
PLANNING & ZONING COMMISSION

June 5, 2006

Minutes

Members Present: Eddie Boykin
Ovelia Campos
Jack Harkins
Lydia M. Long
Jeff Luther
Tim McClarty

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

Others Present: Clarence Garrison
June Garrison
Gary Paulsen
Charles Smith
Isabel Smith
Booker T. Roy
Bob Hammond
Eddie Chase

Media Present: Sarah Kleiner, Abilene Reporter-News

Item One: Call to Order

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

Item Two: Invocation

Dr. Lydia Long gave the invocation.

Item Three: Approval of Minutes:

**Mr. Luther moved that the minutes of the May 1, 2006, meeting be approved as submitted.
Dr. Long seconded the motion and the motion carried unanimously.**

Ms. Campos read the opening statement for the Planning and Zoning Commission.

Item Four: Plats

Gloria Brownell provided information for completed plats (Agenda Items a., b., c., d., e., f., g., h., and i.). Ms. Brownell stated that staff is recommending approval of these plats as all meet Subdivision Regulation requirements.

Ms. Campos opened the public hearing and asked if anyone wished to speak regarding any of the plats being presented for approval. No one came forward and the public hearing was closed.

Mr. McClarty moved to approve Items a., b., c., d., e., f., g., h., and i. Mr. Harkins seconded the motion and the motion carried by a vote of six (6) in favor (Boykin, Campos, Harkins, Long, Luther, and McClarty) and none (0) opposed.

Item Five: Rezoning Requests:

a. Z-2006-20

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Charles Smith, agent Victoria Smith-Hernandez, to rezone property from RM-3 (Multi-family Residential) to GC (General Commercial) zoning district, located at 3250 South 15th Street. Legal description being part of Block 14, Section 1, Wychwood Addition, Abilene, Taylor County, Texas.

Mr. Justin Fortney provided the staff report for this item. This request is to rezone property from RM-3 to GC. Commercial and residential buildings surround the subject parcel. The City has no records of there ever being anything built on this lot. This area is completely within the floodway.

This area was annexed in 1955 and zoned Major Commercial until the mid 1970's when the Major Commercial description changed to Shopping Center. On April 27, 1978, this parcel's zoning was changed to RM-3.

The applicant is proposing to build a strip center with a few leased spaces on this parcel. They have stated that one of the uses may be a photography studio.

The subdivision regulations do not allow buildings in the floodway without a floodway development permit. Obtaining a floodway development permit requires an extensive floodway study by a professional engineer. Such a study is very expensive, time consuming, and may show that developing a particular site could exacerbate area flooding. Even though the applicant will probably not be able to develop this site soon he would like to proceed with the rezoning. FEMA is in the process of studying the City's flood zones to more accurately define the flood prone areas. This process could take a couple of years, but possibly remove the floodway status of this property.

Staff feels that rezoning this property to GC is inappropriate because of the residential properties in the area. The proposed uses listed by the applicant would all be allowed in the LC zoning district. Staff feels that RM is the most appropriate zoning for this parcel but is open to the possibility of LC if the applicant can make a case to justify it.

Comprehensive Planning Analysis

This property is near an area designated as a Local Community Activity Center in the Comprehensive Plan. The purpose of this activity center is to provide a mix of shopping, employment, entertainment, and civic uses for a number of surrounding neighborhoods. Generally these types of commercial uses in these activity centers are meant to take place at intersections of arterial streets. This parcel fronts on a local street and is 150' from a collector street.

Planning Staff recommends denial of GC zoning and is not yet convinced that LC zoning is appropriate.

Property owners within 200 feet of the rezoning request were notified. One response was received in opposition of the request and one response was received in favor of the request (this response was received the day after the Planning and Zoning Commission meeting).

Mr. Harkins requested that the map indicating the flood plain and floodway be clarified. The area of the rezoning request is in the **floodway** not in the **flood plain**. The map indicating this area should be corrected prior to being submitted to the City Council for consideration.

Ms. Campos asked if staff had spoken with the proponent regarding LC zoning. Mr. Fortney responded that staff had spoken with the proponent and the proponent agrees with the changing of the zoning from GC to LC.

Ms. Campos opened the public hearing and asked if anyone wished to speak regarding this rezoning request.

Mr. Charles Smith, owner of the property for which rezoning is requested, stated that everything surrounding his property is commercial. Mr. Smith provided a sketch of the proposed use of this property – uses could include uses such as a photography studio. Flood plain issues must be addressed prior to any construction.

Mr. Luther asked Mr. Smith if he is agreeable to LC zoning. Mr. Smith stated that the rezoning request should have always been for LC zoning.

Mr. Boykin asked staff their primary objection to LC zoning and requested specific uses in an LC district to which staff would be opposed. Mr. Fortney responded that LC zoning is a good zoning abutting a neighborhood.

Mr. Tom Niblo stated that he is familiar with the land to the east of this request. The area immediately behind Southwest Park is zoned SC and the south side of South 15th Street (where the duplexes are located) is zoned O. This area is currently commercially zoned property and the three residential structures located on Ballanger are isolated and destined for change.

Ms. Campos closed the public hearing and opened discussion for Planning and Zoning Commissioners.

