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**PLANNING & ZONING COMMISSION**

**July 17, 2006**

**Minutes**

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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  
Gloria Brownell, Planner I  
Justin Fortney, Planner I  
JoAnn Sczech, Executive Secretary (Recording)

Others Present: Bob Hammond  
Dennis Reiling  
Stan Eggar  
Chuck Statler  
Don Faulkner  
Jack Turner  
Ken Musgrave

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 1:34 p.m. and declared a quorum present.

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

**Item Two: Invocation**

Mr. Luther gave the invocation.

**Item Three: Approval of Minutes**

**Mr. McClarty moved to approve the minutes of the June 19, 2006, meeting as submitted. Mr. Boykin seconded the motion and the motion carried unanimously.**

**Item Four: Subdivision Regulations Amendment**

Public Hearing and possible vote to recommend approval or denial to the City Council on proposed amendments to the Subdivision Regulations regarding the Extra-Territorial Jurisdiction.

- Gloria Brownell provided the staff report for this item. Included in this staff report will be information regarding Item 5. a. These items will be presented jointly; however, considered separately by the Planning and Zoning Commission. Specifically, development standards in extra-territorial jurisdiction of the City of Abilene and the proposal of establishing two (2)

densities of rural residential zoning to the list of the City's zoning districts and amendments to AO zoning districts regarding lot sizes. Planning and Zoning Commissioners were provided with information regarding Sample Text for the new Proportionality Regulations. This information included requirements for essential public facilities and services, including water, wastewater, roadway, and drainage facilities.

Ms. Brownell stated that the manner in which staff proposes to address these issues is to enhance development standards in the ETJ but also to create comparable rural residential zoning districts that will allow comparable standards within the City limits. The strategy here is to level the playing field for development inside and outside the City limits. Another aspect is to amend the AO zoning districts to focus more on agricultural uses, the original intent for this zoning category. The rural residential will focus on the residential use of this zoning district.

- Lots less than one (1) acre in the ETJ would require full City standards (double frontage lots would be prohibited)
- Lots greater one (1) acre and up to five (5) acres – full City standards except sewer lines if waived by the City Engineer (dedication of sewer easements may be required for future sewer extensions if acreage was annexed)
- Lots greater than five (5) acres – full City standards except sewer lines that could be waived by the City Engineer and with dedication of sewer easements. There would also be an opportunity for alternative street design standards – this would be at the discretion of the City Engineer. These standards would be consistent with the RR-5 zoning district.

Amendments to AO zoning district include:

- Change from two (2) acre minimum to ten (10) acre minimum – focus more on agricultural uses
- Increase minimum lot width and depth – no change in required setbacks or permitted uses

Rural Residential zoning district the primary focus is on single-family residential development. All uses are consistent with RS zoning district. Exceptions include:

- Due to large lot size – hooved animals are permitted – Commission may want to limit number
- Larger limit on accessory structures – RR-1: 20% lot coverage and RR-5: 15% lot coverage – total lot coverage (primary structure plus accessory structure)

Ms Campos opened the public hearing to discuss the Subdivision Regulations Amendments regarding the ETJ.

Mr. Dennis Reiling, currently serving as a Director for the View-Caps Water Board, requested current information regarding this item and, in particular, how it will influence developments in the area. Mr. Reiling stated that the water situation will be a great limitation to any development and particularly to the south – this area is pretty well saturated. The requirement of six (6) inch water lines will have a great impact upon developers.

Mr. Stan Eggar, Taylor County Commissioner, speaking as an individual, stated that he has worked with the City for a number of years in an attempt to reach an agreement where developers would only have to deal with one entity (city or county) for permits, subdivision plats, etc. Following completion of ETJ subdivisions, the County will be required to maintain the road. Mr. Eggar stated that the County may not have the equipment to maintain the infrastructure. Mr. Eggar stated that the County Commissioners will be addressing the Interlocal Agreement between the City and County on July 25, 2006. If the Interlocal Agreement is not approved then this process will be complicated. Mr. Eggar stated that he understands the need for regulation of the infrastructure and streets in the denser subdivisions and asked that the County be involved in the development of these regulations.

Mr. James stated that the limits mentioned earlier pertaining to animals and building will not apply in the ETJ – these are zoning regulations that only apply within the City limits of Abilene. When staff is speaking about the ETJ, all that is being addressed are infrastructure standards – streets, drainage, etc.

Mr. Eggar stated that the density of the development will have a great deal to do with whether a street has curb and gutter. If this ETJ portion does not encompass the ordinance and zoning, then, he is OK with street design and drainage standards.

