
PLANNING & ZONING COMMISSION

October 3, 2005

Minutes

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

Members Absent: Jeff Luther

Staff Present: Jon James, Director, Planning and Development Services
Richard Burdine, Assistant City Manager
Jeff Armstrong, Development Services Manager
Dan Santee, First Assistant City Attorney
Robert Allen, Transportation Planner, MPO Director
Ben Finley, Transportation Planner
David White, Project Manager, Economic Development
Gloria Brownell, Planner I
Justin Fortney, Planner I
JoAnn Sczech, Executive Secretary (Recording)

Others Present: Donna Brinkley
Jim Brinkley
Bob Hammond
LuGene Lewis
Roy Lewis
Cristy Vines
Tom Massey
Allen Haught

Media Present: Sarah Kleiner, Abilene Reporter-News

Item One: Call to Order

Mr. Harkins called the meeting to order at 1:34 p.m. and declared a quorum present.

Item Two: Invocation

Mr. Tim McClarty gave the invocation.

Item Three: Approval of Minutes:

Mr. Eddie Boykin moved that the minutes of the September 6 and September 19, 2005, meetings be approved as submitted. Mr. McClarty seconded the motion and the motion carried unanimously.

Mr. Harkins read the opening statement for the Planning and Zoning Commission.

Item Four: Plats

Ms. Gloria Brownell, Planner I, stated that the plats identified as items “a., b., e., f., and h.” were incomplete and would not be considered at this meeting. Information was provided regarding the plats to be considered at this meeting (Items c., d., g., i., and j.). Ms. Brownell stated that staff recommends approval of these plats as all meet the requirements of the Subdivision Regulations.

Ms. Brownell stated that staff is revising the policy regarding plats; i.e., only those plats for which all requirements have been met on the Thursday prior to the Planning and Zoning Commission meeting will be placed on the agenda.

Mr. Harkins opened the public hearing and asked if anyone wished to speak regarding any of the plats being considered for approval. There was no response and Mr. Harkins closed the public hearing.

Mr. McClarty moved to approve plats c., d., g., i., and j., as submitted. Ms. Campos seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty and Miller) to none (0) opposed.

Item Five: Thoroughfare Plan Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on a request to amend the Thoroughfare Plan regarding East Lowden Street from I-20 to East Lake Road.

This item was tabled at the September 6, 2005, Planning and Zoning Commission meeting and Mr. Harkins asked for a motion to remove the item from the table.

Mr. McClarty moved to remove this item from the table. Mr. Boykin seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty, and Miller) to none (0) opposed.

Mr. Robert Allen, Director of the Abilene Metropolitan Planning Organization, stated that at this meeting the City of Abilene staff would be submitting additional information concerning possible alternative corridors for the revision that was considered and tabled by the Commission in September 2005.

The Thoroughfare Plan amendment request is from City of Abilene staff and concerns addition of a collector street corridor between East Overland Trail (the I-20 Frontage Road) and East Lake Road north of SH 351 incorporating portions of the existing Lowden Street, including the existing bridge.

The impetus for the request is the change in development potential in the area. The Comprehensive Plan designated the area of the intersection of IH 20 and SH 351 as a major commercial activity center. The Super Wal-Mart development has initiated the new development trend.

Planning and Public Works staff have reviewed this proposal and determined that the additional collector route is necessary in this area to accommodate potential additional development north of Lowden Street. There is currently no street connection between Overland Trail and SH 351. The east end of Lowden Street intersects SH 351 undesirably close to the intersection of SH 351 and East Lake Road in a manner that will create challenges to traffic movement and safety as traffic flow increases in the area. The IH 20 frontage roads are likely to become one-way in the future. The proposed corridor will allow improved opportunity for reverse flow for one-way frontage road operations.

Three alternate corridor configurations are suggested for your consideration. Staff notified the property owners most likely to be directly impacted by each of these corridors and will report any response received.