Mr. Luther moved to approve LC zoning for case Z-2006-20. Mr. McClarty second the motion, as amended, and the motion carried by a vote of five (5) in favor (Boykin, Campos, Harkins, Luther, and McClarty) to one (1) opposed (Long).

b. Z-2006-21

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Stephens Properties, Inc., agent Alpesh Patel, to rezone 3.97 acres from SC/COR (Shopping Center with Corridor Overlay) to GC/COR (General Commercial with Corridor Overlay) zoning district, located on the east side of Ridgemont Drive approximately 140 feet north of Rebecca Lane. Legal description being part of Lot 102, Block A, Section 2, Ridgemont Addition, Abilene, Taylor County, Texas.

Justin Fortney provided the staff report for this item. The request is to rezone 3.97 acres from SC to GC/ COR. This is the last available vacant lot in this commercial area. It is a highly developable lot due to its flat topography and distance from flood zones.

This area was annexed in 1963 and was zoned a combination of HC, RM-1, and AO until the late 1970's when almost the whole area was rezoned to SC, which does not allow hotels. The adjacent properties to the east had the Corridor Overlay applied to them in 1995 to maintain the aesthetics of the area.

Current Planning Analysis

The applicant is proposing to develop the northern 3/4 of the parcel with a hotel. The use of the southern portion is not known at this time. There is multi-family housing on the west side of Ridgemon Drive. The rest of the surrounding parcels are developed with a variety of commercial uses.

Comprehensive Planning Analysis

This property is in the general area designated as a major commercial/ business activity center in the Comprehensive Plan. The purpose of this activity center is to provide the highest level of commercial, service, and employment concentration outside of the downtown. In January of this year the Planning and Zoning Commission heard and recommended approval to the City Council to apply the 1,200 foot wide Corridor Overlay to Rebecca Lane through Arnold Boulevard. This case has been tabled by the City Council because they felt that some areas of the proposed Overlay are so different from Buffalo Gap Road that the current version of the Corridor Overlay needs to be modified. Staff feels that a hotel is a suitable use, but GC allows many uses that would be inappropriate in this area without the appropriate restrictions. Staff discussed developing a PDD or expanding the Buffalo Gap Corridor over the property like the Mall of Abilene had done. Since there is a possibility of having an overlay on the property before the hotel is built anyway, the agent, Alpesh Patel is very receptive to this compromise. Since the subject property is not adjacent to any residential zoning, none of the screening or buffering requirements of the Overlay will be applicable. The agent has stated that they will be building a Hilton Garden Inn, which requires substantial landscaping by the franchisor.

Planning staff recommends approval of GC/Corridor Overlay. Property owners within 200 feet of the request were notified. One (1) response was received in favor of the request and none (0) in opposition of the request.

Ms. Campos opened the public hearing and asked if anyone wished to speak regarding this rezoning request.

Mr. Tom Niblo stated that there is GC zoning to the north and west of this location. Mr. Niblo stated that this will be the nicest hotel in town and certainly the owners will want it to be attractive. Mr. Niblo stated that he did not think the corridor Overlay is required – only the GC zoning.

Mr. Harkins asked Mr. Niblo if he objected to the Corridor Overlay. Mr. Niblo responded that the corridor overlay requirement could carry some site plan issues that could burden this project.

Ms. Campos asked for clarification regarding the size of the rezoning request. Mr. Niblo stated that the rezoning is for approximately four (4) acres and only two (2) acres will be utilized for this project.

Mr. Harkins asked for clarification regarding an email between staff and the proponent regarding landscaping requirements and driveway separation requirements included under the corridor overlay. The proponent (Patel) states in his email that “those regulations will be fine” as though he was agreeing to the corridor overlay. Mr. Harkins stated that he is somewhat unclear as Mr. Niblo stated that it would be preferred not to have the corridor overlay; however, the email contradicts this. Mr. Niblo stated that elimination of the corridor overlay is his opinion – he stated that it is sometimes easy to “over-regulate” issues.

Ms. Campos closed the public hearing.

Mr. Boykin moved to approve Z-2006-21 – GC with Corridor Overlay. Mr. McClarty seconded the motion and the motion carried by a vote of six (6) in favor (Boykin, Campos, Harkins, Long, Luther, and McClarty) to none (0) opposed.

c. Z-2006-22

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Victor Jurado, agent Gary Pierce, to rezone property from RM-2 (Multi-family Residential) to MH (Mobile Home) zoning district, located at 733 and 741 Redbird Lane. Legal description being Lots 21 & 22, Block B, Westdale Village Addition, Abilene, Taylor County, Texas.

Gloria Brownell provided the staff report for this item. The request is to rezone property from RM-2 to MH. The subject parcels were platted in 1977 and have remained vacant since that time. There is a very large Mobile Home Zoning District to the south and developed single-family homes to the west across Redbird Lane.

The subject property was annexed in two phases in 1957 and 1959. The parcels were rezoned to RS-6 sometime prior to 1977 when they were rezoned again to RM-3 (up to 8 multi-family units per acre). In 1982 another rezoning request increased the density to RM-2 (up to 24 multi-family units per acre).

