
PLANNING & ZONING COMMISSION

June 6, 2005

Minutes

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

Members Absent: Tim McClarty

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

Others Present: Paul Johnson
Vickie Meyers
Bee Herring
Francine Robinson
Paul Graham
Sara Graham
Bob Hammond
Brian Taylor
Steve Roth
Donna Brnovak
Darryl Schriver
Misti Hays
Justin D, Sandusky
Larry Sloan
Loyd Walker
Hollis Ellis
Liland D. Robinson
Tony Ham
Parks Thomas
Karla Brown
Kirk Brown
Greg Henderson
Joe Brylanski
Martha Sue Kirkman
Martha Montgomery
Randy Leath
Steve Owens
Ronnie Holmes

Clody Witt
Jay Hallman
James McCree
Mark Zachry
Jack Strickland
Linda Stricklin
Kristie Poorman
Brad Poorman
Paula Shahan
Jennifer Rasmussen
Humphrey Chavunduka
Raj Bhakta
Joey Light
Don Harrison
Robert Stephens

Item One: Call to Order

Mr. Harkins called the meeting to order at 1:30 p.m. and declared a quorum present.

Item Two: Invocation

Mr. Jeff Luther gave the invocation.

Item Three: Approval of Minutes:

Mr. Floyd Miller moved that the minutes of the May 2, 2005, meeting be approved as submitted. Ms. Campos seconded the motion and the motion carried unanimously.

Item Four: Plats

Ms. Gloria Brownell, Planner I, stated that the plat identified as item “f.” – MRP-2705 - (indicated as item “e” on page 2 of the agenda) was incomplete and would not be considered at this meeting. Information was provided regarding the plats to be considered at this meeting (Items a. through e.).

Mr. Harkins opened the public hearing and asked if anyone wished to speak regarding any of the five plats presented. There was no response and Mr. Harkins closed the public hearing.

Mr. Boykin moved to approve plats a. through e. as submitted. Ms. Campos seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Harkins, Luther and Miller) to none (0) opposed.

Mr. Harkins stated that the Thoroughfare Closure indicated as Item 6 on the agenda would be moved up in the order of business prior to consideration of Item d. (Z-2005-21) since these two items are located in the same area.

Item Five: Rezoning Requests

a. Z-2005-18

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Taylor Electric Cooperative, Inc., Agent, Thomas W. Choate, Attorney at Law, to rezone property located at 2852 Waldrop Dr. from AO (Agricultural Open-space) to PDD (Planned Development District). The

legal description being a 3.01 acre tract out of Subdivision 7 of the Fasshauer Subdivision of Surveys 10 and 12, Lunatic Asylum Lands, Abilene, Taylor County, Texas.

Mr. Armstrong provided the staff report for this case:

- Request: Rezone from AO to PDD for Electric Substation.
- Notification: Comment forms were mailed. One comment form was received by mail in opposition of the request and two comment forms in opposition of the request were received at this meeting.
- Staff Recommendation: Staff recommends approval of the request.

Mr. Armstrong stated that provisions of the PDD include:

- No lighting except in emergencies
- Fencing
- Landscaping
- No signage except for required safety signage and identification sign on the fence

City staff was alerted to the construction of the substation after construction was approximately 95% complete. No approvals or permits were obtained from the city. Taylor Electric Cooperative was contacted regarding the issue of permitting and zoning issues associated with this parcel of land and the proposed use. Taylor Electric Cooperative applied to the Board of Adjustment for a special exception for construction in an AO (Agricultural Open Space) zoning district. The Board of Adjustment denied this request by a vote of two (2) in favor to two (2) opposed (four affirmative votes by BA members is required for approval of a special exception). At this point, the applicant approached the City regarding the rezoning of the property to a Planned Development District.

Mr. Armstrong stated that currently within the City of Abilene there are seven (7) substations located as close as this one to single family residences and two (2) substations located as close to multi-family residences. Mr. Armstrong provided photographs of the substations and identified the locations.

Mr. Harkins opened the public hearing.

