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**PLANNING & ZONING COMMISSION**

**August 7, 2006**

**Minutes**

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Members Present: Eddie Boykin  
Ovelia Campos  
Fred Famble  
Jack Harkins  
Lydia M. Long

Members Absent: Jeff Luther  
Tim McClarty

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

Others Present: Rick Weatherl  
Joel Cox  
Jenny Lien  
Dwayne K. Walker  
James F. McNeer  
Beverly K. McNeer  
Burl McAlister  
Floyd E Miller  
Joe Sta.....  
Albert Pittman  
Eddie Chase  
Fred Lee Hughes  
Audra Sossamon  
Bob Hammond

Media Present: Sarah Kleiner, Abilene Reporter-News

**Item One: Call to Order**

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

**Item Two: Invocation**

Mr. Harkins gave the invocation

**Item Three: Recognition of Past Commissioners**

Ms. Campos, Chairwoman of the Planning and Zoning Commission, recognized Ms. Neomia Banks and Mr. Floyd Miller for their many years of service to the Planning and Zoning Commission.

**Item Four: Approval of Minutes**

**Mr. Boykin moved to approve the minutes of the July 10, 2006, meeting as submitted. Mr. Harkins seconded the motion and the motion carried unanimously.**

**Mr. Boykin moved to approve the minutes of the July 17, 2006, meeting 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., and f.). Ms. Brownell stated that staff is recommending approval of these plats as all meet Subdivision Regulation requirements. Items g, h., and i. are incomplete and not ready for consideration by this Commission.

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. Boykin moved to approve Items a., b., c., d., e., and f. Mr. Harkins seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Famble, Harkins, and Long) to none (0) opposed.**

**Mr. Harkins moved to deny Items g., h., and i. Mr. Famble seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Famble, Harkins, and Long) to none (0) opposed.**

**Item Six: Rezoning Requests**

f. Z-2006-32

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Jung Chin Lien and Yi-Chien Lien to rezone property from RS-8/COR (Single-family Residential with Corridor Overlay) to LC/COR (Limited Commercial with Corridor Overlay) zoning, located 5909 Buffalo Gap Road. Legal description being 0.442 acres out of the A. Greenwall Survey, Abilene, Taylor County, Texas.

Ms. Brownell provided the staff report for this case. The request is to rezone property from RS-8/COR to LC/COR

The property is located on the corner of Buffalo Gap Road and Medina, a local street that serves a sizeable residential area. The subject property was annexed in 1963 and rezoned to RS-8 soon thereafter. It has remained vacant since that time.

**Current Planning Analysis**

The property is surrounded by an established neighborhood of single-family homes. A non-residential use would cause a greater amount of traffic on the adjacent local street since it may become the only access to the parcel. Furthermore, the nearest non-residential zoning is over one-third of a mile away from the subject parcel. Staff feels that the adjacent arterial makes the location appropriate for slightly denser residential development, but is concerned that non-residential development may cause an undesirable amount of additional traffic along the local street due to the TxDOT and Corridor Overlay driveway limitations. RM-3 zoning would allow a maximum of three units on the parcel.

The Proposed Land Use section of the Buffalo Gap Road Corridor Study, adopted in June 1994, calls for low density residential development on and around the subject parcel.

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was returned in favor of the request and several in opposition to commercial zoning but not specifically opposed to multi-family development.

Planning staff recommends approval of RM-3/COR rather than Limited Commercial zoning.

Ms. Campos opened the public hearing.

Mr. Dwayne Walker stated that he is opposed to the commercial rezoning request. Mr. Walker cited the devaluation of his property, increase in noise level and traffic as the main reasons for his opposition. After questioning by the Commissioners, Mr. Walker stated that he is more comfortable with the multi-family zoning but wanted to keep the area single family zoning. Mr. Walker stated that if multi-family zoning is considered by this Commission, he would not be in favor of more than 2 residences (duplex).