Current Planning Analysis

The subject parcels are located directly across Redbird Lane from a small neighborhood of duplexes and site built homes. The property is currently zoned for development of multi-family housing at a density of 24 units per acre. A substantial area south of the request is already zoned for Mobile Home use, and there are numerous vacant parcels that could be developed with the applicant’s desired use.

Comprehensive Planning Analysis

The Comprehensive Plan does not specifically address this area in future land use recommendations. The Zoning Ordinance states that Mobile Home Districts should be “designed to permit and encourage the development of properly planned and improved mobile home parks and subdivisions at appropriate locations within a residential environment.” The attached zoning map shows a clear boundary of the current Mobile Home District extending from Pueblo Drive. While the request may not be a detriment to the surrounding land uses given its proximity to existing Mobile Home zoning, it does not appear to be in line with the intent to develop a cohesive Mobile Home district.

Planning staff recommends denial of this request that would extend the mobile home district, particularly since many of the parcels within the existing area of Mobile Home zoning are vacant.

Property owners within a 200-foot radius were notified of the request. Three (3) responses were received in opposition of the request and none (0) were received in favor of the request.

Ms. Campos opened the public hearing.

Mr. Gary Pierce, proponent, stated that he is requesting approval of his rezoning requests for several reasons: (1) a diagram and photographs of the area illustrating this lot in perspective to the mobile home zoning boundaries as well as the location of three (3) mobile homes on the west side of Redbird Lane; (2) the east side of Redbird Lane consists of vacant property; (3) the lots being discussed about these vacant lots. Mr. Pierce stated that, if rezoned, he proposes to move in his 2000 model Palm Harbor Mobile Home on the lots, construct a garage (approximately \$20,000), fence, install a lawn, and complete all required improvements. Mr. Pierce stated that he has secured a contract to purchase these lots contingent upon the approval of this zoning request.

Ms. Campos closed the public hearing.

Mr. Boykin and Dr. Long both expressed the opinion that this seems to be a case of “spot zoning.” Dan Santee, First Assistant City Attorney, advised the Commissioners to avoid using the term “spot zoning” as this is a legal term and such zoning is illegal. Mr. Santee stated that he would advise the Commission if a request could be considered “spot zoning.”

Mr. James stated that if MH rezoning had been requested for the entire area currently zoned RM-2, staff might have had a different recommendation. The fact that rezoning is only being requested for two (2) lots, the MH zoning encroaches into a fairly large area not zoned for mobile homes.

Tim Rice McClarty moved to approve Z-2006-22. Ms. Campos seconded the motion and the motion carried by a vote of four (4) in favor (Boykin, Campos, Luther, and McClarty) to two (2) opposed (Harkins and Long).

d. Z-2006-26

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Can-Doo Budget Rentals, Inc., agent Louis J. Paulsen, to rezone property from O (Office) and HC (Heavy Commercial) to HC (Heavy Commercial) zoning district, located at 301 Goliad Drive. Legal description being Lot 201 and the North 39 feet of Lot 102, Block C, Section 3, Judge Ely North Addition, Abilene, Taylor County, Texas.

Gloria Brownell provided the staff report for this item. The request is to rezone property from HC and O to HC. The site was originally developed for use as an office for an oil and gas production firm. Can-Doo Budget Rentals, Inc., began occupying the existing office building and storing a variety of materials outdoors on the site sometime during the following decade. The subject parcel is located across an alley from the Pasadena Heights residential subdivision, which was established in 1957.

The subject property was annexed in 1957 and rezoned from RM2 to Office in 1984. The original request submitted by the applicant indicated General Commercial, but the Planning and Zoning Commission felt that Office would be a more appropriate buffer for the existing residential neighborhood given its prohibition of outdoor storage. The minutes for both the rezoning request and the following site plan review show that the applicant was made aware that outdoor storage would not be permitted.

Current Planning Analysis

The outdoor storage violation came to the attention of Planning and Development Services after a complaint was registered from one of the residents of the adjacent residential subdivision. Although the property had a screening fence along the rear property line at one time, the current Office zoning does not permit any outdoor storage regardless of the screening provided by the property owner. The fence has fallen into disrepair in many places and the nearby residents can now see the merchandise and materials being stored on the site. Upon further investigation, staff discovered that no Certificate of Occupancy had ever been issued for the business even though it has occupied the site for over a decade. The outdoor storage violation must be corrected through removal or rezoning prior to issuance of the Certificate of Occupancy.

The property owner has been cooperative after being notified of the violation. He stated that when he purchased the property the previous owner already had a multitude of materials stored outdoors on the site. Because of this and the other uses to the west of his parcel, he assumed that his own storage of materials was in compliance. He wishes to continue storing materials outside on his property, but is willing to screen the site to be more compatible with the neighboring residential area. Staff feels that Heavy Commercial zoning would be incompatible given its proximity to an established single-family neighborhood. For this reason, staff recommends a PDD ordinance that addresses the appearance issues, as well as allowing most of the current uses to continue on the subject parcel.

Comprehensive Planning Analysis

The Comprehensive Plan does not specifically address the area around the subject parcel. However, the parcel is located only 600 feet from S. 1st Street, which is a designated Enhancement Corridor. The general recommendations for Enhancement Corridors include aesthetic improvements such as landscaping, alternative site design guidelines, and pedestrian accommodations.