Mr. Tom Choate, representative for Taylor Electric Cooperative, stated that the substation is 95% complete and is critical for this area. Mr. Choate stated Taylor Electric Cooperative failed to obtain a special exception to AO zoning through the Board of Adjustment and failed to obtain a permit for a concrete slab poured for a metal building on site. Taylor Electric did obtain Federal and State approvals for construction of the facility. This is the first substation constructed by Taylor Electric within the city limits of the City of Abilene. Mr. Choate stated that two consulting engineers for Taylor Electric (Mr. Todd in Abilene and Mr. Owen in Lubbock) were unaware until after the fact that in AO zoning, Taylor Electric was required to obtain a Special Exception from the Board of Adjustment. Mr. Choate stated that when it became apparent that there was a problem, he and Taylor Electric have cooperated with the City in every way. Mr. Choate stated that the proposal to the Board of Adjustment was not denied – it failed due to the number of Board members present at that meeting.

Mr. Choate provided each Commissioner a notebook containing information regarding this substation, including photographs. Mr. Choate reviewed the terms and conditions of the Ordinance amendment for this PDD along with an illustration of the site plan for the area.

Mark Zachry, an attorney representing Jack and Linda Strickland, stated that he would be addressing legal issues relevant to the decision of this Commission. Mr. Strickland provided an overview as to the role of this Commission:

The zoning ordinance does not require a preponderance of the evidence – it requires substantial proof that the request has been made with sound zoning practices and will serve to promote the purposes of planning and zoning.

In accordance with the planning and zoning ordinance, the Commission should make no recommendation for a zone change except “upon demonstration that conditions and trends of development in the area have so altered since the adoption of the existing boundary as to justify the change or that existing boundaries either through prior error or change in conditions are unreasonable and that the objectives of the ordinance will be promoted by the proposed ordinance.”

Mr. Zachry stated that Taylor Electric has requested a PDD (Planned Development District). Mr. Zachry asked the Commissioners to look at the ordinance and exactly what a PDD contemplated. Mr. Zachry stated that a PDD could address a number of different developments; however, it was not designed for a single party for a single purpose. Mr. Zachry stated that a PDD is more for the planned development of an area. Mr. Zachry stated that the Zoning Ordinance permits an electrical substation in several different specific zones – Heavy Commercial, Light Industrial, Heavy Industrial and a Planned Development District. Mr. Zachry stated that the districts in which an electrical substation is permitted indicates to him that an electrical substation has an “industrial” flavor. Mr. Zachry stated that the Zoning Ordinance clearly specifies that specific types of PDDs may be requested – not just a PDD in general. Mr. Zachry stated that it is totally inappropriate to put heavy commercial or an industrial use as close to a residence as Taylor Electric has sought to do here.

Mr. Zachry stated that the last issue he would like to address is the other substation (AEP) that is in closed proximity to the Taylor Electric substation. Mr. Zachry stated that there has been discussion regarding the addition of a substation if another already exists in close proximity. The problem is that an absolute nightmare is created for the residents who must live between the two substations – it becomes an industrial zone

Mr. Zachry stated that if the Commission has any questions in terms of the electrical use, needs, etc., that cannot be answered today by either him or his clients, they request that the item be tabled to allow them time to respond to these issues. Mr. Zachry stated that if the issue is tabled, he would request that two cycles or two months be allowed for them to collect pertinent information.

Mr. Jack Strickland stated that he is the party who contacted the City of Abilene regarding this substation. Mr. Strickland stated that when it was determined by the City of Abilene that this use was not zoned properly, he documented work still being done on the substation (after he was informed by Mr. Armstrong that work should be ceased at this site). Mr. Strickland stated that this is his family estate and they have resided in this area since the early 1950s. In fact, Mr. Strickland originally owned the five (5) acres on which the substation has been constructed. Mr. Strickland stated that he has never been contacted by Taylor Electric regarding the construction of a substation in this area. Mr. Strickland stated that this area was annexed by the City of Abilene and asked why this land was annexed if the property owners were not going to be protected.

Mr. Paul Graham stated that he is in favor of a substation and believes it is needed; however, he is troubled by some of the activities that have occurred in the area (i.e. the erection of five poles and three guy wires in the space of 142 feet). Mr. Graham stated that he plans to develop this land in the future and

does not understand why the poles cannot be placed on the opposite side of the street rather than in the front of his property.