Each alternative is impacted by the flood plain, which is treated as floodway pending further study of the exact floodway location. The current Thoroughfare Plan was based on an assumption that land development in the area would be mostly low traffic generation uses that would not justify the expense of infrastructure for thoroughfare development across the floodway. The current development assumptions of the Comprehensive Plan envision a situation in which both the demand and the land values would justify the necessary improvements.

Alternative A is the corridor that was originally recommended by City staff. It intersects East Lake Road 1300-1900 feet north of SH 351 and merges into the existing Lowden corridor north of the new Super Wal-Mart store. The strength of Alternative A is that it provides a strong connection between potential development and responsibility for additional infrastructure. The chief drawback is that most of the impacted property is currently owned by one property owner.

Alternative B is a corridor that would intersect East Lake Road about 800 feet north of SH 351 and would merge into the current Lowden Street alignment near the northeastern out lot of the Super Wal-Mart development. The strength of this alternative is that it would require the least amount of new roadway to make a safe connection to East Lake Road. The drawbacks are that most of the developable land in the immediate area could be developed without any increase in capacity, an already platted and occupied area would be crossed, and there would be little flexibility in the alignment possibilities.

Alternative C is similar to Alternative A except that the entire existing portion of Lowden Street in the area is designated as a collector route and the new collector corridor would intersect Lowden rather than merge into it. The advantage of Alternative C over Alternative A is that there would be some mitigation to the impact on the primarily impacted property. The main drawback is that a section of roadway that does not meet collector street alignment standards would be incorporated as a collector road.

Mr. Allen stated that staff recommends that the Thoroughfare Plan be amended as shown in Alternative A and reiterated that this collector street will only be required if and when development occurs in this area.

Commissioners expressed concern regarding the installation of a bridge with Options A and C and the burden this would place on the property owner or developer should Option A or C be approved.

Mr. Harkins opened the public hearing.

Mr. Roy Lewis stated that in his opinion Option A would not be practical. Mr. Lewis stated that he felt Option B or Option C would be more realistic. Mr. Lewis proposed an additional alternative: If the 90-degree turn from East Lake Road onto SH 351 could be carried on across to East Lake Road, straighten Lowden Street, tie it into East Lake Road, and providing a right turn lane onto East Lake Road would eliminate traffic backing up in this area.

Mr. Harkins stated that this takes care of the southern flow off East Lake Road; however, does not take into account the problem of Lowden Street tying into SH 351.

Mr. Boykin asked Mr. Allen about the possibility of tying Lowden Street into East Lake Road at a different location (farther south).

Mr. James stated that the problem with this proposal is that Culpepper Farms is located in this area and this proposal would significantly impact this existing development.

Mr. Allen Haught stated that all three proposals would have some impact on his property. Mr. Haught stated that he is strongly opposed to all alternatives. Another concern is a roadway through this property and rezoning from Agricultural Open Space to Residential zoning. Mr. Haught stated that he would like to see some type of survey conducted to determine the number of people utilizing this street.

Mr. Harkins reiterated that this collector street will not be installed unless the property is developed as commercial development or subdivided.

Mr. Larry Hill with Culpepper Creek Farms stated that he has a couple of concerns regarding the proposals provided at this meeting. Culpepper Creek Farms services the developmentally disabled as a vocational work site. A major thoroughfare through this area would be undesirable as it would cause safety issues for the program participants.

Mr. Boykin asked Mr. Allen if the reason for the Thoroughfare Plan amendment at this time was to alert property owners of what might happen in the future (as far as thoroughfares are concerned)?

Mr. Allen responded that this is a large part of the amendment but also the reason for the big push now is because one year ago at this time, Culpepper Creek Farms was not at its present location. The more parcels in the area are developed, then the less opportunity there is for flexibility for such a roadway. Mr. Allen stated that the proposed thoroughfare amendment is not a land use decision – staff is attempting to provide a plan that if land use changes a reasonable infrastructure will be in place to accommodate the change.

Mr. Harkins closed the public hearing.

Mr. Boykin stated that he is not comfortable with any of the alternatives; however, it seems to him that Alternative A is the only one that this Commission could seriously consider.