Mr. James McNeer stated that he is opposed to the LC zoning for the same reasons expressed by Mr. Walker (property value, traffic, etc.). After questioning by a Commissioner, Mr. McNeer stated that he is opposed to the LC zoning and would not want more than a two residence structure at this location.

Ms. Dee Miller stated that she too is opposed to commercial zoning. A duplex would be acceptable; however, would prefer single-family residential zoning.

Ms. Yi-Chen Lien, owner of the property for which a zone change has been requested, stated that currently no single-family residences face Buffalo Gap Road. Ms. Lien stated that she was aware that multi-family structures could be constructed at this location and that no one would want to live in a single-family residence facing Buffalo Gap Road. The current problem with the vacant land is the upkeep and the intent is to make the area nicer by placing offices at this location. Ms. Lien stated that if the commercial zoning is not approved, she would like to construct two duplexes on this property.

Mr. Fred Lee Hughes agreed that a new, modern structure would be welcomed; but, he did not feel that commercial zoning would be acceptable. He stated that he would like to see this area restricted to a two-family dwelling (RM) – a use that would not increase traffic in this area.

Mr. Harkins stated that if the Commission approves RM-3 zoning this would allow three (3) units on the property.

Mr. Hughes stated that he would prefer a duplex and is opposed to a triplex.

Ms. Campos closed the public hearing.

Dr. Long asked if a PDD could be created for this parcel. Ms. Brownell responded that a PDD could be written for this parcel. Dr. Long stated that a PDD would restrict the area to two families and this would be a good compromise.

Dr. Long asked if staff is recommending RM-3 zoning. Ms. Brownell stated that is correct. If the parcel is subdivided into two parcels, the proponent could build 3 duplexes.

Mr. Harkins stated that the lot could be replatted into two single-family lots, such as the ones on Pebble Beach. This approach makes more sense to him than placing duplexes on the lot.

Ms. Campos stated that she is concerned about this lot remaining vacant. The neighborhood does not want Limited Commercial zoning or duplexes and Mrs. Lien is not interested in building two single-family homes on the property.

There was discussion about bringing this item back before the Commission as a PDD. This would allow the Commission some latitude regarding restrictions for this parcel. This could not, however, be done today. This item would have to be placed on a future agenda.

Ms. Brownell stated that since this property has not been platted, this must be done before any building can occur. The property can be platted into one large lot or into two smaller lots. With RM zoning, replatting the property into one lot would allow for one triplex; replatting the property into two lots would allow a duplex on each lot.

**Dr. Long moved to approve Z-2206-31 with staff's recommendation of RM-3 with Corridor Overlay restrictions. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Boykin, Campos, Famble, and Long) to one (1) opposed (Harkins).**

a. Z-2006-33

Public hearing and possible vote to recommend approval or denial to the City Council on a request from M&L Properties – 1994 Trust, agent Burl McAlister, to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) zoning, located at 2549 Shirley Road. Legal description being 10.45 acres out of P. Guerro Survey #27, Abilene, Taylor County, Texas.

Justin Forney provided the staff report for this case. The request is to rezone property from AO to HC. There is a vacant commercial building and a dilapidated house, along with a lot of garbage on the subject parcel. Elm Creek flows through this property and has had garbage dumped into it. At least one building has collapsed into the creek due to the banks wearing away. The surrounding properties are vacant. This area has a variety of flood zones, but is still developable.

The north portion of the property that is zoned AO was annexed in 1984. The south portion of the property is zoned HC (Heavy Commercial) and was annexed in 1957. It was zoned C-7, which stood for "Highway Commercial." That zoning district was meant for regional commercial establishments like hotels, restaurants, and truck stops. When the zoning designations were changed many of the Highway Commercial districts were converted to Heavy Commercial, which added many intense uses.