Planning staff recommends approval of the attached PDD ordinance. Some of the provisions of the PDD include: (1) Seven (7) foot opaque fence within 100 feet of residential zoning (across the entire rear property line as well as at least 100 feet down the side property line); (2) outdoor storage may not exceed 7 feet in height in the area closest to the fence and 10 feet closer to the structure; (3) no outdoor storage in the front; (4) shielded lighting requirement; and (5) limit uses to LC and O uses to preserve buffer between residential and heavy commercial.

Property owners within a 200-foot radius of the rezoning request were notified. One (1) comment form was received in opposition of the request and no comment forms were received in favor of the request.

Ms. Campos opened the public hearing and asked if anyone wished to speak regarding this rezoning request.

Mr. Lou Paulsen, owner of the property, stated that he purchased the property in 1991. Mr. Paulsen stated he received a Certificate of Occupancy from the city in order to have the gas, water and electric utilities turned on for this property. He has been operating his business continually from the location for the past 15 years. Mr. Paulsen acknowledged that the back fence is in need of repair and the outdoor storage should be shielded.

Ms. Campos asked Mr. Paulson if he is agreeing to the PDD zoning rather than his original request of heavy commercial. Mr. Paulsen stated that he does not agree with the proposed PDD zoning at all – he wants heavy commercial.

Mr. McClarty stated that the PDD zoning is providing Mr. Paulsen with the option of remaining at his current location – heavy commercial zoning will probably never be approved.

Dr. Long stated that even with HC zoning, a 7-foot fence would be required. Mr. Paulsen stated that that is fine – he will agree to a 7-foot fence. Dr. Long stated that she did not like the idea of a PDD because it is allowing HC zoning to continue under another name.

Mr. Harkins stated that the big difference between PDD and HC zoning is the permitted uses. The PDD limits permitted uses to LC, O and the inclusion of the “Tool and Equipment Rental” permitted use, under which he is operating now.

Mr. B.C. McCreary stated that he has additional comment forms from the neighborhood and all are opposed to the rezoning. Mr. McCreary stated that there is a great deal of noise from the businesses in the area – not Mr. Paulsen’s, but other businesses in the area. Mr. McCreary stated that none of this would have occurred if Mr. Paulsen had maintained his fence. Mr. McCreary stated that he would appreciate the Commission’s consideration of leaving the property as it is currently.

Mr. McClarty stated that the Commission is not comfortable with HC zoning. Therefore, in order to allow Mr. Paulsen’s business to remain at this location, the rezoning request has been changed to a PDD where only an office plus Mr. Paulsen’s business would be allowed. However, in order to remain in the area as a PDD, a fence must be constructed.

Mr. McCreary asked what would happen when Mr. Paulsen retires and someone else purchases the property.

Mr. McClarty stated that the PDD would remain in affect - heavy commercial zoning would not be allowed. Only the permitted uses outlined in the PDD (LC or O) would be allowed. A list of LC uses was provided.

Mr. Luther stated that LC zoning is meant to act as a buffer between residential and commercial uses – neighborhood friendly uses.

Mr. McClarty asked if the PDD could be worded to limit the use as it is at present, i.e., Tool and Equipment Rental Use only plus add the language for the fence.

Mr. James stated that he would feel more comfortable with allowing office and tool and equipment rental and remove the limited commercial zoning.

Mr. Luther asked if the PDD could be worded to allow office and only the type of activity (business) currently being conducted – not the tool and equipment rental.

Mr. James stated that a PDD could be crafted to cover this - staff would need to discuss the issue to determine the exact language. Mr. James stated that if a Commissioner worded their motion that way, staff would work out the actual ordinance language.

Mr. McCreary also expressed concern regarding the maintenance of the wooden fence.

Mr. Luther stated that the City's Code Enforcement Division is attempting to enforce all the zoning/code regulations.

Ms. Campos closed the public hearing.

Mr. McClarty moved to approve Z-2006-26 (PDD) with the following amendments:

- 1. Paragraph A., 1., Permitted Uses, be changed to Office and the wording crafted by City staff to allow the current use only;**
- 2. In the 40-foot buffer zone (Item B, 7., A.) allowing 7 foot high storage be increased to 7 feet 6 inches;**

Prior to the vote, Mr. Luther stated that Mr. Paulsen is operating currently and asked about the timeframe for Mr. Paulsen to complete the requirement stated above. Mr. James stated that the PDD allows 12 months for completion. Mr. Luther asked if this timeframe could be changed. Mr. James responded affirmatively.

- 3. The proponent will be given 90 days in which to construct a fence.**

Mr. Harkins seconded the motion and the motion carried by a vote of six (6) in favor (Boykin, Campos, Harkins, Long, Luther, and McClarty) to none (0) opposed.

Item Six: Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on amendments to Section 23-306.4 and 23.306.5 of the Zoning Ordinance regarding tattoo parlors as a permitted use.

Gloria Brownell provided the staff report for this item. A property owner has opened a tattoo parlor in an existing structure in an LC (Limited Commercial) zoning district. When it came to the attention of the City, the applicant was informed that the use is not allowed in the LC district. The applicant subsequently requested an amendment to the Zoning Ordinance to allow tattoo parlors in the LC district.

