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## PLANNING & ZONING COMMISSION

April 4, 2005

### Minutes

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Members Present: Neomia Banks  
Eddie Boykin  
Ovelia Campos  
Jack Harkins  
Jeff Luther  
Tim McClarty  
Floyd Miller

Members Absent: None

Staff Present: Jon James, Director of Planning and Development Services  
Jeff Armstrong, Development Services Manager  
Dan Santee, First Assistant City Attorney  
Shannon Meinhold, Planner II  
Gloria Brownell, Planner I  
JoAnn Sczech, Executive Secretary (Recording)

Others Present: LeStella Morris  
Mary L. McKinney  
Gerald W. (Jerry) King  
Mary C. (Cathy) King  
Beth Bates  
Karen Suirth  
Caleb Pharr  
Angelika Edwards  
Cora House  
Mary Abbott  
Code Polk  
Casey L. Locke  
Stephen Rainbolt  
Bob Hammond  
Gene Townsend  
Tye Sasin  
Jack Money, Jr.  
Clarice A. Garrison  
Clarence Garrison  
Kenneth L. Musgrave  
Aaron Waldrop

**Item One: Call to Order**

Mr. Harkins called the meeting to order at 1:33 p.m. and declared a quorum present.

**Item Two: Invocation**

Mr. Floyd Miller gave the invocation.

**Item Three: Approval of Minutes:**

The minutes from the March 7, 2005, and March 15, 2005, meetings were considered for approval. **Mr. Luther moved that the minutes of the March 7 and March 15, 2005, meetings be approved as submitted. Mr. Boykin seconded the motion and the motion carried by a vote of six (6) in favor (Boykin, Campos, Harkins, Luther, Miller, and McClarty) to none (0) opposed.**

**Item Four: Plats**

Ms. Gloria Brownell, Planner I, stated that plats identified as items “c., d., e., and f.” were incomplete and would not be considered at this meeting. Information was provided regarding the plats to be considered at this meeting (Items a., b., and g). **Mr. Boykin moved to approve plats a., b., and g. as submitted. Ms. Campos seconded the motion and the motion carried by a vote of six (6) in favor (Boykin, Campos, Harkins, Luther, McClarty and Miller) to none (0) opposed.**

**Item Five: Rezoning Requests**

a. Z-2005-07

Public hearing and possible vote to recommend approval or denial to the City Council on a request from N3 Capital, LLC, to rezone land located in the 1400 Block of Ballinger Street, from O (Office) and RS-6 (Single Family Residential) to GC (General Commercial), and LC (Limited Commercial). The legal description being Lots 1-5, Block 1, Section 1 and Lots 10-14, Block 2, Section 1, Southwest Park Addition, Abilene, Taylor County, Texas.

Ms. Meinhold provided the staff report for this case:

**Request:** Rezone 10 parcels from Office and RS-6 to GC and LC (1.93 Acres).

**Location:** 1400 block of Ballinger Street.

**Analysis:** Both sides of Ballinger planned for development. Mostly speculative commercial uses. Applicant agrees to rezone 6 north parcels to GC, 4 south parcels to LC. Properties located in floodway and 100-yr floodplain.

**Comments:** Three (3) in favor, two (2) opposed.

**Staff Recommendation:** Staff recommends approval of rezoning the land to GC and LC.

Mr. Harkins opened the public hearing.

Ms. Clarice Garrison, 1450 Ballinger, stated that the proposed rezoning would increase traffic tremendously, increase amount of trash, and possibly affect the resale value of her home. Ms. Garrison stated that she is not against progress but is against a neighborhood being turned into something other than a neighborhood. Ms. Garrison stated that she is not in favor of this rezoning.

Mr. Harkins closed the public hearing.

Ms. Meinhold stated that the Limited Commercial zoning is more neighborhood friendly and would provide more screening for the area.

Ms. Meinhold stated that General Commercial zoning was originally requested for the area. Limited Commercial is more appropriate as it provides for less intensive retail establishments and provides for a six (6) foot buffering fence or landscaping – General Commercial provides for no screening requirements.