#### Current Planning Analysis

The current commercial building was originally built before the property was annexed into the City in 1984. One of the uses this site has had over the years was an auto repair business. The house on the property has been used as an office and a security residence for the businesses. The property has been vacant for about 4 months. This property could be used for commercial uses as long as it is not closed for a period of time greater than 6 months. This is currently a rural area with no other commercial activities around it. Originally the applicant stated that the rezoning was for the propose of selling or leasing this property to a crane service company that will use this property for storing and servicing

cranes. Since that time, the applicant has clarified that the proposed tenant will utilize the property for the construction of metal buildings and will use the property for storing materials, trucks and cranes. This type of operation would be allowed in HC or GC zoning districts with special conditions. This use would fit most closely into building construction or truck repair category of our permitted use chart, both of which require a zoning designation of HC, LI, or HI.

### Comprehensive Planning Analysis

Gateways are key entrances into the community. Citizens have pinpointed the poor image of the gateways as a major weakness of the community. Their perceptions have been confirmed by the recommendations of the ACE Report, the Wadley-Donovan Economic Development Study, and the Chamber's Cultural Tourism Report. Gateways are the areas where visitors will form their first impression of the city and as such, should reflect the highest quality and provide a glimpse of Abilene's local identity. The Comprehensive plan lists I-20 as the most important gateway into the City. It mentions that the visual deterioration of this area creates a ragged impression for travelers entering Abilene from both the east and west. Although this property is not directly fronting on I-20, much of what would be associated with a crane service business would be visible from I-20. The zoning of this area will be looked at during the development of our Land Development Code. As the north side is beginning to develop with a lot of regional commercial development, it may be logical to rezone some of this area along I-20 to a new zoning district that allows regional commercial but not intense commercial. This type of development often spurs residential development. Elm creek would be an ideal transition from commercial development along I-20 to residential.

This general area was annexed in 1984 at the request of the agent. At the time there was a grand development plan to develop this area with a variety of residential and commercial uses. A great deal of property was rezoned to bring this plan into fruition. Ultimately no development occurred.

The Comprehensive Plan has designated this area as a sensitive development area due to it being in the flood zone and its close proximity to Elm Creek. Due to the sensitive nature of the area and the fact that it is part of the busiest gateway into the City, staff believes that rezoning this property to HC is not in the best interest of the public. This area also has great potential to develop as a low density residential area.

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was received in favor of the request and none (0) in opposition. Planning staff recommends denial of this request.

Ms. Campos opened the public hearing.

Mr. Eddie Chase stated that the property was utilized as a construction yard before I-20 was developed and has been used as a maintenance facility since that time. The illegal dumping in the creek is on the property to the south of this property. The proponent has attempted to clean the creek bed but due to erosion this is not possible. A plan was submitted in the late 70s, early 80s, to utilize this property as HC zoning. The property cannot be seen from the highway and can never be expanded due to the creek. Also, the requested zoning matches the zoning currently in this area. The area will be utilized for the storage of cranes and materials.

Mr. Burl McAlister, proponent, stated that it is hard to justify what has happened over the years to the property. The area has been used for HC uses for many years in an AO zoning district due to the fact that it was not in the City limits when developed. GC zoning does not fit with the potential use of the

property – construction/open lot. The improvements made to the property are conducive to HC zoning.

Mr. Albert Pittman stated he is representing Puryear Construction Company which is currently located on South 18<sup>th</sup> Street. Lauren Fabrication has purchased the site occupied by Puryear Construction and Mr. Puryear is looking for a relocation site. The property being considered at this meeting has access to I-20 – 200 feet to entrance of subject property off Shirley Road. Mr. Pittman stated that Mr. Puryear owns two cranes - a 15-ton and a 30-ton. These cranes are utilized in the fabrication of metal buildings and are available for rental to the public. The cranes are truck mounted and meet industrial standards. Mr. Pittman stated that the highest and best use for the property requires HC zoning

Ms. Campos closed the public hearing.