The permitted use chart in the Zoning Ordinance does not list "Tattoo Parlors" or any similar use. More than 12 years ago, the Planning Staff at that time made an interpretation of the ordinance that said tattoo parlors would be permitted in SC, GC, HC, LI and HI zoning districts. This is the interpretation that has been used consistently since that time.

Staff is proposing that the Ordinance be amended to specifically address tattoo parlors and proposes allowing them as permitted uses in LC, SC, GC, HC, LI and HI zoning. These are also the districts that allow beauty services, which from a land use perspective have similar characteristics to tattoo parlors. Staff believes there should be consistency in where these uses are allowed.

Although tattooing can bring up many stereo-types, the fact is that tattoos are much more common than they used to be and the parlors that provide these services are under the regulation of the Department of State Health Services. From a land use perspective, staff believes that this use is appropriate in all of the zoning districts specified in the proposed ordinance. This issue will be considered again in the development of the Land Development Code over the next several months.

Planning staff recommends approval of the proposed ordinance amendment.

Dr. Long asked if staff researched the manner in which other cities address this issue. Dr. Long stated that she took difference with the fact that this service is compared to beauty parlors – one is not required to present a driver’s license and be 18 years of age to obtain a haircut.

Ms. Brownell stated that this issue was considered by staff purely from a land use perspective. All services are provided within a structure within normal operating hours. The age differential was not taken into account.

Dr. Long stated that she reviewed the State requirements for this type of business.

Mr. Boykin asked if there were any restrictions on signage; in particular, building (wall) signs.

Ms. Brownell stated that signage would follow the same guidelines as any other type of LC use.

Mr. Luther asked if “Tattoo Parlors” would be included to the permitted use chart.

Mr. James stated that that is what this Ordinance Amendment would accomplish. Mr. James stated that if the Commission feels strongly that this is not appropriate, then staff would recommend that the Commission adopt this ordinance amendment by adding “Tattoo Parlors” to the list of permitted uses and recommend to staff in which zoning districts the Commission felt such a use appropriate.

Dr. Long stated that when she reviewed “Conditional Uses” she noticed restrictions for certain businesses/services. Couldn’t the Planning and Zoning Commission place certain restrictions on this type of service? Ms. Brownell stated that this is correct. Dr. Long stated that there are certain areas in which these businesses should not be allowed, i.e., in close proximity to a daycare center, elementary schools, etc.

Mr. James stated that the Planning and Zoning Commission could add conditions for this specific use if Tattoo Parlors are added to the Permitted Use Chart – specific conditions may be added to the Land Use section.

Mr. Harkins asked if this would be a Special Exception through the Board of Adjustment or a conditional use?

Mr. James stated that for the new ordinance, staff would recommend this be a conditional use so that each individual case comes before this Commission and the Commission can place individualized conditions based on the location. If this change is made now, the ordinance amendment would require the specific list of conditions in the ordinance – adding or subtracting conditions would not be discretionary.

Mr. Harkins stated that he agrees that LC is not a zone in which he would be in favor of allowing tattoo parlors. Another option would be to add to the list of permitted uses but keep such businesses within the zoning districts allowed in the past (SC, GC, HC, LI, and HI) and then allow the Land Development Code to refine.

Dr. Long stated that she would request that permitting this type of business in the zoning categories listed above should be conditional.

Mr. James stated that there is not a mechanism in place currently to do this conditional use. If the Planning and Zoning Commission wanted to make this a conditional use, under the current ordinance, we would have to add the specific conditions into the ordinance now.

Dr. Long asked if this item could be tabled to allow Commissioners time for further consideration of this item.

Mr. James stated that if this item is tabled or the Commission takes no action today, staff will continue to work under the previous interpretation.

Ms. Campos opened the public hearing.

Mr. Chris Ramirez stated that as far as beauty parlors that tattoo (permanent make-up) he knows of three businesses in Abilene that provide this service. Mr. Ramirez stated that if they are not checking ID's to ensure that the client is 18 years of age, they should. Mr. Ramirez stated that signage would consist of a 4 x 8 sign on the building. Mr. Ramirez stated that his intent is to improve his neighborhood.

Ms. Campos closed the public hearing.

Mr. McClarty asked if the Commission could table this item and let the Land Development Code Consultant provide recommendations as to how the City should address tattoo parlors in the new Zoning Ordinance. In the meantime, allow his business to stay like it is until that interpretation is made.

Mr. James stated that he did not believe this is an option. If nothing is changed, then staff must follow their previous interpretation – tattoo parlors would not be allowed in an LC zoning district and staff would proceed with enforcement for an illegal use in an LC district or the applicant could apply for rezoning to one of the districts that allow his business.

Mr. Boykin moved to table the table amendments to Section 23-306.4 and 23-306.5 of the Zoning Ordinance regarding tattoo parlors as a permitted use to allow time for further consideration. Dr. Long seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Harkins, Long, Luther, and Campos) to one (1) opposed (McClarty).

