said his concern was the 30', if left dedicated and how much he would have to dedicate to extend it. He does not want to build a cul-de-sac and not be able to have the two lots.

Mr. Luther asked if the hike and bike trail will be different widths.

Mr. Worley said it was mentioned Beck being used for a drainage easement. It goes into the creek to the south and he believes the trail could go beside the creek.

Ronnie Cheek, 5002 Meadow, presented photos. The walking path would be right beside his driveway. His father-in-law had the property in 1963. They put the west property line at the line about the high water mark. The creek is to the south and all water goes there. Our problem with making a walking path at this location is we will lose our privacy. We do not want total strangers within 30' of our house. His driveway opens to the east. Over the past years they have had a problem with people going back in this area. We have that stopped now. If half the street reverts to him, he will be glad to pay the taxes rather than deal with what we had to deal with the people. He does not want something that will create problems in the future. Easement was mentioned. All utilities except city sewer is down the east side of the area to the north boundary of the lot marked 3. He will have no problem with easements.

Mr. McClarty asked if the path could be rerouted to the creek.

Mr. Armstrong said the city is not asking for the drainage easement because water runs there, but as an easement.

Linda Cheek, 5002 Meadow, said this property had belonged to her great grandfather. We have a lot of wild animals that come to the creek and the pond. We have granted the right-of-way and put up the trees. It is her concern about who will be back there on their property. Our home will not be sold. We try to maintain it. She is not sure this is the place to start the path. She believes a better place to start the path is in the area where the drainage culverts are in place. On Meadow Drive the traffic is so fast and she would be concerned about pedestrians.

Mr. Boykin asked where the trail would continue south of Beck.

Mrs. Grindstaff said the trail in this area is conceptual and staff is trying to obtain property that is available. We may have to acquire some land in areas.

Mr. Boykin said it is his understanding that, based on what was said, to the north there is a commitment.

Mrs. Grindstaff said that is right and without costing the city additional dollars.

Mr. Miller asked if the Commission could abandon the thoroughfare and forget about the trail so Mr. Worley can get going with what he wants.

Mr. Armstrong said, yes, the Commission has the authority to abandon the thoroughfare and retain the utility and drainage easement.

The public hearing was closed.

Vote: (1) Tim McClarty moved to vote to approve the request subject to retaining the entire length and width as a utility and drainage easement. Floyd Miller seconded the motion.

Mr. Gertson said when there are easements, they are retained for that purpose.

Mr. Luther said the Commission could have a motion to retain the right-of-way as a utility, drainage and hike and bike trail.

Mr. Santee said he is not in favor of a hike and bike easement because it would not be public property and reverts to private ownership.

Mr. Harkins said it appears there are three ways to go about this. One is the motion we now have; second would be to vote as proposed by staff; and the third is to, even though it is not proposed, send to City Council as thoroughfare right-of-way for a hike and bike trail.

Mr. Santee said the only way to go with the third option is to deny the request and retain as a thoroughfare. The Commission could direct staff to amend the ordinance to allow this to happen.

Mr. Gertson said staff could create something. We do not want to require putting a cul-de-sac on the end. With the right-of-way we could put in the hike and bike trail. The issue is will the city require a cul-de-sac at the end of the street.

Mr. Harkins said Mr. Cheek mentioned that his garage backs out and he uses a portion of the public right-of-way for a drive. If we keep the entire 60', it might not allow him to use that area.

Mr. Cheek said it is 20' from his garage to the drive approach.

3 approvals: 1. Tim McClarty
 2. Floyd Miller
 3. Eddie Boykin

4 denials: 1. Neomia Banks
 2. Jeff Luther
 3. Ovelia Campos
 4. Jack Harkins

(1) The request did not pass.

Mr. Santee said the motion could be to deny the request and request staff to amend the ordinance to not require the cul-de-sac.

Mr. Luther said he believes there is room to allow Mr. Cheek to keep his driveway.

Mr. Santee said he does not think the city will do anything to keep Mr. Cheek from his driveway.

Vote: (2) Jeff Luther moved to vote for denial of the request and instruct staff to investigate some mechanism to relieve Mr. Worley of requirements as written.

Mr. Gertson said the platting still has to be done and he will need to proceed. We are not saying he will have to put a cul-de-sac there until we find something to replace it. The protection of the driveway is different.

Mr. Santee said Mr. Worley has complied with the spirit of the Subdivision Regulations.

Mr. Armstrong said staff does have a plat that leaves that property vacant until this issue is resolved.

Mr. McClarty said staff is saying that given the direction to staff, by the time the plat gets to the Commission, the issue will be resolved.

Mr. Gertson said that is right. It will happen at the same time.

Tim McClarty seconded the motion.

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

Decision: Case TC-02503 was denied and staff instructed to investigate some mechanism to relieve Mr. Worley of requirements as written.

Eddie Boykin moved to remove Z-02303 from the table. Tim McClarty seconded the motion. The motion carried unanimously by voice vote.

Jeff Armstrong said this property is too large for LC zoning under our current zoning ordinance.

Mr. Gertson discussed size limitations for LC and other districts. He said this was discussed in the Comp. Plan.