Dr. Long asked if a possible crane company can operate under the GC zoning district.

Justin Fortney stated that a construction company can operate under GC zoning with special conditions (screening of storage, no pre-fabrication work on site, and all maneuvering areas must be paved).

Dr. Long stated that she disagrees with GC zoning and does agree with the HC zoning.

Mr. Harkins asked for clarification for the proposed use of the property and the zoning required for this use.

Mr. Famble asked if the proponent could use the property as desired under GC zoning.

Mr. Harkins stated that if any manufacturing or prefabrication occurs at the site, this cannot occur under GC zoning.

Ms. Campos reopened the public hearing.

Mr. Pittman stated that only one or two cranes will be located on this property. Mr. Pittman stated that the property is not clearly visible from I-20 because of the trees. This is an opportunity for the property to be cleaned. They plan to clean the property, place a metal building (or two) on the site, remodel the trailer currently on the site into an office and enclose with a chain link fence.

Ms. Campos asked Mr. Pittman if he could utilize the property as desired under GC zoning.

Mr. Pittman stated that he did not know what GC zoning allows.

Mr. Eddie Chase stated that the cranes will be used in the business and will be available for hire. Mr. Chase stated that parts of the buildings will be constructed in this area and then delivered to the appropriate site. Mr. Chase stated that this makes the operation semi-manufacturing.

Mr. Fortney stated that building “fabrication” is allowed only in HI and/or LI zoning districts. A special exception can be obtained from the Board of Adjustment for metal fabrication. Mr. Fortney stated that any metal fabrication is considered “industrial.”

Mr. Harkins stated that the requested zoning (HC) may not even meet there needs.

Ms. Campos closed the public hearing.

**Dr. Long moved to deny the requested HC zoning. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Campos, Famble, Harkins, and Long) to one (1) opposed (Boykin).**

c. Z-2006-34

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Hopper Development Corporation, agent Ann Stinson of Tractor Supply Company, to amend PDD-75, located at 4450 and 4590 Southwest Drive. Legal description being Lots 1 & 2, Block 1, Home Depot Addition, Abilene, Taylor County, Texas.

Mr. Armstrong provided the staff report for this case. The request is to amend ordinance PDD-75 regarding outdoor storage and display

The PDD has two lots: one is the location of Home Depot and the other is Tractor Supply. Both businesses have outdoor display and some storage. The Tractor Supply lot has a substantial amount of items outdoors in the parking lot and on landscaped areas in excess of what is allowed in the existing PDD ordinance.

The property was rezoned from AO to PDD-75 in April 2002. The PDD was created with the intent of locating the Home Depot and, at that time, a possible Tractor Supply store, which ended up being how the PDD developed. To date, there have been no amendments to the ordinance.

Staff received complaints regarding the outdoor display at the Tractor Supply store. Part 7: 2.L of PDD-75 states, "Display of goods shall be prohibited in landscaped and parking area." Upon investigation, staff determined that there are many items stored or displayed on the Tractor Supply property in violation of the PDD ordinance, both in the parking area and landscaped area. The Home Depot has a small number of items displayed in landscaped areas, in violation of the PDD ordinance.

The PDD was created in an attempt to have quality development in a PDD consistent with the Wal-Mart Supercenter PDD located just to the east. These PDDs were also intended to reduce the negative impacts of "big box" development on nearby residential areas. A number of PDDs have been considered recently that limit outdoor display to a percentage of the property, without stating exactly where. Outdoor display is always prohibited on required parking spaces and generally prohibited in required landscaped areas. According to the approved site plan for Tractor Supply, there are 106 parking spaces, 11 more than required. However, the existing PDD ordinance states that display can not be in any parking spaces.

Tractor Supply is proposing an amendment to specify where outdoor display may be located. The graphic provided to staff shows 46 of the 106 parking spaces on the site to have display items. This would mean that 35 required parking spaces could be taken up by display. Display is also proposed for 3 landscaped islands in the parking lot.