Mr. Harkins expressed his appreciation for Mr. Graham's attendance at this meeting; however, this Commission is hearing only the zoning case being presented. Mr. Harkins recommend that Mr. Graham meet with Taylor Electric or AEP regarding these poles. Mr. Harkins stated that ownership of the poles might be determined at this meeting since several representatives from Taylor Electric are present.

Mr. Darryl Schriver, General Manager and CEO of Taylor Electric, stated the poles in question are constructed in the right-of-way on Waldrop Lane and have to do with the feeders that come out of the substations. Feeders must come out of the substation in one general direction and there is one pole for the north, one for the south, one for the east and one for the west. These are distribution lines granted to Taylor Electric by City franchise.

Ms. Linda Strickland provided photographs to the Commission members. Ms. Strickland stated that these lines are in their backyard. Also, not only is this a substation, it is a transmission station. Ms. Strickland stated that being "sandwiched" between these two substations has totally devalued their property.

Ms. Paula Shahan stated that she owns thirty acres adjoining the property on which this substation is located. Mr. Shahan stated they were never contacted by Taylor Electric regarding this substation prior to construction. Mr. Choate contacted her at the end of last week to discuss this matter. Ms. Shahan stated that she does not believe it is fair or right for any big company to be able to come in and do what has been done without the proper permits. Ms. Shahan stated that she is in favor of providing electricity; however, not in her backyard or the backyards of the other property owners in the area.

Mr. Harkins stated that after viewing the pictures provided by Ms. Strickland he would like clarification as to the owner of the metal poles.

Mr. Choate stated that the poles are the property of AEP. The connectors are the property of Taylor Electric. The poles in the photographs will remain regardless of the outcome of this meeting.

Mr. Strickland stated that he was contacted by AEP and was informed that the concrete poles would replace the wooden poles because of the Taylor Electric substation.

Mr. Choate stated that AEP did not construct these poles for Taylor Electric. AEP changed the configuration of their poles.

Ms. Campos asked when the poles were erected.

Mr. Strickland stated that this was done during the construction of the substation (last three to five months).

There was discussion between Commission members and Taylor Electric regarding these poles (placement of poles, replacement of poles, height of poles and wooden vs. concrete poles).

Mr. Zachry stated that Mr. Miller raised an important point in asking if the poles would have been changed if the substation had not been constructed. If Taylor Electric had followed the proper procedure and was before the Commission today to seek a zone change, it would be known if the lines had been changed based on the construction of the substation. Unfortunately this is not known and the property owners should not be held responsible for this – they are not the ones who violated the zoning ordinance.

Mr. Zachry stated that if there is any question regarding the changing of the poles, the Commission should consider the fact that the property owners had no say in this matter.

Ms. Kristie Poorman stated that they purchased 17 acres from the Shahans and live on one acre of this land. They had hoped that the remainder of the land would serve as an investment for their future. Ms. Poorman stated that this substation has greatly devalued their land – It is an eyesore. Ms. Poorman asked the Commissions what they would do if the substation had never been constructed and Taylor Electric was seeking permission (via a zone change) for construction of the substation – this is the decision that should be made at this meeting.

Mr. Choate stated that Taylor Electric Cooperative filed a Rule 11 Agreement with the court – an agreement between attorneys to cease, extend, or place on hold an action. With the cooperation and initially at the suggestion of the City Attorney of the City of Abilene, Taylor Electric Cooperative entered into a Rule 11 Agreement on this litigation. Mr. Choate stated that he felt it inappropriate to discuss this agreement without the City Attorney (Sharon Hicks) present.

Mr. Choate stated that Mr. Zachry seems to have questions regarding Taylor Electric's request for a PDD ordinance. This ordinance was written by City staff and submitted to Mr. Choate and Taylor Electric after the application for a PDD was submitted, which is the normal process.

Mr. Choate stated that the utility lines running across Ms. Shahan's property and across Mr. Strickland's property (in more than one direction) are going to be there regardless of whether Taylor Electric is there or not. Those transmission lines will remain and nothing can be built under these transmission lines.