At this point, Mr. Harkins and Mr. Boykin left the meeting. Prior to their leaving, Mr. James reminded Commissioners of the Community Appearance issues, Item 8 on the agenda. Mr. James asked the Commissioners to complete the questionnaire and return the survey to him as soon as possible. The results of this questionnaire will be utilized to craft an ordinance that will be presented to the Commission at their next meeting.

Item Seven: Sidewalk Master Plan

Discussion and possible vote to recommend approval or denial to the City Council on the proposed Sidewalk Master Plan.

Mr. James stated that this item was included on the agenda in case the Sidewalk Master Plan had been finalized. This is not the case and staff will present a brief overview of this item. A more intense presentation will be provided at the Commission's next meeting.

A brief synopsis of this presentation includes:

Comprehensive Plan

- Idea of *Complete Streets* (Development of Streets not just for cars but also for Bicycles, Pedestrians, Transit – everyone who uses the street system)
- Creating attractive street corridors that include a community-wide pedestrian network
- Strategies include: Walkability, sidewalks, etc.

Three ways to accomplish these goals: (1) Updating street standards to incorporate all modes of transportation; (2) Invest in transportation improvement; and, (3) Updating development standards.

Of Abilene's 10 peer cities, 9 have a citywide sidewalk requirement. There are 24 cities in the state with a population over 100,000. All of these 24 cities, except Abilene, have a citywide sidewalk requirement.

Next month the Commission will be reviewing an updated Sidewalk Master Plan consisting of two (2) components: Sidewalk Ordinance and Sidewalk Design Standards.

A preliminary draft of the Sidewalk Ordinance is circulating among Planning, Public Works, and Legal staff members. Staff is planning to hold meeting with interest groups, e.g., developers, homebuilders, neighborhood groups, etc., to provide feedback regarding this issue prior to the Planning and Zoning Commission's July meeting.

A general overview of the recommendations:

- Sidewalks for new streets would be required for all new streets except in rural subdivisions
- Sidewalks would be required for redevelopment along all arterials, collectors, frontage roads and local streets with some exceptions (areas zoned industrial and agricultural would also be excepted)
- Waivers would be allowed (with the approval of the Planning and Public Works Directors)
- Deviation from standards (utility poles/trees)
- When sidewalks would be required – recommending the sidewalks be constructed with the street for arterials and collectors but at the time of building for local streets.
- Time limit for construction of sidewalks (5 year time limit for uncompleted subdivisions)

Some of the design standards include:

- Five (5) foot minimum width

- Free of obstacles and encroachment
- Three (3) feet off the curb for local and collector streets
- Five (5) feet off the curb for arterial streets
- Other standards consistent with accepted design standards

Mr. James stated that staff is seeking feedback from the Commissioners regarding this issue prior to a formal draft ordinance being submitted to the Commission.

Ms. Campos asked Mr. James to let the Planning and Zoning Commissioners know the dates for meeting with the various groups mentioned earlier. Mr. James stated the Commissioners will be informed of these dates.

Item Eight: Community Appearance Regulations

Presentation, discussion, and direction to staff on proposed Community Appearance Regulations.

Mr. McClarty requested that review of the Community Appearance Regulations be delayed until next month's meeting to provide the Commissioners an opportunity to review the information.

Mr. James stated that a special workshop meeting could be held to discuss the Sidewalk Master Plan and Community Appearance Regulations. Also, staff is recommending a special meeting in July to discuss these issues separate from the rezoning cases.

Commissioners will be contacted regarding a workshop meeting in June (tentative date June 19)

Item Nine: Director's Report

- a. Recent City Council decisions regarding items recommended by the Planning & Zoning Commission.

Mr. James provided the Commissioners with recent decision of the City Council and the recommendations of the Planning and Zoning Commission.

- b. Discussion of possible Special Meeting in July 2006.

Item Ten: Adjourn

There being no further business, the meeting was adjourned at 4:10 p.m.

Approved: _____, Chairman

PLANNING & ZONING COMMISSION

June 5, 2006

Minutes

Members Present: Eddie Boykin
Ovelia Campos
Jack Harkins
Lydia M. Long
Jeff Luther
Tim McClarty

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

Others Present: Tim Ritter
Chris Stokes
Mark Bunsey
David McMeekan
Bob Hammond

Media Present: Sarah Kleiner, Abilene Reporter-News
Cam Tran, KTXS TV
Scott Mawes, KTXS TV

Item One: Call to Order

Ms. Campos called the meeting to order at 12:03 p.m. and declared a quorum present.

Item Two: Invocation

Ms. Campos gave the invocation.

Item Three: Community Appearance Regulations

Presentation, discussion, and direction to staff on proposed Community Appearance Regulations.

Mr. Jon James, Director of Planning and Development Services, stated that today's meeting would address community appearance issues. Staff will present community appearance issues and request direction from the Planning and Zoning Commission in order for staff to move forward to develop an ordinance related to community appearance (signs, landscaping, urban design, etc.). Focus group meetings were held regarding community appearance and much consensus was obtained from these meetings. However, many questions also came about as a result of these meetings. At the Commission's last meeting each Commissioner was provided a questionnaire regarding this issue. The questionnaire provided to the Commissioners was a shorter list of the questions provided to the focus groups. Where there was consensus among that focus group, those questions were deleted from the Commissioner's questionnaire and this information is being presented today as staff recommendations.