Mr. Armstrong said the Commission does not have the authority to vote on this request.

Mr. Luther asked about allowing the proponent to withdraw the request rather than voting no on the request.

Mr. Billings asked the request be withdrawn.

No further action was taken.

Case No.: Z-03503

Request: From O.B. Stephens, Jr.; agent, Eddie Chase, to rezone property on Rebecca Lane from AO (Agricultural Open Space) to PDR (Planned Development Residential) zoning district.

Legal

Description: 16.674 acres out of the J. Blakemore Survey No. 97, Abilene, Taylor County, Texas.

Discussion: Mr. Harkins said he has been instructed to ask the proponent, because this is a new request, if he wishes to withdraw the existing request. It is on the table and this is a totally different case number and request.

Eddie Chase said the only thing the Commission can hear this month is this request and abandon the old one.

Jeff Armstrong said this request includes about 16-2/3 acres to rezone to PDR. It is a piece of the 180 acres looked at in a previous meeting. It is located in the 100 year flood plain. He presented a layout of the proposed residential development. The immediate surrounding area is zoned AO. They are also putting in provisions for a pedestrian easement to connect to future development. There is a setback provision. Another issue is the bicycle lane on the southern east-west street. There would be certain limitations based on what can occur on that side of the street. Staff is proposing that lots not be allowed curb cuts on that street. Also there would be a sidewalk on that side.

Photos were presented.

Mr. Armstrong said there is also a pipe line easement on the south side.

Notification: Three comment forms were mailed. One form was returned that stated they were concerned about storm water.

Staff

Recommendation: Staff recommends approval.

Mr. Boykin asked about where the curb cut would not be allowed.

Mr. Armstrong discussed where the curb cuts would not be allowed.

Mr. Harkins said they would have to meet drainage requirements. He believes that was in the provision with the 180 acre development. What about the 16 acre development.

Mr. Armstrong said there is one even though it is not part of this development, it can be done off site.

Mr. Luther asked about the area off Rebecca and if that is part of a dedicated street.

Mr. Armstrong said it is being left as a proposed street.

Mr. Boykin asked what is south of Lot 1 and Rebecca Lane.

Mr. Armstrong said it is a pipe line easement.

The public hearing was opened.

Eddie Chase, agent, said the request was decreased in size due to problems we had in the original plan. The proponent wanted to come forward with a plan. We have been in this process since March. We do have some problems with some of the staff recommendations in the ordinance. One is sidewalks on the east side of the street. Mr. Stephens does not want any sidewalks. What we understood and agreed to was for a bicycle trail put on the larger street on the one side. We are trying to maintain side entry so do not want to lose the side entry on that street.

Mr. Harkins said if they are trying to promote side entry, all the lots are the same except the ones on the end. They would not have to use the side street for side entry.

Mr. Chase said Mr. Stephens does not like the sidewalk situation in the development.

Mr. Luther said even if there were no sidewalks, staff is asking that there be no curb cuts.

Mr. Boykin asked if they would rather give up curb cuts or sidewalks.

Mr. Chase said neither.

Mr. McClarty asked how large was the first development as compared to the last. The reason the request was tabled was so it could be in compliance with the Comp. Plan.

There was discussion concerning compliance with the Comp. Plan.

Mr. McClarty asked if the request was sent back because of the Comp. Plan requirements.

Mr. Gertson said what the Commission was recommending at the last meeting was more than the Comp. Plan required. This request is only a part of this development. From a good planning practice point of view, this is a good plan.

Mr. Chase said we have a Preliminary Development Plan in place and this is an off-shoot of that. Our first initiative was to zone the property to standard zoning and staff wanted to go PDD. We wanted to test three different markets. We hope to go forward with the remainder of the property at a latter date.

Mr. McClarty asked what type ordinance did they want.

Mr. Gertson said the applicant wanted standard rezoning so we could not require any amenities.

Mr. Chase said another requirement is a 6-7 foot high opaque fence.

Mr. Armstrong said this would refer to only double frontage lots.

Mr. Chase said it was for Sharon Road only.

Mr. Harkins said when we look at the overall development, there is a large east-west collector. That sidewalk would be a benefit to the 180 acre site.

Mr. Boykin asked about the north-south street.

Mr. Harkins said the only one was for Sharon Road.

Mrs. Grindstaff said the sidewalk was added as a way to make a pedestrian connection from this development from Catclaw to the creek. Pedestrians are not supposed to be in the street. Our solution was a bike lane and add a sidewalk. We did not think that was cost prohibitive.

Mr. McClarty said last month the Commission tabled the request asking that it be more in line with the Comp. Plan. Would he be willing to come back for the full development as it was approved originally.

Mr. Santee cautioned the Commission on discussion of items that are not before the board.

Mr. Miller said it seems we are kind of negating a deal. He believes what the Commission needs to do is listen to the facts and vote on this request. Mr.

Stephens knows what he needs and what he can do. We as a Commission have a job to do looking out for the entire City. If we are not on the same page, that can happen.

Mr. Chase said the only other thing he had concerned platting and not having to come back to the Commission amending the PDD for replatting.

Dr. Bob Trotter said on the map provided he did not understand the zoning.