Mr. Zachry stated that he did not mean to infer that something devious was occurring. Mr. Zachry stated that his point is that he disagrees with City staff as to whether or not this meets the criteria for a Planned Development District. Mr. Zachry urged the Commissioners to review the acreage requirements for a PDD and judge whether a single party with a single purpose (use) meets the PDD requirements or should a rezoning request for this particular use have been requested.

Mr. Choate provided City staff and Commission members with a notebook containing 378 letters of support for this substation – individuals who live in the area and members of Taylor Electric Coop.

Mr. Armstrong stated that he believes Mr. Zachry is utilizing a copy of the zoning ordinance that is out of date. On November 25, 2003, the City Council approved an ordinance amendment recommended to them by the Planning and Zoning Commission altering much of the information in the zoning ordinance pertaining to PDDs. The various categories of PDDs have been eliminated except for the PDH (Planned Development-Historic). The amendment also eliminated any acreage requirements – there is no minimum acreage requirement.

Mr. Armstrong stated that when this issue was brought to his attention, he had no doubt as to what was required. Within a day or two after the Planning Division became aware of the substation, staff was aware that a Special Exception from the Board of Adjustment was required and Taylor Electric was contacted.

Mr. Harkins stated that he would allow additional or new information to be provided and then this public hearing would be closed.

Mr. Strickland stated that he did not speak with Jeff Armstrong the first time he called. Following this, he began recording names, dates and times of conversations.

Ms. Shahan stated that Taylor Electric should have contacted the property owners before anything was done and they should have obtained the proper permit(s).

Mr. Harkins closed the public hearing.

Mr. Harkins asked if anything could be done if the substation were to remain to mitigate the objections of the landowners in this particular area (from the standpoint of the eyesore of the taller poles, etc.). Mr. Harkins stated that obviously when this issue was brought up tall poles and transmission lines existed in the area (across the land of various property owners) and this has some bearing upon the case, even though the substation had not yet been constructed. Mr. Harkins stated that this question is addressed to Taylor Electric.

Mr. Choate stated that he contacted each of the property owners to discuss fencing, screening and landscaping. These issues were not resolved with the three property owners in question. Mr. Choate stated the if Mr. Harkins' question relates to the source of electricity from AEP's switching yard to TEC's facility, TEC cannot make any type of commitment for AEP as to what they will or will not do.

Mr. Luther stated that Ms. Poorman made a good point in asking the question what would the Commission do if the substation did not exist and Taylor Electric requested a zone change. Mr. Luther stated that this is a good approach to this zoning request.

Mr. Harkins stated that the PDD addresses screening, lighting restrictions and landscaping – all of the issues that should be addressed. On the other hand, the PDD does not address the tall poles. These poles are the property of AEP and are in the AEP right-of-way– but within the footprint of the three acres owned by Taylor Electric. Mr. Harkins stated that he wondered how much opposition there would be if the poles were removed or shortened.

Mr. Santee informed the Commission that regardless of the decision today, there is nothing that this Commission can do to require AEP to remove those poles.

Mr. Miller addressed this statement to Taylor Electric: “We know that you cannot control anything that AEP may do, but is there anything that Taylor Electric can do that might make this a little more palatable?”

Mr. Schriver stated that all of the lines coming out of the substation were buried at an enormous cost to Taylor Electric. Also, a great amount of funds were invested in this substation to ensure that surrounding property owners would not be affected by flooding and the tree line around the substation remain intact. Slats have been inserted into the fencing of the substation to provide some screening and trees will be planted to help with the screening. Mr. Schriver stated that they are willing to work with the City and the adjoining property owners; however, they need recommendations or suggestions as to additional measures.

Ms. Campos moved to approve Z-2005-18. Ms. Banks seconded and the motion failed due to lack of majority vote of the Commission members: The vote for this motion was as follows: Three (3) in favor, (Banks, Campos, and Harkins) to three opposed (Boykin, Luther and Miller).

b. Z-2005-15

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the Ed Petroski; agent, Terry T. Franklin, to rezone property located on the north side of the interchange of Loop 322 and Highway 83/84 from AO (Agricultural Open-space) to HI (Heavy Industrial) district.