Ms. Campos closed the public hearing.

Dr. Long asked if curbs and gutters were required around large acreage commercial districts.

Mr. Harkins stated that curbs and gutters are required within the City limits regardless of the type of development.

Mr. James stated that what is being discussed is the extent to which we are encouraging development in the ETJ by having standards that are much less than the standards within the City limits. Therefore we are providing an incentive for development just outside the City limits, whereas we would prefer to see this development occur within the City limits. The other part of this is that the ETJ is the area within which we are given planning authority by the State because it is the area that is expected to be annexed at some point. The City is currently experiencing problems in areas annexed 20 years ago. Had these areas been required to construct to City standards at the time of annexation, many problems and expenses that the City is facing today could have been avoided.

Mr. Harkins asked if anyone from the City has spoken with the rural water supply corporations regarding the requirement of a 6” water line. Mr. Harkins asked if this is even possible (6” line) if this is a requirement for every new development in the ETJ.

Mr. James stated that this assumes that the developer is creating lots small enough for this requirement to be triggered – if the development is larger (10 acre lots or larger) these requirements are not applicable.

Mr. Santee stated that he believed that City staff suggested design standard provisions in the water supply corporation contracts.

Mr. James stated that part of the issue at hand is that the area being discussed is in the ETJ and is the area for which the City has an obligation to plan for future inclusion in the city limits of the City of Abilene. Part of the control in the ETJ is ensuring adequate infrastructure consistent with city standards and encouraging some of that development within the City limits.

Ms. Campos reopened the public hearing to allow additional comments.

Mr. Dennis Reiling stated that at the present time the View-Caps Water Supply Corporation is attempting to install a 6” water line down Highway 277 to the Caps area. This project has been in progress for ten (10) years. This line is only for capital improvements – to maintain water service to the present members and has nothing to do with future developments. As for future developments, the tariff under which they operate from the TECQ, states that the developer will install the lines and develop the area in accordance with state standards.

They maintain the lines, under warranty, for one year and then the water supply corporation assumes maintenance of the lines.

Mr. Aaron Waldrop stated that he has developed 376 lots on FM 1750 within the ETJ. Every plat is submitted to the County, then to the City, then to Potosi Water Supply Corporation. The engineer for the Potosi water system develops a plan for the subdivision. The engineer goes back to the Potosi water system and tells them what needs to be done in order for them to serve the proposed subdivision. A dollar figure is placed on the project through a “bid” system. At this point the developer has the choice to either back out or pay for all water system requirements. Mr. Waldrop stated that if the Commissioners wanted to make this future plan easier to understand, he would suggest a committee be created with the Planning and Zoning Commission, the Commissioner’s Court and input from the various water supply corporations.

Ms. Campos closed the public hearing.

Ms. Campos stated that Mr. Waldrop’s recommendation of a subcommittee was a good suggestion.

Mr. James stated that the question being considered is the extent to which we want to assist development in the ETJ. Mr. James stated that staff’s philosophy for approaching this subject and the recommendation of the Comprehensive Plan is that this is not the mode we want to be in – we want to encourage and assist development within the City limits.

Mr. Luther and Mr. Harkins stated that wording needs to be carefully considered. This effort is not being undertaken to discourage development in the ETJ but to look out for future growth of the City (annexation) and to ensure that services in the ETJ are up to City standards (not substandard to City requirements).

Mr. McClarty stated that he agrees with the City – we should require all development in the ETJ to meet City standards/requirements. Mr. McClarty stated that what is being sought is a “fair playing field” of Abilene’s immediate border (5-mile ETJ).

Mr. Boykin stated that if the Legislature of the State has provided this Commission with the opportunity to enhance the City’s position then the Commission should take advantage of this.

Ms. Campos stated that in many conversations since the beginning of the development of the Comprehensive Plan, the ETJ was discussed and having the area in the ETJ meet City standards eventually. Ms. Campos stated that they have arrived at this point and the Commission is discussing this issue in great length when ultimately the goal was to have the ETJ meet City standards.

**Mr. McClarty moved that the Commission approve the ETJ Subdivision requirements as modified with the deletions and additions as presented by the City. Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Boykin, Campos, Harkins (Mr. Harkins stated that he is still uncomfortable with the water issue; however, he is in favor of leveling the playing field and bringing up the standards in the ETJ), Long, Luther and McClarty) to none (0) opposed.**

**Item Five: Zoning Ordinance Amendments**

a. Rural Residential Zoning

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend the Zoning Ordinance to establish Rural Residential Zoning Districts and to change the minimum lot size requirements in the AO zoning district.