Staff's opinion is that the ordinance should remain as it was approved. However, any amendments regarding outdoor display should be limited to an area or areas specifically shown on a plan and should not be located on any required parking spaces. As an additional factor, the site plan shows a "Display Yard" of 17,759 square feet on the east side of the building. No other outdoor storage or display areas were shown on the approved site plan.

Property owners within 200 feet of the ordinance amendment request were notified. There were no responses either in favor or in opposition of the request.

Planning staff recommends denial of this PDD amendment.

Mr. Boykin asked how the Commission can change the number of required parking spaces.

Mr. Armstrong stated that this area is zoned PDD, and therefore the PDD can be amended (including the number of parking spaces). Mr. Armstrong stated that staff is not recommending this and has concerns regarding reducing the number of parking spaces. Mr. Armstrong added that the Home Depot store is in the same PDD and they have not responded to this ordinance amendment. Also, the accessory buildings in the Home Depot parking lot should not be located in this area, except for the log cabin for which a site plan was submitted and this structure is placed legally on the lot.

Ms. Campos opened the public hearing.

Mr. Joel Cox with Tractor Supply stated that this company has made a long term commitment to Abilene by signing a 15-year lease in 2003. The inability to utilize a part of the parking lot for merchandising display would significantly impact their sales and cause a hardship to their customers. They would like to continue utilizing the parking lot as they have been doing; however, they want to be a good corporate neighbor and are willing to compromise with the City regarding outdoor storage.

Mr. Harkins proposed extending the storage area on the east side of the building into the parking lot, with landscaping and/or fence screening; reduce the loop in the parking lot/ remove some of the parking spaces; and, utilize the east end for storage. This proposal would eliminate only a small number of parking spaces. Mr. Harkins asked what type of screening would be required if this was done and outdoor storage/display in front of the store was minimized. Mr. Harkins stated that he can see a solution to the problem, but it would take some work to come up with a plan.

Mr. Armstrong responded that the current PDD does not make any provision for screening because outdoor storage is prohibited. What would need to be done as a part of the ordinance amendment is to determine what is an appropriate layout of the site and address screening issues.

Mr. Boykin stated that unless Tractor Supply eliminates a great deal of merchandise, redoing the parking configuration will not meet staff/PDD requirements.

Dr. Long asked if it is correct that amendments to this PDD would not only affect Tractor Supply but also Home Depot.

Mr. Armstrong stated that if the Commission is addressing a very specific plan that becomes a part of the ordinance, then it will affect all of the area within the plan – so, it could be tailored for only this one particular business (Tractor Supply).

Mr. Boykin stated that this would set precedence so that Home Depot could also ask for an amendment.

Ms. Campos asked Mr. Cox the issue or issues that have placed Tractor Supply in this predicament – storage or display?

Mr. Cox responded the display area – this is part of the Tractor Supply form of merchandising effort across the country.



Mr. Harkins stated that he is opposed to modification of the PDD as requested. Mr. Harkins stated that there is a solution to accomplish what is needed with screening. Also, it has been stated that this area is the “display” area – that is correct; however, multiple items of the same item are being displayed. Mr. Harkins stated that only one (1) unit per piece of displayed items be placed in the front to the business and storage elsewhere.

Ms. Campos closed the public hearing.

Ms. Campos stated that she agrees with Mr. Harkins that the PDD should not be amended. There must be another solution to the problem.

**Mr. Boykin moved to deny the PDD amendment.**

Mr. Harkins stated that prior to a second and vote on this motion, recommending denial of the PDD would force an appeal to the City Council as opposed to providing Tractor Supply additional time to provide an alternate plan for handling this situation. If the Commission voted to table the items, a different way of accomplishing the necessary changes could be explored and a plan developed. Mr. Harkins asked Mr. Cox if some of the display merchandise could be moved to the storage area on a temporary basis until this issue can be resolved.