The Comprehensive Plan for the City of Abilene addresses Community Appearance and enhancing the appearance of the community. Results from the survey are as follows:

- 87% - Supported Landscaping Requirement
- 79% - Supported the regulation of signs
- 73% - Supported regulation of buildings or architectural designs

The first issue addresses signs. The City of Abilene currently has a Sign Ordinance in place. A summary of the proposed requirements include:

1. Require sign plan accompanying the site plan (indicating the location on the site of all signs)
2. Attached signs (wall) signs affixed to the building would be limited to between 5-10% of the façade (depending on zoning district)
3. Streamers, pennants, and utilizing parked vehicles as a sign would be prohibited

Mr. Harkins stated that there is a fine line between vehicles used for a business and vehicles utilized for signage. Mr. James stated that this issue can be addressed and staff will research how other cities are handling this situation.

Mr. James stated that another of the recommendations that seemed to be well received was the idea of allowing group signs (such as the sign at the Shops At Abilene). In lieu of placing multiple signs on a property, a shopping center could be allowed a larger sign if they combine all signage into a group sign with additional height and square footage for doing this.

Mr. James began the discussion with question three on the questionnaire:

3. Signs on other streets?

The Planning and Zoning Commission agreed unanimously with staff's recommendation of monument signs only on collector or smaller streets.

2. Signs on arterial streets?

Most of the responses from Commissioners (3) for this question agreed with staff's recommendation of a 20-foot height limit or less on arterials. Mr. James stated that staff would like a consensus recommendation regarding this issue.

1. How tall should interstate pole signs be? (Other freeways will be 5'-10' less)

Responses from the Commissioners for this question covered a wide range (as to sign height). The consensus of the Commissioners was a height limit of 50 foot signs on the interstate highway and a 40-foot height limit on other freeways.

Mr. James stated that the recommendations for questions 1., 2., and 3., listed above, will be placed in the proposed sign ordinance; however, this information will be brought back to this Commission for final review.

4. How should we treat portable signs?

Mr. James stated that in response to this question, all but one Commissioner felt that portable signs should be prohibited altogether. This is also staff's recommendation.

5. Billboards?

Mr. James stated that the two options provided by the focus groups were to prohibit new billboards, or, allowing large billboards on freeways only; small on arterials; with limits. It seems to be the consensus of this group that the second choice, large billboards on freeways only and small billboards on arterials, with limits, was the best option. Mr. James stated that further discussion would be required on this issue to develop a consensus among the Commissioners. Four of the Commissioners stated that they would opt for billboards on freeways only. This would apply to new billboards only.

6. How to treat “nonconforming signs”?

The survey provided four options for “nonconforming signs”:

Ensure proper maintenance

Signs should be removed when a business closes

Sign should come into compliance when business changes or sign is replaced

No new signs should be allowed on a property with nonconforming signs?

A majority of the Commissioners selected all four of the options. There was also a question regarding historic signs. Mr. James stated that language could be included in the ordinance to address this issue.

Landscaping

7. How much landscaping to require? _____

0 = No Regulation

5 = Moderate Regulation (staff recommends 7.5)

10 = Aggressive Regulation

Mr. James added that of all the issues being discussed today, landscaping is possibly the most important issue. Staff is proposing that a landscaping plan be submitted with the site plan; landscaping a minimum percentage of site (varying by zoning district); and, minimum sizes at planting.

There was discussion regarding the detail required on the landscaping plan. Mr. James stated that the intent of submitting a landscaping plan with the site plan is to determine the location and percentage of landscaping on the site.

Ms. Brownell recommended that on the preliminary landscaping plan submitted with the site plan, the minimum number of plantings and the areas for these plantings could be identified (not designate a specific location for each planting). When the proponent applies for the Certificate of Occupancy, the final detailed landscaping plan could be submitted. At this point, the landscaping plan and the final planting and locations would have to match when the zoning official does a site inspection to verify landscaping, sidewalks, etc., in order for a Certificate of Occupancy to be issued. Mr. James stated that a temporary CO could be provided in situations where the time of year (seasonal variations) is not conducive for planting.

Mr. James stated that staff has identified four (4) areas for landscaping:

- Within the Parking Lot (or within five [5] feet of the edge of the parking lot)

Mr. McClarty stated that at least 10 feet would be required from the edge of the parking lot for trees.

- Streetscape – minimum amount of landscaping

There was discussion regarding the inclusion of this area as a percentage of the landscaping required for the property. Staff is proposing 10% landscaping but Council is leaning toward 5% landscaping.

➤ **Building Foundation**

Mr. Harkins stated that careful consideration must be given to requiring landscaping or planting along the foundation because foundation problems occur due to irrigation – particularly within five (5) feet of the foundation.

Mr. James stated that based on the discussion of the focus group, this may be one issue omitted completely from the ordinance as a requirement.

➤ **Yard Area**

8. Require landscaping irrigation?

Mr. James stated that there are many different options for irrigation systems (below ground, hose attachment within landscaped area, etc.).

Mr. McClarty stated that this should be an automatic requirement. Mr. Boykin stated that he did not feel the landscaping would be maintained unless an irrigation system is required.