Mr. Luther asked if a retention or detention pond would be required for this site.

Staff responded that no structures can be constructed on this site until all requirements have been met – this includes the appropriate action to mitigate flooding in the area.

**Mr. Boykin moved to approve Z-2005-07. Mr. McClarty seconded the motion and the motion carried by a vote of four (4) in favor (Boykin, Campos, Harkins, and McClarty) to two (2) opposed (Luther and Miller).**

b. Z-2005-08

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Kingston Properties, Inc., to rezone land located in the 700 block of Judge Ely Boulevard from O (Office) and RM-2 (Multi-Family Residential) to GC (General Commercial). The legal description being 16.22 acres out of the northwest corner of Section 47, Blind Asylum Lands, Abilene, Taylor County, Texas.

Ms. Meinhold provided the staff report for this case:

**Request:** To rezone two parcels (16 Acres) from RM-2 and O to GC.

**Location:** 700 block of South Judge Ely.

**Analysis:** Commercial retail planned for sites (speculative uses). Parcels border residential districts on three sides, north, west, and south. A drainage culvert exists on the site. Request would place potentially invasive commercial uses close to residential areas.

**Comments:** Five (5) opposed.

**Staff Recommendation:** Staff recommends denial of GC zoning in this location.

Ms. Meinhold stated that the applicant would be responsible for road improvements. Also, there are floodway concerns – there are some culverts in the area.

Mr. McClarty stated that this appears to be something completely opposite from what this Commission does (i.e., General Commercial zoning surrounded by Residential zoning). This area appears to be a prime candidate for a Planned Development District. Mr. McClarty asked what discussions have taken place with the Proponent regarding a PDD.

Ms. Meinhold stated that the Proponent is willing to look at a PDD. Staff does not craft a PDD ordinance until specific Land Uses have been identified.

Mr. Boykin asked staff about Office (O) zoning.

Ms. Meinhold stated that this specific combination was not discussed – PDD on all 16 acres.

Mr. James stated that staff's preference would be a PDD for the entire site – Staff would have less of a problem with Office to General Commercial zoning.

Mr. Boykin asked about that in conjunction with RM-2 and PDD.

Mr. James stated that if the request were resubmitted as a combination GC/PDD, staff would be more comfortable.

Mr. Harkins proposed a PDD broken down into two tracts:

Tract I – allow more high density or intensive uses than GC

Tract II – Could be less intensive – even to LC uses

Mr. McClarty stated that this could be accomplished with a PDD. Mr. McClarty stated that the Commission could table this item until these details have been finalized.

Mr. Harkins stated that if the request is tabled, it leaves it open ended. Mr. Harkins asked staff if this action would tie their hands for working with the proponent on the current request. Mr. Harkins asked if it would be better to deny the request.

Mr. James stated that he is not sure it makes a great deal of difference.

Mr. Luther stated that this request speaks to the Comprehensive Plan and where the City should find ways to help development of land.

Mr. Harkins opened the public hearing.

LeStella Morris, 907 East Broadway, represented Kingston Properties, Inc., and provided the Commissioners with an informational handout. Ms. Morris stated that her client has owned the property for 12 years and owns the apartment complex in this area. He has investigated the possibility of constructing additional apartments; however, this is not a sound economic endeavor currently. Her client would like to be able to develop this area rather than leave it vacant.

Mr. McClarty asked if they would be opposed to exploring a PDD in this area? Mr. McClarty stated that in the past, PDDs have been fashioned that are very flexible – they address the Commission's concerns regarding buffering between residential and commercial zoning. Mr. McClarty stated that he would be opposed to the requirement of completing all streets – he felt this would be against development because of the additional cost involved.

Ms. Morris stated that she met with City staff prior to submitting the rezoning request. At this meeting she was informed that it would be better to rezone the property prior to site development. This is the direction they have taken and it is her understanding that with a PDD a site plan must be developed. If streets are indicated on the site plan, the proponent is required to put up the money for the construction of the streets.