Mr. Cox stated that they have a plan in action to create an additional 47 parking spaces. If Tractor Supply could be provided a timeframe of approximately three (3) weeks, they could work to implement this plan and resolve this issue.

Mr. Armstrong stated that the text of the ordinance states “display of goods shall be prohibited in all landscaping and parking areas.” The site plan submitted for this meeting is not part of the PDD ordinance. If Tractor Supply submitted a new site plan that met all the requirements and had an area where they expanded their display area and it wasn’t required landscaping or parking, Tractor Supply could accomplish their goal without amending the PDD ordinance.

Mr. Harkins stated that creating new parking spaces only resolves part of the issue – outdoor storage is the problem. Mr. Harkins recommended allowing Tractor Supply additional time to develop a plan that addresses screening and site appearance. Mr. Harkins stated that he believed these issues could be resolved without amending the PDD.

**Mr. Boykin withdrew his motion.**

**Mr. Harkins moved to table Z-2006-34 until the September Planning and Zoning Commission meeting to allow Tractor Supply to develop a plan that would: (1) recommend display of only a single item, store the others of each type; (2) develop a plan that includes the required number of parking spaces and the required landscaping buffer along Southwest Drive; and, hopefully this will be accomplished with screening that makes the site attractive to the public and satisfactory with City staff. Dr. Long seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Famble, Harkins and Long) to none (0) opposed.**

**Item Seven                      Street Name Change**

Public Hearing and possible vote to recommend approval or denial to the City Council on a request from Abilene Independent School District, agent Joe Humphrey, to change the name of “AISD Drive” to “Prof Bynum Way” located south of Luzon Street between S. Judge Ely Boulevard and Sunrise Avenue.

Gloria Brownell provided the staff report for this case. The request is a street name change from “AISD Drive” to “Prof. Bynum Way.” The property was recently platted to allow development of a new middle school, which is currently under construction.

The subject property was annexed in 1968 and has remained vacant since that time. The northern portion of the site was platted for single-family residential development in 1959 but was never developed. A large tract along S. Judge Ely Boulevard was rezoned to Office zoning in 1978 and the back portion facing Sunrise Avenue was rezoned to RM-2 zoning in 1980.

The process that was used to choose the name of the street and the middle school was not complete at the time the plat was reviewed. In order to begin construction to have the school available for use in Fall 2007, the school district assigned the street a neutral temporary name. The voting is now complete and the name has been chosen, so they are requesting that the name be officially changed.

The same surname is being used in two other areas: Bynum Street is located within the city limits and Bynum Lane is located in the ETJ near Potosi. Although they are similar, the addition of the word “Prof” at the beginning sufficiently differentiates the new street, similar to the multitude of street names that use “Oak” or some other common word with modifiers like “Post Oak” or “Live Oak.”

The Plat Review Committee recommended approval, although the GIS/911 Department mentioned concerns regarding the similarity to other existing street names.

Property owners within 200 feet of the request were notified. Three (3) comment forms were received in favor of the request and none (0) in opposition.

Planning staff recommends approval of the request.

Ms. Campos opened the public hearing. No one came forward to speak either in favor or in opposition of the request and the public hearing was closed.

**Mr. Boykin moved to approve the street name change. Mr. Harkins seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Famble, Harkins and Long) to none (0) opposed.**

#### **Item Eight: Zoning Ordinance Amendments**

a. Public hearing and possible vote to recommend approval or denial to the City Council on amendments to Section 23-344, 23-356/5 and 23-363 of the Zoning Ordinance regarding Historic zoning districts and the Landmarks Commission.