9. Streetscape requirements?

Mr. James stated that the response to this question was mixed. One-half of the Commissioners agreed with streetscape requirements on arterial streets and larger and the other half agreed with streetscape requirements on collector streets and larger. The consensus of the Commissioners was streetscape requirements on collector streets or larger.

Most of the landscaping requirements would not apply to single family residences and duplexes, but is intended for non-residential and multi-family development. Also, some of the percentages and/or number of trees would vary depending on the zoning district.

10. Tree preservation requirements?

Mr. James stated that most of the Commissioners answered this question, “Yes, but only for “significant trees” and/or tree clusters (trees over a certain minimum size and of certain species, etc.). (This does not apply to residentially zoned areas.)

11. Should we have relaxed standards for redevelopment and infill?

A majority of the Commissioners answered, “Yes” to this question (includes landscaping). Mr. James asked the Commissioners the type of incentives that should be provided. Peer cities will be investigated to determine the type of incentives they provide.

Mr. McClarty stated that the Commission should meet to discuss only the issue of infill development and the type of incentives to be offered for development. Also, the Commission must develop a “shopping list” to recommend to the Council pertaining to infill development.

Fencing and Screening Requirements:

Mr. James stated that staff is recommending limiting the use of chain link fencing, barbed wire and razor wire, particularly adjacent to streets. Also prohibiting the use of these materials (barbed wire and razor wire) in all but industrial or agricultural areas.

Dr. Long asked if the areas utilizing these materials would be grandfathered or would they be given a period of time to come into compliance.

Mr. James stated that because the details of the ordinance have not been finalized, this situation could go either way – grandfathered or given time frame to come into compliance.

Mr. Santee stated that in some of the areas being discussed (Butternut Street) there is the potential for a corridor overlay. This might be an area where the use is not grandfathered and an amortization period is provided to bring the property into compliance.

Mr. James stated that if staff is given the directive from this Commission to write an ordinance that states “any commercial area that has razor or barbed wire over chain link fencing would be provided (length of time) to remove this wire” this would be done.

The consensus of the Commissioners was to amortize the removal of these materials as fencing. Also chain link fencing can be utilized but not on a street front.

Mr. Luther stated that he does not have a problem with chain link fencing or barbed wire. Replacing a chain linked fence with wrought iron (or another material) is not going to solve the problem – there is much more involved, particularly with unattractive businesses, than just the fence (signs, banners, pennants, barbed wire, etc.).

Mr. James stated that from staff’s perspective, the problem is not so much the chain link fence as the barbed wire/razor wire on top of the fence.

This issue will be presented to the Commission at a future meeting for a vote and consensus.

Mr. James stated that staff is proposing to require screening of all mechanical equipment, loading docks, refuse containers, etc. Staff is also recommending some limits on outdoor storage and display.

Urban Design

12. Should we limit the use of certain colors for commercial and industrial development?

Staff is proposing to limit the use of all metal siding on building to Industrial and Heavy Commercial areas; requiring masonry/stucco/brick in commercial areas.

Mr. Luther stated that this requirement needs to be worded carefully because there are metal siding materials that are very attractive. If all metal siding is eliminated (except in the zoning districts mentioned above), these materials would also be prohibited.

Mr. James stated that staff is proposing an alternative design review by staff. If staff denies use of the desired material, the proponent could appeal to the Planning and Zoning Commission.

Mr. James stated that the consensus of the Commissioners and that of the focus group was that the use of certain colors should not be limited.

**13. Should we require the following for large commercial buildings?
(select as many as apply)**

Mr. James stated that staff recommends that these regulations apply to “big box” structures only: building articulation (both vertical and horizontal); variations in color and texture; and, architectural design. Mr. James asked the Commissioners if staff should be looking at the architecture of the building at all (minimum standards)?

Mr. Harkins stated that this standard should be performance not prescriptive so that the City is not dictating design. Mr. Harkins stated that he would keep the requirements at bare minimum.

Ms. Campos stated that it seems the Commissioners are in agreement to require staff to work with developers – not dictate materials to be used or colors to be utilized.

Staff will submit information to Commissioners at a later date that will avoid requiring the bare minimum – set some standards that negate having a structure that is completely undesirable and yet does not place numerous limitations on the type of construction desired.

14. How to define “big box”?

Mr. James stated that the consensus that these regulations should apply to buildings 50,000 square feet or bigger.

15. Should we have limits on street-facing garages in single-family residential areas?

The consensus of this Commission and the focus group is that the City should not regulate residential garages.

16. Should utility lines, electric, telephone, cable, etc., be required to be underground or in rear utility easements/alleys?

Mr. James stated that the consensus of the focus group and the Commissioners seemed to be consistent – utilities should be buried in new development and adoption of a Model Lighting Ordinance that would eliminate “spillover” lighting onto adjacent properties (shielded lighting).

Mr. James stated that staff will submit the Commission’s recommended changes to City Council for their input prior to writing an ordinance. Following the meeting with the City Council, an ordinance will be drafted and brought back to this Commission for the formal adoption process (including public hearings). This draft should be completed within the next two (2) months.

Item Four: Adjourn

There being no further business, the meeting was adjourned at 3:00 p.m.

Approved: _____, Chairman