Mr. McClarty stated that the Commission has considered PDDs in the past that have addressed the buffering characteristics, described setbacks and uses. The proponent may amend the PDD to fit the needs of a potential client – develop one section of the PDD and streets for this section

must be developed. The PDD may be amended as required by the proponent. Mr. McClarty stated that he would be against “blanket” General Commercial with surrounding residential zoning.

Mr. Harkins asked Ms. Morris is she is interested in tabling this item today so that discussions may continue regarding a PDD.

Ms. Morris stated that she could not do that today – she would have to have a vote.

**Mr. McClarty moved to table Z-2005-08 so that Ms. Morris and City Staff can explore the option of a PDD. Mr. Boykin seconded the motion and the motion carried by a vote of seven (7) in favor (Banks, Boykin, Campos, Harkins, Luther, McClarty, and Miller) to none (0) opposed.**

c. Z-2005-09

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Vista Ridge Properties, L.P., Agent Tye Sasin, to rezone approximately 65 acres from AO (Agricultural Open Space) to RS-8 (Single Family Residential) on property located on the east side of Old Forrest Hill Road. The legal description being 41.187 acres out of the W.E. Vaughn Survey #101 and T.C. Garner Survey, and 20.5 acres out of the T.C. Garner Survey, Abilene, Taylor County, Texas.

Ms. Meinhold provided the staff report.

**Request:** To rezone 65 Acres from AO to RS-8.

**Location:** Old Forrest Hill Road and Forrest Hill Road, just south of Mission Hills

**Analysis:** Applicant plans a phased residential subdivision development, consisting of 42 lots. RS-8 is the middle-sized SFR zoning district. This request is well-aligned with the Comprehensive Plan recommendations for land use in this area. Land is not located in floodplain.

**Comments:** One (1) in favor.

**Staff Recommendation:** Staff recommends approval of the request.

Mr. Harkins opened the public hearing.

Mr. Tye Sasin, 6 Vista Ridge, agent for this venture stated that he was present to answer questions from the Commissioners.

Mr. Stephen Rainbolt, 6328 Hardwick Road, asked if all access to the property would be from the west.

Ms. Meinhold stated that the Thoroughfare Plan does call for the extension of Forrest Hill Road to the north. If the extension connects to Hardwick Road, the proponent would be responsible for their portion of the development and the extension of Forrest Hill Road.

Mr. Armstrong stated that as the proponent develops and plats the land along the “boundary street,” the Subdivision Regulations requires that they be responsible for both dedication of that road and potentially plans and financial responsibility for the boundary street (only their portion of the street).

Mr. Harkins closed the public hearing.

**Mr. McClarty moved to approve Z-2005-09. Mr. Miller seconded the motion and the motion carried by a vote of seven (7) in favor (Banks, Boykin, Campos, Harkins, Luther, McClarty, and Miller) to none (0) opposed.**

d. Z-2005-10

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Trans-Western Property Corporation to rezone approximately 70 acres from AO (Agricultural Open Space) to RM-3 (Multi Family Residential) and RS-6 (Single Family Residential) located on Maple Street. The legal description being a subdivision of 69.03 acres out of Section 8, Lunatic Asylum Lands, Abilene, Taylor County, Texas.

Ms. Meinhold provided the staff report.

**Request:** To rezone 70 acres from AO to RS-6 and RM-3.

**Location:** The annexation area, located east of Maple Street.

**Analysis:** Applicant desires RM-3 zoning on western 4 acres, and RS-6 on remainder of acreage. With zoning approval, applicant could develop a mixture of single and multi-family homes on first 4 acres (adjacent to existing homes along Maple), and the remainder of the site would be developed with SFR with minimum of 6000 square foot lots. Approximately 270 lots may be able to be platted.

**Comments:** Four (4) comment forms received in opposition.

**Staff Recommendation:** Staff recommends RS-12 on first 4 acres, and the remainder be rezoned to RS-6.

Mr. Boykin asked if access to the proposed RS-6 zoning would be through the area proposed to be zone RM-3.

Ms. Meinhold stated that this is correct. Ms. Meinhold and Mr. Waldrop discussed this rezoning proposal and Mr. Waldrop has indicated that the area proposed for multi-family zoning, off Marlborough Drive, would have no driveways fronting onto Marlborough (all structures would have rear entry garages/driveways). The current multi-family proposal is for 14 homes on the north side of the street and 14 homes on the south side of the street.