Gloria Brownell provided the staff report for this item. Section 23-312: Schedule of District Regulations

**DELETE:**

Area in square feet for AO: 87, 120  
Width in Feet for AO: 80  
Depth in Feet for AO: 200

**ADD:**

Area in square feet for AO: 435,600 (10 acres)  
Width in Feet for AO: 200  
Depth in Feet: 500

Ms. Brownell provided the information to the Commissioners regarding proposed additions/deletions to the RR and RS zoning districts.

RR-1	Rural Residential, lot minimum greater than 1-acre
RR-5	Rural Residential, lot minimum greater than 5-acres

**ADD:**

B. Residential Single-Family (RS) and Rural Residential (RR) Districts

The regulations for RS and RR districts are designed to:

- (1) Protect the residential character of the included areas by excluding most commercial and other incompatible activities, as appropriate.
- (2) Encourage a suitable environment for family life by permitting certain appropriate institutions and facilities to be located in residential neighborhoods.
- (3) Preserve open space and avoid overcrowding by requiring certain minimum yards, open spaces, and lot areas.
- (4) Make available a variety of dwelling types and densities in a variety of areas to serve a wide range of individual requirements.
- (5) RS districts are intended to contain neighborhoods where individual lots are occupied by single residences, and permitted accessory structures only. As such, more than one single-family dwelling unit on a lot is prohibited. In addition to the general purposes applying to all residential districts, regulations of RS districts are designed to encourage the provision of single-family, detached residences in districts of three (3) permitted densities.
- (6) RR districts are designed to limit the concentration of development in areas that are not considered suitable for development at a higher density. RR districts encourage single-family residences on large lots with appropriate accessory activities to preserve open space and provide opportunities for residential uses that exhibit a rural character within the limits of the City of

Abilene. RR districts are appropriate in areas where the extension of facilities may be unfeasible or to provide a buffer and prevent encroachment in areas identified in the City's Comprehensive Plan. This zoning should not be applied in areas where future development is expected at urban and suburban densities. In addition to the general purposes applying to all residential districts, regulations of RR districts are designed to encourage the provision of very low density single-family, detached residences in districts of two (2) permitted densities.

Dr. Long requested information from Ms. Brownell regarding hoofed animals. Ms. Brownell stated that staff is seeking input regarding the number of animals allowed in an RR-1 and RR-5 lot since there is no maximum acreage for these zoning districts. Staff's recommendation is 5 to 10 animals to preserve the residential character of the area.

Mr. Harkins stated that the AO zoning category is available for more hoofed animals on land over 10 acres or more.

Mr. Santee asked Mr. James if he envisioned this zoning as a situation where a variance or special exception could be sought.

Mr. James responded affirmatively, but if the concern is that 10 is too restrictive at what number of animals is the line crossed from rural residential to agricultural open space?

Ms. Campos opened the public hearing. No one spoke either in favor or in opposition of this zoning ordinance amendment and the public hearing was closed.

Dr. Long asked about accessory buildings – staff recommendation for size of accessory structure.

Ms. Brownell stated that staff did not present a recommendation regarding accessory structures. The proposed ordinance being considered today has no maximum which is consistent with the current AO zoning district.

Mr. Harkins stated that he would like for the Commission to consider pulling the primary residence from the lot coverage percentage and drop the 20% down to 15% and the 15% down to 10% (accessory structures only).

**Mr. McClarty moved to approve staff's recommendations regarding rural residential zoning with the following changes:**

- 1. RR-1 changed to 15% for accessory structures**
- 2. RR-5 changed to 10% for accessory structures**
- 3. No limit for size of primary residential structure in RR-1 and RR-5**
- 4. Maximum number of hoofed animals – 1 animal per ½ acre (same as current regulations)**

**Eddie Boykin seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Harkins, Luther and McClarty) to one (1) opposed (Long).**

**b. Community Appearance**

Public hearing and possible vote to recommend approval of denial to the City Council on a proposal to amend the zoning ordinance regulating landscaping, fencing, screening, urban design regulations.