Mr. Harkins stated that if either Alternative A or Alternative C is adopted it will take a major development to fund a bridge across the creek. Mr. Harkins stated that he felt the outcome would be two (2) separate roads in the area – not a collector street. Either the City will have to come in and connect the two roads or it will never become a collector street.

Mr. McClarty moved to approve Alternative A. Ms. Campos seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty and Miller) to none (0) approved

Item Six: Rezoning Requests:

- a. Z-2005-28
Public hearing and possible vote to recommend approval or denial to the City Council on a request from Charles A. McClure to rezone property located at 1365 & 1373 Jeanette Street and 1374 Peach Street

from RM3 (Multi-Family Residential) to PDD (Planned Development District). The legal description being Lots 4-6, Block 18, O.D. Dillingham Subdivision, Abilene, Taylor County, Texas.

- Current Planning Analysis

The applicant proposes expanding their business from a nearby location onto the subject property. Areas to the north, west and northeast are developed with single-family residences. To the east, stripped along S. 14th St. are commercial uses, to the south are a multi-family development and a nonconforming barbershop, and to the southwest is Jefferson Middle School, which is temporarily being used as an elementary school. This proposal would be a significant encroachment into the residential area.

This request would extend “strip zoning” along S. 14th St. Section 23-305.5 of the Zoning Ordinance states the following regarding strip zoning:

“Strip or ribbon zoning may be considered an elongated, nonresidential district which parallels a highway or street, and which is characterized by one or more of the following: Shallow lot depth with abutting residences in the rear, separate lot ownership which exacerbates harmful vehicular access to the street, and inadequate provisions for off-street parking.”

“Strip zoning hinders traffic flow and encourages incompatible uses to the detriment of abutting property.”

The Zoning Ordinance provides guidance in rezoning decisions when it states the following (also from Section 23-305.5):

“Extensions of strip zoning will be permitted only when a reasonable use of the property as zoned is prohibited, adequate buffering is in existence or will be provided, and traffic flow and capacity are not adversely affected.”

A PDD addresses some of the concerns addressed in the ordinance regarding strip zoning. However, the lot depth is very shallow which has already caused difficulty in developing a PDD ordinance to address buffering and other development issues. Although a PDD is a better option than standard zoning classifications for this use on this parcel, it still perpetuates undesirable strip zoning along S.14th St.

Staff has worked with the applicant to develop a PDD ordinance. Staff has prepared an ordinance that attempts to meet many of the applicant’s needs while providing a measure of protection to the neighborhood. There are a few areas where staff and the applicant are not in agreement regarding this proposed ordinance:

- Outdoor Display of merchandise
- Building façade materials

Staff has provided a draft ordinance that does not allow outdoor display of merchandise and that prohibits certain building materials for the façade of the building.

- Comprehensive Planning Analysis

The Comprehensive Plan speaks to the issue of infill. However, it states that infill should be done in a manner where “...projects are compatible with and enhance surrounding neighborhoods...” The proposed use certainly is not a neighborhood-oriented use in function. The applicant wants to have outdoor storage and display in the PDD, which is clearly a heavier commercial/industrial activity.

The Comp Plan also recommends, “*Encourage the development of commercial areas in non-linear configurations along roadways.*” This speaks to the issue of strip zoning.

Planning Staff Recommendation: Staff recommends denial.

Mr. Armstrong stated that just moments prior to this meeting being called to order, staff was informed by a design professional working with the applicant that the proponent wishes to withdraw this item. Staff has not received this request in writing and due to the current process stage, it is the opinion of Planning staff and the Legal staff that there is public interest attached to this item and warrants a public hearing. Mr. Armstrong stated that, as an option, staff suggests allowing the public to speak regarding this item and that the Commission consider tabling this item. If the applicant wishes to withdraw the request, a written request stating so will be submitted to Planning staff and this Commission will not hear the item. If the applicant wishes to proceed with this request, then it will be placed on the agenda for next month’s meeting.