Mr. Boykin asked if the portion requested by the proponent as RM-3 and staff recommends as RS-12 would provide sufficient land to allow a street to be cut through this area back to the larger area for which rezoning is being requested.

Mr. James stated that staff looked at this and it might not allow homes down both sides of the property with a street down the middle – the area may allow only single boundary lots. Mr. James stated that staff’s concern is that there are large homes on the existing lots adjacent to this property and larger lot single-family homes would be more appropriate with existing structures/lots. Smaller homes would be to the rear of the property or completely away from the larger lots and homes.

Mr. McClarty asked if this request could be divided into two (2) votes.

Mr. Harkins recommended opening the public hearing and ask the proponent his thoughts on staff’s recommendation.

Mr. Harkins opened the public hearing.

Aaron Waldrop, Trans-Western Properties, Inc., stated that RS-12 zoning would only allow for a one-sided street. Mr. Waldrop stated that the idea situation would be for the Commission to split the request into two votes: vote on RM zoning and then vote on RS zoning.

Mr. Boykin asked the proponent how receptive he would be to changing the RS-6 zoning to RS-8.

Mr. Waldrop stated that changing the RS-6 to RS-8 would eliminate some of the lots and increase the price of housing units in the area.

Mr. Gerald King, 6151 Maple Street, stated that he sold the 70 acres of land to Mr. Waldrop. Mr. King stated that he is totally opposed to Mr. Waldrop’s rezoning request. Mr. King stated that he did not believe placing 270 homes on this property is practical due to drainage problems. Mr. King stated that he would like to know how Mr. Waldrop plans to address the flooding problems in this area.

Mr. David Jolly, 7029 Maple Street, stated that he is opposed to the multi-family zoning – opposed to the entire request.

Mr. Bill Yoes, 5873 Maple, stated that he is absolutely opposed to this type of zoning in this area. Mr. Yoes stated that he feels high density lots are better closer to town rather than on the fringe of the City.

Ms. Cathy Butcher, 6817 Maple Street, stated that she felt the RS-6 zoning would attract families of a “temporary” nature. The individuals living in the area presently are of a permanent nature. Ms. Butcher stated that the area is currently prone to flooding – with the addition of these housing units flooding problems will increase. Ms. Butcher asked if a creek bed could cut along these properties to alleviate flooding problems.

Ms. Cathy King, 6151 Maple Street, stated that when this rezoning issue began, it was stated that there are no places within the loop to build starter homes. Ms. King stated that there are many places in town to build entry-level houses. Ms. King stated that they do not want small homes in this area – it is not in keeping with homes currently in the area.

Mr. M.L. Hughes, 20 Wisteria Circle stated that approximately one year ago he purchased 28 acres north of the Waldrop property. Flooding is a problem in this area. Mr. Hughes stated that

he has been on vacation and did not respond to the rezoning notification; however, he is opposed to this rezoning.

Ms. Sue Beth Jolly, 7029 Maple Street, stated that she would have liked for the Commissioners to have pictures of the homes in the area in order to realize the investment current homeowners have made in this area. Ms. Jolly stated that she would appreciate the Commission's consideration of not allowing smaller homes in the area. Ms. Jolly stated that she is opposed to the rezoning request.

Ms. Victoria Yoes, 5873 Maple Street, stated that they are building a home at 5873 Maple Street and this is her first home. She stated that she feels that their investment in this home will diminish if Mr. Waldrop's rezoning request is granted. Ms. Yoes stated that she strongly opposes this rezoning request.

Mr. Ken Bargain, Hardison Lane, stated that the adjacent landowners were never informed as to how this property was going to be developed – told only that it was going to be a housing development – nothing definite provided. Following the annexation of this property, Mr. Bargain spoke with Mr. Waldrop regarding a meeting with the area residents in order to inform the neighbors of development plans. Mr. Bargain stated that flooding is a problem in this area and must be addressed. Mr. Bargain stated that he was led to believe that the strip of land leading into the development was for ingress and egress with no housing on this site. Mr. Bargain stated that he only learned today (at this meeting) that multi-family housing was proposed for this area. Mr. Bargain suggested that the Commission table this item to allow the area residents and Mr. Waldrop to meet to determine if they could develop a plan amenable to everyone involved.