Larry Abrigg, Historic Preservation Officer for the City of Abilene, provided the staff report for the recommended ordinance amendment. Changes to the Zoning Ordinance (basically for clarity purposes) include the following:

- The use of the word property throughout the ordinance
- District Standards and a District Standards Committee in the place of District Design Guidelines and District Design Committee
- The removal of historic districts as planned developments; all historic zoning will be an overlay zoning on individual properties or districts. Each district would be governed by its own unique standards, including land use.
- Super majority (6 votes) not needed by Landmarks Commission

- Appointment of the District Standards Committee by the Landmarks Chairperson and change in the structure of that committee
- The explanation of contributing and noncontributing properties in districts
- Change in the 12 month demolition delay to more of direct response or appeal of the Landmarks decisions on demolition
- The Commission could review a property's historic status and start the zoning process if a property is on the Abilene Register of Historic Properties, but a property does not have to be on any list for the Commission to initiate the review process.
- Definition changes to match the proposed changes

Mr. Abrigg stated that the Landmarks Commission approved these recommended changes to the Zoning Ordinance and requested that the changes be submitted to the Planning and Zoning Commission and then to the City Council.

Ms. Campos opened the public hearing.

Mr. Rick Weatherl, Chairman of the Landmarks Commission, stated that these changes are being recommended to eliminate some of the confusion regarding Historic zoning. The Landmarks Commission believes this is an opportune time due to the updating and rewriting of the Zoning Ordinance.

Ms. Campos closed the public hearing.

**Mr. Boykin moved to approve amendments to Sections 23-344, 23-356.5, and 23-363 of the Zoning Ordinance. Mr. Famble seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Famble, Harkins and Long) to none (0) opposed.**

- b. (TABLED) 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.

**Mr. Harkins moved to remove this item from the table. Dr. Long seconded the motion and the motion carried unanimously.**

Jeff Armstrong provided the staff report for this case. This proposed amendment is the result of the recent issue with the tattoo parlor at S. 7<sup>th</sup> and Ruidosa Dr. Although the Commission has already recommended approval to the City Council on that particular case, the Commission asked staff to research and propose amendments to the Zoning Ordinance regarding tattoo parlors.

The permitted use chart in the Zoning Ordinance currently 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 has researched and looked at a number of ordinances to assist with this amendment. Two cities were found that had any kind of separation requirements. Normally cities make these types of separation requirements based on some sort of study or research showing the

need for such separations to protect the general public in some way. This is true for sexually oriented businesses, for example. There do not appear to be any similar studies for tattoo parlors. The research that does exist for tattoo parlors is related to health issues not land use. Therefore, staff does not recommend any separation requirements for tattoo parlors.

Staff recommends that tattoo parlors be specifically listed in the Zoning Ordinance as a permitted use in GC, HC, LI and HI zoning districts and permitted by Special Exception in LC and SC districts. The Special Exception process would allow each specific location to be reviewed for compatibility within an area and the Board of Adjustment may place conditions on their approval that could help make a tattoo parlor more appropriate for a given location. The Board may also approve a request with no conditions or deny the request entirely. As a reminder, the consultants for the Land Development Code and staff will be recommending that the current "Special Exception" process be eliminated and that a "Conditional Use" permit process be created. The Conditional Use process would be considered by the Planning and Zoning Commission instead of the Board of Adjustment. Therefore, it is staff's intention that in the LC and SC districts (or similar new districts) that tattoo parlors would be permitted by conditional use permit in the Land Development Code when that document is complete.

Staff also proposes a definition for tattoo parlors that specifically exempts permanent make-up and would allow that where it is incidental to a beauty parlor in any district that permits beauty parlors.

Tattooing (including permanent make-up) is under the regulation of the Texas Department of Health Services.

Planning staff recommends approval of the proposed ordinance amendment.

Ms. Campos opened the public. No one came forward to speak either in favor or in opposition of the request and the public hearing was closed.

**Mr. Harkins moved to approve amendments to Sections 23-306.4 and 23-306.5 of the Zoning Ordinance regarding tattoo parlors as a permitted use. Dr. Long seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Famble, Harkins and Long) to none (0) opposed.**

**Item Nine: Subdivision Regulation Amendment**

Public hearing and possible vote to recommend approval or denial to the City Council on amendments to Section 23-260 regarding Adequate Public Facilities and Proportionality.