Mr. Harkins stated that when this item was tabled at last month’s meeting, PDD zoning was discussed. Staff is recommending denial of the PDD request before the Commission today. Mr. Harkins asked why staff would work with the proponent, spend the time to develop a PDD and then recommend denial?

Mr. Armstrong stated that it is difficult for staff to develop PDD zoning when staff believes that commercial zoning is not appropriate at this location even in the context of a PDD. Staff did work in very good faith with Mr. Menke to develop a PDD ordinance that was the best with which staff could be comfortable and that met many of Mr. Menke’s desires for development. Although the two parties (City Staff and Mr. Menke) came together on many items, there are some items on which they were not in agreement.

Mr. Harkins asked if the PDD was more restrictive than Mr. Menke agreed to in some areas, e.g., outdoor display, limiting metal exterior of building, etc.

Mr. Armstrong stated that this is correct – regarding the areas listed above. Mr. Armstrong stated that as drafts of the ordinance were developed, Mr. Menke was provided with this information. Mr. Armstrong stated that this is not the first time staff has presented a PDD to the Planning and Zoning Commission where the staff recommendation is denial.

Mr. Santee recommended that the item be removed from the table prior to further discussion

Mr. Boykin recommended that Z-2005-28 be removed from the table. Ms. Campos seconded the motion and the motion carried unanimously (voice vote).

Mr. Harkins opened the public hearing. No one came forward to speak either in favor or in opposition of this request and Mr. Harkins closed the public hearing.

Mr. Boykin moved to table Z-2005-28. Mr. Miller seconded the motion and the motion carried by a vote of five (5) in favor (Banks, Boykin, Campos, Harkins, and Miller); one (1) abstention (McClarty) and none (0) opposed.

b. Z-2005-29

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the Development Corporation of Abilene, agent Richard Burdine, to rezone property located at the

northeast corner of Highway 36 and FM 18 from AO (Agricultural Open-space) and PDD (Planned Development District) to PDD (Planned Development District). The legal description being 265.88 acres out of Survey 46, Blind Asylum Lands, Abilene, Taylor County, Texas.

Ms. Gloria Brownell provided the staff report for this request. Ms. Brownell stated that the request is to rezone approximately 265 acres from AO and PDD-2 to PDD for industrial and commercial development. Surrounding uses include industrial/commercial type uses and vacant land. This intersection is designated as a special activity center in the Comprehensive Plan.

This parcel is subject to an avigation easement and the development lies within the noise contours of Abilene Regional Airport and the Comprehensive Plan designates the area for business or industrial use for the Future Land Use Plan due to the noise contours. Key provisions in the PDD include:

1. Outdoor storage must be screened from the public right-of-way
2. Maximum of one 10' monument sign per business per street frontage
3. Landscaping shall be provided:
 - Along property lines adjacent to public right-of-way
 - Along the boundary of the PDD adjacent to FM 18, Hwy 36, and Loop 322 (clusters of trees or taller vegetation, existing vegetation may be utilized)
4. Setbacks (applies to structures and outdoor storage):
 - Property lines adjacent to PDD boundary: 40'
 - Property lines adjacent to interior streets: 25'

All property owners within a 200-foot radius were notified. No comment forms were received either in favor or in opposition of the request. Staff recommendation is approval of this request.

Mr. Harkins stated that it appears that the Planning and Zoning Commission is being asked to approve a PDD today without knowing the preliminary development plan.

Mr. James stated that a preliminary development plan is not required to be submitted prior to approval of the PDD. Mr. James stated that this preliminary development plan is provided for the Commission's information and is not an approved preliminary development plan.

Mr. Harkins opened the public hearing.

Mr. Richard Burdine, Assistant City Manager for the City of Abilene and CEO of the Development Corporation of Abilene, stated that staff has answered most of the questions regarding the property. Mr. Burdine stated that although "animal lot" is included in the permitted uses, there is no interest in having a feedlot at this location. The interest is in continuing to graze cattle (currently this property is under lease for this use) until the property is developed. Mr. Burdine stated that the other restrictions or requirements listed in the PDD have been reviewed with Planning staff. Mr. Burdine stated that many of the existing trees will be utilized for landscaping, particularly around the boundary of the property for screening purposes. The property currently has an "avigation easement" which limits the height of buildings in the area.