The legal description being a 17.93 acre tract out of the Southwest 2/4 of Section 66 Blind Asylum Lands, Abilene, Taylor County, Texas

- Request: Rezone from AO to HI
- Notification: One comment form was received in favor (owns numerous properties in area)
- Staff Recommendation: PI zoning would provide some protection for the gateway
Applicant indicated that PI would not work
- Staff Recommendation: Approval of Park Industrial (PI) zoning

Mr. Armstrong stated that in staff's opinion, Park Industrial (PI) Zoning would provide a better quality of development in this "gateway" area. A PI district would limit outdoor storage, require screening, require open space, and limit signage. Mr. Armstrong stated that some of the restrictions for PI would be prohibitive for the intended use (involves outdoor storage). Mr. Armstrong stated that Highway 83/84 is a gateway to the city from the south and PI would control the aesthetic quality of the area.

Mr. Boykin asked Mr. Armstrong to explain the difference between HI and PI zoning.

Mr. Armstrong responded that the uses for these two zoning categories are similar; however, many of the industrial uses (smokestack/nuisance causing uses) are not allowed in a PI zone. Signage size is less in PI than in HI; landscaping is required adjacent to street rights-of-way; requires that no less than 5% of the entire parcel be landscaped in addition to the buffer along street rights-of way; outdoor storage is permitted but must meet setback requirements; the height of stored materials is limited; outdoor storage must be screened; and, outdoor storage is limited to not more than 10% of the lot.

Mr. Harkins stated that with an overpass exchange at this intersection, screening is impossible.

Mr. Armstrong stated even if this Commission recommended PI zoning and the City Council approved PI zoning, as a provision of the Zoning Ordinance, if the property owner wanted to exceed the 10% outdoor storage limitation, they could seek a variance from the Board of Adjustment.

Mr. James stated that the criteria for seeking a variance is some type of hardship and he felt it would be very difficult to obtain additional outdoor storage using this criteria.

Mr. Harkins opened the public hearing.

Mr. Terry Franklin, agent for the proponent, called attention to a discrepancy regarding the amount of acreage involved in this rezoning request. A parcel (.88 acres) was omitted as a part of the application. The original application indicated an area of 18.81 acres. Mr. Franklin stated that if it is permissible to add this area at this time he would like to do so.

Mr. Franklin stated that his potential client's request is for a small building and a very large storage yard because there will be a great deal of outdoor storage involved with this particular business. The proposed area for rezoning is bounded on three sides by HI zoning – that is the reason this particular site was chosen.

Ms. Wynona Herring stated that the Herring's own 63.44 acres of land adjoining this property. Ms. Herring stated that her purpose for attending this meeting is to protect the future value of her property. Ms. Herring stated that she would like to be able to someday sell this property for commercial use.

Ms. Martha Sue Kirkman stated that her husband developed the Atlas Industrial Subdivision in the 1970s. Lots 1, 2, 3, and 4 are a part of this rezoning and Acme Brick is located on a portion of this property. Ms. Kirkman stated that she is in favor of the HI zoning.

Mr. Harkins closed the public hearing.

Mr. Boykin moved to approve Z-2005-19 for HI zoning. Ms. Banks second the motion.

Mr. Santee stated that motion to approve is only for 17.93 acres - this is the area posted in the legal notice. A request must be submitted for the additional acreage.

The motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, Luther and Miller) to none (0) opposed.

c. Z-2005-20

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Raj Bhakta to rezone property located in the 3500 Block of West Lake Road from AO (Agricultural Open Space) to GC (General Commercial) district. The legal description being 2.5 acres out of the William Stith Survey 21 and part of Block 30, North Park Addition, Abilene, Taylor County, Texas.

Request: Rezone from AO to GC.

Proposed Uses: Hotel

Notification: Two (2) responses were returned in opposition to the request.

Staff Recommendation: Denial

Mr. Armstrong stated that the Comprehensive Plan for the City of Abilene has identified a couple of major commercial activity centers: Pine Street and I-20 and Highway 351 and I-20. The parcel for which rezoning is requested is situated between these two identified activity centers (a strategic plan or small area land use plan has not been developed for these activity centers).