Gloria Brownell provided the staff report for this item. Dunkin, Sefko, & Associates, the consulting firm hired to assist with the creation of a new Land Development Code, examined the Subdivision Regulations as part of a comprehensive review of all of our zoning and land development policies. As a result, they compiled a list of changes they felt should be completed by City Staff prior to the adoption of the full Code. Staff has already proposed changes that bring many of our regulations into compliance with state law and enhance the development standards in the ETJ. One of the remaining items suggested by the consultants addresses the clarity of our regulations with regard to proportionality and adequate provision of public facilities.

The proposed amendments simplify our current policy and add the opportunity of an appeal process for applicants who disagree with staff's application of the Subdivision Regulations. Although our policies generally reflect these proposals already, this amendment provides a clear presentation of our requirements to be more consistent with state law.

Staff recommends approval of the proposed ordinance amendments.

Ms. Campos opened the public hearing. No one came forward to speak regarding this issue and the public hearing was closed.

**Mr. Boykin moved to approve amendments to Section 23-260 regarding Adequate Public Facilities and Proportionality. Dr. Long seconded the motion and the motion carried by a vote of five (5) in favor (Boykin, Campos, Famble, Harkins and Long) to none (0) opposed.**

**Item Ten: Director's Report**

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

Jon James provided information regarding recent City Council actions:

**July 13, 2006 Council Meeting**

**Z-2006-19:** Request to rezone property from AO (Agricultural Open Space), RM-3 (Multi-family Residential), and LC (Limited Commercial) to PDD (Planned Development District) zoning, located at the southwest corner of Jennings Drive and Dub Wright Boulevard.

P & Z Recommendation: Approval (7-0)

Council Decision: Removed from the table and Denied: (5-2) (Traffic was the primary concern)

**Z-2006-20:** Request to rezone property from RM-3 (Multi-family Residential) to LC (Limited Commercial) zoning, located at 3250 S. 15<sup>th</sup> Street.

P & Z Recommendation: Approval (5-1)

Council Decision: Approved (7-0)

**Z-2006-21:** Request to rezone property from SC/COR (Shopping Center w/ Corridor Overlay) to GC/COR (General Commercial w/ Corridor Overlay) zoning, located on the east side of Ridgemont Drive approximately 140 feet north of Rebecca Lane.

P & Z Recommendation: Approval (6-0)

Council Decision: Approved (7-0)

**Z-2006-22:** Request to rezone property from RM-2 (Multi-family Residential) to MH (Mobile Home) zoning, located at 733 & 741 Redbird Lane.

P & Z Recommendation: Approval (4-2)

Council Decision: Approved (7-0)

**Z-2006-26:** Request to rezone property from RMO (Office) and HC (Heavy Commercial) to HC (Heavy Commercial) zoning, located at 301 Goliad Drive.

P & Z Recommendation: Approval as PDD (6-0)

Council Decision: Approved as PDD (7-0) with amendment to reduce rear fence to 6' (from 7') and remove fencing requirement from north side. They also removed setback restrictions for outdoor storage of materials.

- b. Texas Chapter of the American Planning Association Conference information. This conference will be held in Corpus Christ, October 19<sup>th</sup> and 20<sup>th</sup>. Staff has

budgeted for two (2) commissioners to attend this conference. Interested commissioners should let staff know as soon as possible (not later than September 1) so that registration forms may be completed. Dr. Long expressed an interest in attending this conference.

c. **Open Meetings Training reminder**

Newly appointed members have 90 days after being appointed to complete this training. All board and commission members must complete this training by the end of this year.

**Item Eleven: Adjourn**

There being no further business, the meeting was adjourned at 4:22 p.m.

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