Mr. Harkins stated that only monument signs are indicated on the preliminary development plan and asked Mr. Burdine if something other than a monument sign might be required due to the property's proximity to Loop 322 and Highway 36.

Mr. Burdine stated that if some other type of sign is requested in future, a PDD amendment will be requested; however this is not anticipated.

Mr. Boykin expressed concern regarding the inclusion of “animal lot” in this ordinance.

Mr. Armstrong provided definitions from the Zoning Ordinance for “animal lot” and “feed lot.” These are two separate uses.

Mr. Harkins closed the public hearing.

Mr. Boykin moved to approve Z-2005-29. Mr. Miller seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty, and Miller) to none (0) opposed.

c. Z-2005-30

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Mason Trendsetters, agent David Todd, to rezone property located in the 3100 block of Beltway South (FM 707) from AO (Agricultural Open-space) to RS-6 (Residential Single-family). The legal description being 32.841 acres out of the W. J. Reddell Pre-emption Survey, Abilene, Taylor County, Texas.

Ms. Gloria Brown provided the staff report for this case. This request is to rezone approximately 33 acres from AO to RS-6 for single-family residential development. Staff recommendation is approval of this request. The development will include approximately 75 lots. These lots will be served by a subcollector that will connect Beltway South (a future expressway) with the extension of Waldrop Drive (a future collector street). The Comprehensive Plan calls for residential development in this area. Comment forms were mailed and only one form was returned (in favor of the request).

Mr. Harkins opened the public hearing.

Mr. David Todd, agent for this request, stated that he would be happy to answer any questions the Commissioners may have regarding this request.

Mr. Harkins closed the public hearing.

Mr. McClarty moved to approve Z-2005-30. Ms. Banks seconded the request and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty, and Miller) to none (0) opposed.

d. Z-2005-31

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Musgrave and Musgrave, LLP, agent Tal Fillingim, Jacob & Martin, Ltd. to rezone property located at the north end of Valley Forge Road and Liberty Boulevard from AO (Agricultural Open-space) to RS-6 (Residential Single-family). The legal description being 9.705 acres out of Sections 21 and 25, Blind Asylum Lands, Abilene, Taylor County, Texas.

Ms. Gloria Brownell provided the staff report for this case. This request is to rezone approximately 9.705 acres from AO to RS-6 for single-family residential development. Staff recommends approval of this request. Primary use for the area is residential development. Rezoning notifications were sent to

adjoining property owners. Five (5) comments were returned: two (2) in favor of the request and three (3) opposed to the request.

Mr. Harkins opened the public hearing.

Mr. Kenneth Musgrave stated that he is the developer of this property and stated that he would answer any questions posed by the Commissioners.

Mr. Harkins closed the public hearing.

Mr. Miller moved to approve Z-2005-31. Ms. Campos seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty and Miller) to none (0) opposed.

Item Seven: Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on proposed amendments to Chapter 23, Subpart C “Signs and Billboards” of the Code of the City of Abilene regarding signage located in the public right-of-way.

Mr. Jeff Armstrong stated First Financial Bank is proposing to place a sign on their skywalk that extends over N. 4th St. from their office building to their parking garage. The Sign Regulations do not permit such a sign. Therefore, the Bank has requested an amendment to the Sign Regulations that would allow signage to be placed on skywalks over the public right-of-way (ROW) upon approval of a street-use license by the City Council, with a recommendation by the Planning and Zoning Commission. A request for a variance for the proposed sign was submitted. However, the Board of Adjustment does not have the authority to approve such a variance. If the amendment is approved as proposed, the Bank would still need to request the street-use license for their specific sign.