Mr. Armstrong stated that at this point staff is recommending denial of General Commercial zoning until the area has been studied to determine the best type of development along this tract and adjoining land.

Mr. Boykin stated that he has a problem with putting development in these areas on hold until the activity centers have been defined.

Mr. Armstrong stated that if development in the area is approved when submitted, the Comprehensive Plan would no longer determine future growth or development of the City. Because this area is so largely undeveloped, there is an opportunity to determine what is best for the area and what fits best with the Comprehensive Plan.

Mr. James stated that part of staff's concern is that the parcel is a part of a larger tract. Ideally, staff would like to know how the entire tract is to be developed rather than piecemeal zoning over a period of time.

Mr. Luther stated that the current rate for implementation of the Comprehensive Plan components (particularly the activity centers) would take years. Mr. Luther stated that he does not agree that rezoning should be put on hold or denied until a plan or land use has been developed for these activity centers.

Mr. James stated that staff is not implying that development is contingent upon the completion of a plan for the area. Staff would like for the landowner to inform staff regarding their plan for development of the area.

Mr. Boykin stated that if the landowner knew what he could do with the land he would be doing it now – possibly appearing before this Commission today requesting rezoning of the land.

Mr. Harkins stated that the property owner attempted to rezone to a PDD.

Mr. Armstrong stated that rezoning the property to a PDD was fine – it appears that financial difficulties caused the failure of this rezoning request. Mr. Harkins stated that perhaps the sale of this small parcel would provide the capital to develop the remainder of the property.

Mr. Harkins opened the public hearing.

Mr. Bhakta stated that his plan is to construct a hotel on this parcel of land.

Mr. Harkins asked Mr. Bhakta if he has already purchased this property.

Mr. Bhakta stated that he has purchased this land and has plans for the construction of a hotel.

Mr. Ram Sharma stated that he owns and operates that Best Western on I-20. Mr. Sharma stated that he opposes this request. Mr. Sharma stated that he believes that the City's Planning and Zoning Commission should conduct an in-depth study for a well-planned future development of this land and not hand out small parcel rezoning and contribute to haphazard development of the area.

Mr. Jerry Conner stated that the area in question is the highest point on I-20. Mr. Conner stated the he did not believe that development could be stopped in the vicinity of FM 600 and I-20 because it is a prime location for development.

Mr. Harkins closed the public hearing.

Mr. Boykin moved to approve Z-2005-20. Mr. Miller seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, Luther, and Miller) to none (0) opposed.

Item 6: Thoroughfare Closure

Public Hearing and possible vote to recommend approval or denial to the City Council on a request from Horace Hardin; agent, Robert P. Stephens, to abandon a north-south alley located between Pine Street and Walnut Street, described as a 15 foot wide, north-south alley extending from Sandefer Street southward 152 feet to its termination in Block 1, O.C. Howell Addition, Abilene, Taylor County, Texas.

Mr. Armstrong stated that this is associated with rezoning request Z-2005-21. This item must be considered separately from the rezoning request. This request is to abandon an alley which is really not in place. The Plat Review Committee reviewed this case and it has been determined that there are not utilities in the area and no need to maintain an easement. Basically, the “alley” serves no public purpose and staff recommends approval of the abandonment of the thoroughfare closure with no conditions.

Mr. Harkins opened the public hearing.

No one spoke either in favor or in opposition of the request and Mr. Harkins closed the public hearing.

Ms. Campos moved that TC-2005-20 be approved. Ms. Banks seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, Luther, and Miller) to none (0) opposed.

d. Z-2005-21

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Horace Hardin; agent, Robert P. Stephens, to rezone property located at 2233 Walnut Street from RM-3 (Residential Multi-family) to GC (General Commercial) district. The legal description being Lots 4 and 5, Block 1, O.C. Howell Addition and the East 105 feet of the North 42 feet of Lot 201, Block A, North Park Addition, Abilene, Taylor County, Texas.