Jon James provided the staff report for this item. Much of this information, landscaping and urban design issues, was discussed at the Commission's last workshop. Based on direction received from this Commission, staff drafted an ordinance addressing community appearance. This process was begun over a year ago. Focus groups began meeting in June of 2005 and what is being presented today is (1) based on the Comprehensive Plan; (2) information gathered from peer city (Texas) ordinances; (3) input from community and citizens groups; and, (4) direction from this Commission. Benefits of landscaping include:

- Improve community appearance
- Enhance and maintain property values
- Natural method of controlling stormwater runoff and addressing water quality
- Limit water use through xeriscaping and proper irrigation (without eliminating landscaping)
- Helping maintain air quality
- Reduce “urban heat island” effect → urban areas with lots of buildings and pavement can be 6-8° hotter than surrounding area
- Provide easy to understand and enforceable standards

Requirements of this ordinance include:

- 10’ landscape strip adjacent to street (in addition to parkway)
- Minimum number of trees and shrubs based on street frontage and landscape area
- Minimum landscaping on a site:
  - 2/3 of front yard in single-family districts
  - 20% of site for multi-family districts
  - 10% of site for commercial/office (includes CU/MU)\*
  - 5% of site for industrial
  - 0% in CBD
- Trees and shrubs in right-of-way count toward planting requirement, but landscape area does not.
- Minimum number of trees and shrubs based on street frontage and landscape area
- Tree Preservation: protected trees (those on the recommended tree list) *within required landscape areas*, if removed, must be replaced with a tree with an equivalent mature size; and these replacement trees are in addition to other tree planting requirements.

There was a great deal of discussion regarding the term “protected” with reference to trees. Commissioners recommended utilizing an alternative term (perhaps “premium trees”). Commissioners recommended that the “recommended tree list” be reviewed and possibly updated.

**Two-phase Landscaping Plan:** General Plan required with site plan and a Detailed Plan prior to Certificate of Occupancy

Mr. McClarty expressed concern regarding the submission of a landscaping plan with the site plan. This requirement will increase predevelopment costs for his clients. Also, noted that Detailed Plan should be prior to Building Permit instead of C.O.

Proposed changes would include planting & maintenance requirements, including requirements for irrigation, minimum planting sizes, maintenance, and xeriscaping. Provisions also include an option for Alternative Landscaping Plan in Infill Development Areas.

Parking area landscaping required as a percentage of the lot, depending on whether parking is in front (10%) or to the rear or side (5%). Lots with more than 200 parking spaces would require a landscaped “pedestrianway” to connect the street sidewalk to the main entrance. In addition, parking lot screening and landscape islands would be required for lots with more than 50 parking spaces. These islands would be located at the end of each row and internally at a rate of 1 per 20 parking spaces in a row. In addition, 50% of these would include a tree.

Mr. Harkins commented that landscaping islands at the ends of parking rows; however, having intermediate islands for a tree well for areas exceeding 20 parking spaces in a row becomes a problem. Mr. Harkins stated that in one of his projects (ACU) that introduced trees into the parking lot without eliminating parking spaces was to utilize a 5-6 foot square tree well turned on a 45° angle so that it is at the intersection of four parking spaces.

Mr. James stated that the intent is to not only have a tree in the area but also some area of landscaping.

**Streetscape Requirements:** 1 street tree per 40 ft along Enhancement Corridors and 1 per 60 ft along other arterials and collectors.

**Screening Requirements** for mechanical equipment, waste containers, and loading docks.

**Outdoor Storage** allowed only in Industrial, HC, and GC ?; with limited visibility from public street, residential, and less-intensive districts; and requires screening with fences/walls, berms, or landscaping

**Outdoor Display of Merchandise** allowed in most Commercial & Industrial; limited to a percent of site (varies by district); area must be designated on site plan; and cannot be located in landscaped areas or required parking

**Land Use Buffers** required on higher intensity land uses to buffer from adjacent lower intensity uses.

**Fencing Recommendations** would require masonry or wrought iron fencing if adjacent to roads in commercial districts (i.e., no chain link) and limit chain link and barbed/razor wire adjacent to streets in all but industrial and HC districts → *nonconforming removed within 24 months*

Mr. McClarty stated that he would like to see the chain link fencing replaced by wrought iron or some other type of fence; however, he stated that he did not feel this would be approved by the City Council. Mr. McClarty stated that perhaps this section should be reconsidered.

**Fencing, Walls, Hedges:** Proposed requirements for fencing, walls, and hedges include changes to residential fencing heights in the front yard and fence heights adjacent to the street in non-residential districts.

Mr. Harkins stated that the current ordinance regulations for non-residential fences should remain (10-foot fence height limit).

**Urban Design – Building Materials:** Proposed requirements would limit the use of metal siding or concrete block in certain commercial areas, but would allow an alternative design review process. Question: should this be done by the Planning and Zoning Commission or a P&Z subcommittee?

Commissioners were in agreement that a subcommittee should review urban design building materials.