Mr. Harkins closed the public hearing

Mr. Harkins asked Mr. Santee, First Assistant City Attorney, if the Commission could or should consider this item with two separate votes.

Mr. Santee stated that he has spoken with Mr. James and they agree that the Commission can consider this item in two separate votes – one for each zoning request (RM-3/RS-12). Mr. Santee stated that he and Mr. James agree that some of these zoning requests could be considered separately; however, this Commission should take action on each item and forward their recommendation to the City Council.

Mr. Boykin inquired about the possibility of tabling the item and allow the surrounding landowners to meet with Mr. Waldrop in order to reach a compromise.

Mr. Santee asked Mr. James when this item would go to the City Council if forwarded from this Commission.

Mr. James responded that first reading would be on April 14 and April 28 for public hearing.

Mr. Santee stated that basically they would have until the 28<sup>th</sup> of April to work out something even if the item moved forward from this meeting.



Mr. Harkins requested clarification on this item: City staff has recommended RS-12 in lieu of RM-3 on the front section so the Commission can take action on this. If the Commission wanted to change the RS-6 zoning, can this be done today?

Mr. James stated that the Commission can recommend less intense zoning than is being requested.

Mr. Harkins asked Mr. Waldrop if the property was developed as RS-6 or RS-8 will there be a secondary access point on the land not annexed?

Mr. Waldrop stated that this project is in the preliminary stage. The engineering firm of Jacobs and Martin have been retained for the preliminary design work, retention pond and three (3) accesses out of the property when the remainder of the property to FM 1750 is developed south to Colony Hill Road – the road will dead-end at his property line.

Mr. Harkins asked Mr. Waldrop if, when his development is completed, there will be only one way in and one way out off Maple Street?

Mr. Waldrop stated that this is correct.

**Mr. McClarty moved that the rear portion of land for case Z-2005-10 be approved as follows:**

**1. RS-6 zoning be approved for the rear portion of the property**

**Ms. Campos seconded the motion and Part I of the motion carried by a vote of four (4) in favor (Banks, Boykin, Campos, and McClarty) to three (3) opposed (Luther, Harkins, and Miller).**

**Mr. McClarty moved that the front portion of land for case Z-2005-10 be approved as follows:**

**2. Zoning be changed from RM-3 to RS-12**

**Mr. Boykin seconded the motion and the motion carried by a vote of seven (7) in favor (Banks, Boykin, Campos, Harkins, Luther, McClarty, and Miller) to none (0) opposed.**

e. Z-2005-11

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Musgrave Enterprises, Agent, Eddie Chase, to rezone approximately 32.58 acres from AO (Agricultural Open Space) to RS-6/PH (Single Family Residential with Patio Home Overlay) and RM-3 (Multi Family Residential) located at Highway 351 and Liberty Boulevard. The legal description being a 27.45-acre parcel and a 5.13-acre parcel out of a 223.29 acre tract out of Section 21 and Section 25, Blind Asylum Lands, Abilene, Taylor County, Texas.

Ms. Meinhold provided the staff report.

**Request:** To rezone 32 Acres from AO to RS-6/PH and RM-3.

**Location:** Highway 351 and Liberty Boulevard.

**Analysis:** 116 lots proposed to develop as RS-6 with a Patio Home Overlay (PH); Twenty (20) lots to develop as duplexes. Preliminary development plan shows a landscaped area to be maintained by homeowners association.

**Comments:** Two (2) in favor, 2 opposed.

**Staff Recommendation:** Staff recommends approval.

Mr. Harkins opened the public hearing.

Mr. Eddie Chase, agent for this request, stated that the site plan is self-explanatory for this rezoning request. The proposal is for a patio home overlay (50 foot lot) grouped with additional parking outside and around the area. The entire perimeter of the property will be landscaped (including a 20-foot buffer fronting onto SH 351 and the area to the north which will serve as a ponding area).