- Request: Rezone from RM-3 to GC
- Proposed Use: Subway Sandwich Shop & speculative
- Notification: One (1) comment form received in opposition
- Staff Recommendation: Denial

For clarification purposes, Mr. Armstrong stated that on the maps provided to the Commission members, parcel boundaries are indicated – not necessarily lot lines. Also, the corner lot on which there is a structure is not a part of this request. Mr. Armstrong stated that staff has concerns regarding this request:

1. An entire block zoned General Commercial save and except one lot (residential lot)
2. There are homes along Walnut Street and General Commercial zoning may cause problems such as increased traffic, late night traffic causing headlights to shine in residences

Mr. Harkins opened the public hearing.

Mr. Robert Stephens stated that he is the proposed purchaser of the property in question. Mr. Stephens stated that the configuration of the proposed request is due to the fact that Mr. Hardin would not sell the front footage. Therefore, an alternate design had to be prepared with the exit for the business onto Walnut Street. Mr. Stephens stated that typically Subway does not have a great deal of late night business; therefore, traffic and lights should not be a problem.

Mr. Harkins closed the public hearing.

Mr. Luther stated that the Commission is really not considering the restaurant, only the GC zoning. Once the area is zoned GC the Commission will have no control over the use as long as it fits into GC zoning. Mr. Luther stated that he felt that the homes on Walnut Street should be provided some protection.

Mr. Luther moved to deny Z-2005-21. Mr. Boykin seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, Luther, and Miller) to none (0) opposed.

e. Z-2005-22

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Director's Real Estate Management, L.P.; agent, Erik Johnson to rezone property located at 1801 Antilley Road from AO (Agricultural Open-Space) and O (Office) to PDD (Planned Development District). The legal description being 3.143 acres out of Subdivision #3 of the Alfred and Mary Fasshauer Survey No. 12, Lunatic Asylum Land, Abilene, Taylor County, Texas.

- Request: Rezone from O and AO to PDD for Hotel and Restaurant
- Notification: Two (2) Comments forms received in favor
- Staff Recommendation: Approval

Mr. Armstrong stated that at the applicant's request, staff followed a significant amount of the provisions of a separate PDD in this area. PDD requirements include:

- Landscaping
- Signage limits
- Masonry minimums
- Uses include Hotel, Restaurant, Medical Uses, Offices

Mr. Harkins opened the public hearing.

Mr. Erik Johnson, representing Real Estate Management, stated that his client would maintain the integrity and beautification of the area by utilizing a PDD. Mr. Johnson stated that in order to achieve this goal his client would be imposing their own restrictions on customers who choose to locate in this area.

Mr. Harkins closed the public hearing.

Mr. Boykin moved to approve Z-2005-22. Mr. Miller seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, Luther, and Miller) to none (0) opposed.

Item 7. Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on a proposed amendment to Sections 23-306.5.E.(4)(a) and 23-306.5.B.(3)(f) of the Zoning Ordinance pertaining to fences surrounding playground areas at childcare facilities.

Ms. Brownell stated that the Site Plan Committee recently reviewed a plan for a new childcare facility. All playground areas for childcare facilities in the City of Abilene require a 6-foot opaque fence

surrounding the playground. The “opaque” portion of the ordinance has not been enforced over the past several years; therefore, staff feels that the ordinance can be modified to permit non-opaque fences – still requiring the 6-foot height. This will be changed in two areas: childcare facilities accessory to churches and freestanding childcare facilities.

Mr. Harkins opened the public hearing.

There was no response and Mr. Harkins closed the public hearing.

Mr. Harkins moved to approve amendments to Sections 23-306.5.E(4)(a) and 23-306.5.B(3)(f) of the Zoning Ordinance. Mr. Boykin seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, Luther, and Miller) to none (0) opposed.

Item 8. Director’s Report

Mr. James stated that staff has been conducting research regarding signs, landscaping, and building ordinances in various Texas cities. Information and ideas developed by staff will be presented to a 12 member Task Force for their feedback. This task force is comprised of sign company representatives, a representative from the Independent Business Owners Association, various representatives from the development/building industry, landscape architect, and representatives from the Landmarks Commission, Keep Abilene Beautiful Board, etc. Once this review is complete, an ordinance will be presented to this Commission.

Mr. James introduced Justin Fortney, Planner I, the newest member of the Planning staff.

There being no further business, the meeting was adjourned at 5:20 p.m.

Approved: _____, Chairman