**Urban Design – Building Articulation:** Would require certain design standards for “large developments” (buildings over 50,000 square feet or multiple buildings on a site totaling 100,000 sf or more. These design standards would include façade articulation, both vertical and horizontal; screening of rooftop equipment; and no private use restrictions placed on the property.

Mr. Harkins stated that concealing roof mounted equipment is a goal of architects; however, many situations and problems can prevent this from occurring (e.g., funds, etc.). Mr. Harkins stated that as much as he would like to see all rooftop units screened, he did not feel this is reasonable.

**Utilities/Lighting:** Utility lines required underground or in rear alleys for all new development. Lighting Standards would require lighting plan; limit heights; require shielding of lighting; and limit the total light output on a site. Deviations would be allowed through a special exception by the Board of Adjustment.

Mr. Luther recommended adding language prohibiting light spilling over to adjacent properties and eliminating the height restriction. Mr. McClarty recommended eliminating the limit of total outdoor light output (maximum lumens per acre).

Mr. Luther asked how the Commission could vote on this today with all the recommended changes/amendments proposed by Commissioners.

Dr. Long requested that all recommended changes be summarized for next month’s meeting



Mr. James stated that he has a list of seven items recommended by Commissioners. This information can be brought back to the Commission as a future discussion item or that can be discussed at this meeting for staff direction.

Ms. Campos opened the public hearing.

Mr. Bob Hammond with the Abilene Association of Independent Business Owners stated that one of his concerns is the smaller businesses – those businesses that have only three or less parking spaces. If they remodel, then they will be required to landscape 10% of the area. This will mean that they will lose one parking space. Mr. Hammond stated that overall the proposed ordinance is a good idea; however, there are many small issues that need to be reviewed, e.g., 10% dedication (should this be applied to buildings over a certain square footage); razor wire and barbed wire should be eliminated but not chain link fencing; and, metal siding/concrete blocks are cheap materials which can be made to look attractive. Mr. Hammond requested an opportunity to review this ordinance prior to passage by this Commission.

Mr. Santee stated that small businesses could request a variance and may qualify under the infill development review.

Mr. James stated that this is correct.

Ms. Campos closed the public hearing.

**Mr. Boykin moved to table the ordinance amendment regarding Community Appearance. 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. Setback Requirements in CU zoning

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 23-313 of the Zoning Ordinance regarding setback requirements in the CU zoning district.

Gloria Brownell provided the staff report for this item. The CU (College University) district currently has the following setback requirements:

- From Property Lines along Streets:
  - Arterial and Collector – 30 feet
  - Local – 25 feet
- All other Property Lines – 0 feet

Staff is proposing to reduce the setback requirement along streets to 10 feet in the CU district. CU zoning is unique in several ways that are similar to the CB (Central Business) District, scale and density of buildings, mixed activities, and particularly high pedestrian activity. The CB zoning district has no setback requirements from lot lines along streets. However, staff is proposing that in CU zoning the setback be 10 feet instead of 0 to provide for landscaped areas, particularly landscape areas along streets as proposed in the Community Appearance Ordinance. The 10 feet will also provide some separation for additional safety along higher speed streets that are common around college campuses, but less common in the CB district.

Setback requirements in general are one of many things being considered for revision for the Land Development Code. However, this particular item is being considered at this time due

to proposed construction of a new building on the campus of Hardin Simmons University. The proposed building would be approximately 18 feet from the property line along Vogel Avenue. HSU submitted a request for a variance to the Board of Adjustment. The agent for HSU stated that they are supportive of the ordinance amendment, but submitted the variance request to cover all alternatives to help their situation. The variance request was approved on July 11, 2006. Even though HSU does not have an immediate need for this proposed amendment, it is staff's opinion that the proposed amendment is still valid and supports moving forward with the amendment.

Staff recommends approval of an amendment to reduce the setback requirement from lot boundaries along streets to 10 feet.

Ms. Campos opened the public hearing. No one spoke either in favor or in opposition of the proposed ordinance amendment and the public hearing was closed.

Mr. Harkins stated that he was the agent for Hardin Simmons regarding the above mentioned variance request. Mr. Harkins stated that in the past three years or less he has encountered several situations on college-university campuses where it was necessary to build closer to the street than permitted. Mr. Harkins stated that he is in favor of this amendment.

**Mr. Boykin moved to approve the amendment to the Zoning Ordinance regarding setback requirements in CU zoning districts. 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.**

Mr. James stated that the Mayor and Council have appointed a new Planning Commissioner. His name is Fred Famble and he will be at the August Planning and Zoning Commission meeting.

**Item Six: Adjourn**

There being no further business, the meeting was adjourned at 5:10 p.m.

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