Kenneth L. Musgrave, 3051 Highway 351, stated that he is the developer for this site. He addressed the concerns of the neighbors. Mr. Musgrave stated that there will be no entrance to the site off Highway 351 – entrance will off Liberty Boulevard. The development will be screened/fenced and landscaped. The development will not be a gated community. The proposed duplexes will be an ideal buffer from the proposed school site.

Ms. Mary McKinney, 3149 Constitution, asked if the entrance to the site will be a boulevard. Ms. McKinney stated that her main concern is the amount of trash/debris that may be generated from this development and the proposed school.

**Mr. Boykin moved to approve Z-2005-11. Mr. Miller seconded the motion and the motion carried by a vote of seven (7) in favor (Banks, Boykin, Campos, Harkins, Luther, McClarty, and Miller) to none (0) opposed.**

f. Z-2005-12

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Gene Townsend, Agent Eddie Chase, to rezone approximately 24.57 acres from AO (Agricultural Open Space) to RS-6 (Single Family Residential) on property located east of Buffalo Gap Road and south of Chimney Rock Road. The legal description being described as a 4.32-acre parcel, a .4132-acre parcel, an 8-acre parcel, and an 11.84-acre parcel out of the J. Smith Survey Number 99, Abilene, Taylor County, Texas.

Ms. Meinhold provided the staff report.

**Request:** To rezone approximately 25 acres from AO to RS-6. (A proposed site plan was provided.)

**Location:** Chimney Rock Road and Catclaw Drive.

**Analysis:** Applicant desires to develop vacant site to 73 lots accommodating single-family residential homes. Would require the extension of Catclaw Drive at the applicant's expense. The proposed development would be separated from existing cul-de-sacs to north by a 71' pipeline easement.

**Comments:** Two (2) in favor, 1 opposed.

**Staff Recommendation:** Staff recommends approval

Mr. Harkins opened the public hearing.

Mr. Eddie Chase, agent for this rezoning request, stated that the proposed development creates a residential area of four (4) tracts of land owned by four (4) separate owners. The intention is to provide access to Catclaw Drive as well as create a utility loop for water that extends from Chimney Rock through this development and back out to the main 21" line on Ridgeline. The eight (8) acre tract on the west was purchased for drainage (detention pond).

Ms. Betty Davis, 3902 Bettes, asked how homeowners would access this property and what if anything is planned for the land west of her property.

Mr. Harkins responded that Catclaw Drive will extend into the development and there will be a street off Catclaw within the development.

Ms. Davis asked how this development will abut her property.

Mr. Chase responded that the backyards for these lots will abut her property. Fencing will be in place.

Mr. Harkins closed the public hearing.

**Mr. McClarty moved to approve Z-2005-12. Ms. Banks seconded the motion and the motion carried by a vote of seven (7) in favor (Banks, Boykin, Campos, Harkins, Luther, McClarty, and Miller) to none (0) opposed.**

#### 7. Director's Report

Jon James stated that in addition to review of freight containers by this Commission the issue has also been before the City Council. One suggestion has been that rather than treating freight containers as buildings, they be treated as outdoor storage. This is a significant change and staff will be recommending to Council that if this is the direction in which they choose to go, the issue should be sent back to this Commission for discussion.

Mr. Harkins asked about a workshop session to discuss staff initiated rezoning and College/University zoning when property zoned CU is sold to an individual.

Mr. James stated that staff is aware of the need for a workshop; however, would like time to conduct additional research on the issues mentioned by Mr. Harkins.

Mr. Boykin asked the status of the Sign Ordinance.

Mr. James stated that staff is moving forward with this Ordinance; however, it will be a six to nine month process. Public participation on this issue should begin soon.

Mr. Boykin asked the status of the itinerant business ordinance.

Mr. James stated that this item is going forward to the City Council for final reading on April 14, 2005.

There being no further business, the meeting was adjourned at 4:05 p.m.

Approved: \_\_\_\_\_, Chairman