The Sign Regulations currently only allow signage in the public right-of-way under two circumstances:

1. Wall signs in the CB (Central Business District) may project into the ROW as long as they remain at least two feet from the street curb and are at least eight feet above the sidewalk.
2. Signs attached to public service facilities such as bus stop benches are permitted via a street-use license.

If this amendment is approved, it would provide any business having a skywalk in the CB district that has been approved over the ROW to request a sign be placed on the skywalk. Proposed stipulations are that the business to be displayed on the sign must be the holder of the street-use license for that skywalk and the business must be located in at least one of the buildings to which the skywalk is attached. Currently, First Financial Bank has the only skywalk located over a street. However, there are a small number of skywalks over public alleys, which are also considered public rights-of-way.

Both Planning and Public Works staff are concerned about placing business signage in public rights-of-way that are generally reserved for traffic control and safety signage. An additional concern is the potential precedent of allowing signage in the right-of-way that might go beyond

the CB district and/or include other kinds of signs and sign structures.

In response to a request by a neighborhood organization, staff is also proposing that signs be allowed in the ROW, via the same process, to identify recognized districts of the city. The intent is to have signage at entryways to neighborhoods, historic districts and other similar established areas.

Staff recommends denial of the proposed amendment. Mr. Armstrong stated that staff will be modifying this recommendation – neighborhood identification signs could be allowed as long as line of sight and safety are not affected. Staff does have concerns regarding signage in the Central Business District. Mr. Armstrong stated that the City currently has a committee in place - Wayfinding Signage Committee – that is looking at a program of signage for the City that would assist visitors find districts or attractions. This might also be the type of signage that a district or a neighborhood would desire. This type of signage would provide consistency in appearance and design.

Mr. Boykin asked for clarification; i.e., staff is recommending denial of the skywalk sign and approval of district designation signage.

Mr. Armstrong stated that this is correct.

Mr. Santee stated that bus stop signs are mentioned in the memorandum sent to the Planning and Zoning Commissioners. Mr. Santee stated that bus park bench advertising is done by a blanket contract and asked Mr. Armstrong if it was his intention for the Planning and Zoning Commission to review this contract? Mr. Santee stated that what is being proposed at this meeting changes the procedure currently in place for these benches. Mr. Santee recommended that only Items B and C addressed in the proposed ordinance amendment be considered at this meeting.

Mr. Harkins recommended leaving exception number 1 (a) as written and remove the reference to benches in exception number 2 that would address only signage on skywalks and district identification. Members of the Planning and Zoning Commission were in agreement with Mr. Harkins regarding this recommendation.

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

Mr. Santee mentioned that street use licenses go directly to the City Council for consideration. The Traffic Engineer, James Condry, reviews street use licenses intensively. If Mr. Condry feels the granting of a street use license will cause a danger or distraction, he has the authority to disapprove or “veto” the street use license. Mr. Santee stated the language in this amendment eliminates the possibility of group signage (only the person who holds the license may advertise on the skywalk).

Mr. Harkins recommended considering and voting on these items individually. Commission members were in agreement.

Ms. Campos moved that street use licenses not be considered by the Planning and Zoning Commission. Mr. McClarty seconded the motion and the motion carried by a vote of six

(6) in favor (Banks, Boykin, Campos, Harkins, McClarty and Miller) to none (0) opposed.

Mr. McClarty moved that signage not be allowed on skywalks. Mr. Miller seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty and Miller) to none (0) opposed.

Mr. Boykin moved to approve district identification signs. Mr. McClarty seconded the motion and the motion carried by a vote of six (6) in favor (Banks, Boykin, Campos, Harkins, McClarty and Miller) to none (0) opposed.

Item Eight: Director's Report

Mr. James provided the Commissioners with a summary of Council actions on items submitted from the Planning and Zoning Commission.

Mr. James asked the Commissioners to discuss dates for a joint City Council/Planning and Zoning Commission Workshop. Staff will contact the Commissioners regarding the date and time for this meeting.

There being no further business, the meeting was adjourned at 3:55 p.m.

Approved: _____, Chairman