Mr. Harkins said it is for notification purposes only.

Dr. Trotter said he is in favor of the request. He would like to see the area developed as residential. He has a question about flooding. He would hate to see anything done that would cause flooding on his property.

Mr. Harkins said as the property is developed, it will have to meet flood requirements.

The public hearing was closed.

Mr. Luther said he would hate to see anything denied and progress shut down. Some of the things the citizens of Abilene have stated what they want may cost some people more.

Mrs. Campos said she agrees with Mr. Luther because as we worked on the Comp. Plan we were looking at the future. We talked about the driveways. That could be a hazard.

Mr. Harkins said concessions have been made already with the PDR so we are not only taking but also giving.

Vote: Ovelia Campos moved to vote for approval with the amendment of deleting item g. concerning fences and provide the provision of not requiring an amendment of the PDD ordinance for minor subdivisions. Floyd Miller seconded the motion.

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

2 opposed: 1. Jeff Luther
 2. Tim McClarty

Decision: Case Z-03503 was approved with the amendment of deleting item g. concerning fences and provide the provision of not requiring an amendment of the PDD ordinance for minor subdivisions.

Case No.: Z-02903

Request: From Stockard Investment, Inc. & Centro Real Estate Investment, Inc.; agent, Perry Stockard & Terry Franklin, to rezone property on Loop 322 from AO, GC & PDD (Agricultural Open Space, General Commercial & Planned Development) to PDD (Planned Development) zoning district.

Legal

Description: 64.28 acres out of the west ½ of Section 67, Blind Asylum Lands, Abilene, Taylor County, Texas.

Discussion: Jeff Armstrong gave the staff presentation. He said this is a proposed rezoning of 67 acres from AO, GC and PDD to PDR. It will provide about 200 lots for residential. There are a few things this ordinance proposes such as three way signage, sidewalks, etc. There are some collector streets involved in this development. He said the existing PDD was approved in 1998.

Photos were presented.

He said staff and the applicants worked on the site plan. They are looking at putting a median at the entry. They are also proposing a minimum of 20' green boundary at the entryway. All streets will have sidewalks. That has been provided in the ordinance. There is a pedestrian easement to provide access within the subdivision. They propose to locate a private park within the subdivision. We did make a provision for a 5' setbacks on both sides for interior lots. A lot of wording has to do with fencing and what can occur in the private park.

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

Staff

Recommendation: Staff recommends approval.

The public hearing was opened.

Perry Stockard, proponent, said he is in agreement with everything discussed except for the future pedestrian access area on the northwest corner. We are proposing sidewalks. We will be fencing the exterior with a 7' fence and do not see a reason to need a pedestrian access to the commercial area because he plans a sidewalk that goes down the main thoroughfare area. Also most people who own the commercial areas do not want bicycle or skateboards there. There are also trucks loading and unloading at the back of their buildings.

Mr. McClarty said there is pedestrian access now at four points and he is objecting to the one to the north.

Mr. Luther asked about the proposed development and what will be the access to Loop 322.

Mr. Stockard said it will be commercial. There will be a green belt in this area. He had wanted to rezone to RS-6 and staff convinced him to go PDD.

Mr. McClarty said everything Mr. Stockard develops has been top notch and he feels this will be also.

Mr. Stockard said this will be a development basically for first time buyers. He would like to see the enclosure of the fence for security purposes.

Mr. Luther asked about the street layout.

Mr. Armstrong said that one street will be a collector street and will need to be continued.

The public hearing was closed.

Vote: Eddie Boykin moved to vote for approval with the amendment to delete item "1." from the PDD ordinance. Floyd Miller seconded the motion.

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

Decision: Case Z-02903 was approved with the amendment to delete item "1." from the PDD ordinance.

Case No.: Z-03303

Request: From Development Corporation of Abilene, Inc.; agent, Lisa Hughes, to amend PDD-73, regarding type of building materials, landscaping and letter signage.

Legal

Description: Blocks A-C, Five Points Business Park, Abilene, Taylor County, Texas, located on Arnold Blvd., south of I-20.

Discussion: Jeff Armstrong gave the staff presentation. He said this property was rezoned to PDD a number of years ago with stipulations on types of materials used and other items. After having the ordinance for a while, they need to modify some of the requirements. One item is to add some additional type grasses. Another was changing the main façade of a building facing on street frontage

from 15% to 5%. Another change is size of lettering for identification purposes.

Notification: Thirty-one comment forms were mailed. None were returned.

Staff

Recommendation: Staff recommends approval.

Mr. Boykin asked about the signage.

Mrs. Meinhold said that will remain in the ordinance.

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

Vote: Jeff Luther moved to vote for approval with the change of taking out the part about deleting signage in Part 7.B.16. and correcting the 3-6' to 3-6". Floyd Miller seconded the motion.

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

Decision: Case Z-03303 was approved as amended with the change of taking out the part about deleting signage in Part 7.B.16. and correcting the 3-6' to 3-6"

There being no further business, the Planning and Zoning Commission meeting was adjourned at 4:45 p.m.

Jack Harkins, Chairperson

Eddie Boykin, Secretary