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**PLANNING & ZONING COMMISSION**

**April 16, 2007**

**Minutes**

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Members Present: Bruce Bixby  
Ovelia Campos  
Fred Famble  
Jack Harkins  
Lydia M. Long  
Tim McClarty  
Clint Rosenbaum

Staff Present: Jon James, Director of Planning and Development Services  
T. Daniel Santee, Interim City Attorney  
Ed McRoy, Assistant Director of Planning and Development Services  
Gloria Elder, Planner II  
JoAnn Sczech, Executive Secretary (Recording)

Others Present: Sal Palacio  
Bob Hammond  
Aaron Hocking  
Bob Bailey

Media Present: Sarah Kleiner-Varble, Abilene Reporter-News

**Item One: Call to Order**

Ms. Campos called the meeting to order at 6:30 p.m. and declared a quorum present.

**Item Two: Invocation**

Ms. Campos gave the invocation

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

**Item Three: Zoning Ordinance Amendment**

- a. Zoning Ordinance Amendment  
Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend the Zoning Ordinance regarding landscaping, fencing, screening, and urban design regulations.

Jon James presented the staff report for this item. Commissioners were provided with information regarding the proposed zoning ordinance amendments addressing landscaping and urban design. The proposed amendments have been revised based on the direction provided by the Commission at the February 19, 2007 meeting. That review and discussion was based, in part, on the recommendations of the Landscape Ordinance Review Committee's recommendations. The ordinance considered at that meeting was based on the prior direction from the Commission at the June 19, 2006, and July 17, 2006, meetings.

Mr. James stated that the draft ordinance has been developed to reflect all changes recommended by the Commissioners at their last meeting. There is one exception contained within this draft ordinance and that is a new section entitled "Community Appearance Overlay." One recommendation from the Commission was to remove parking lot landscaping and the requirement that a minimum percentage of a site be landscaped and include this information in the Community Appearance Overlay section of the ordinance. As currently written, these requirements do not apply except where it is referenced in a particular standard (example, PDD).

Questions raised at last month's meeting include:

1. Don't most developments provide landscaping?

Mr. James responded that of the site plans submitted in 2006, the breakdown is as follows:

75 Site Plans submitted in 2006:

- 16 Site Plans had required landscaping
- 18 Site Plans included voluntary landscaping (of the 18, 14 were public or semi-public facilities)
- 22 Site Plans included an area of grass
- 19 Site Plans included no landscaping whatsoever

2. Is this ordinance excessively restrictive?

Mr. James stated that the draft ordinance is in line with requirements of peer cities (not just the Metroplex, but also Wichita Falls, Midland, and Lubbock).

Specific questions to be addressed at this meeting include:

1. Should the ordinance require a minimum percentage of the site to be landscaped?

- Committee Recommendation: Remove this requirement altogether.
- Planning and Zoning Commission recommended removing this requirement altogether.
- Staff Recommendation: Staff believes that this requirement is very important, as evidenced by it being a common requirement among the 25 cities surveyed. Options could include reducing the required percentages or stipulating that the requirement applies only to a portion of the site (visible from the street, for example). It should be noted that this requirement is also very important for stormwater quality.

2. Should the Ordinance include a Parking Lot Landscaping requirement?

- Committee Recommendation: Removing this requirement altogether.
- Planning and Zoning Commission: Remove from Ordinance.
- Staff Recommendation: Staff believes that this is a very important element in the proposed landscaping requirements. Breaking up large expanses of pavement with landscaping, especially with trees, is recognized nationwide as an important tool for making development more attractive. Having used this requirement successfully in recent PDD's, staff is hesitant to eliminate it from the proposed ordinance. As written, the requirement for internal landscaping islands only applies to larger parking lots. One option would be to increase this threshold for the size of parking lots.

3. Should the existing fences on adjacent properties be allowed to count toward the buffer requirement (separating commercial areas from residential areas)?

- Committee Recommendation: Generally supportive of this section. However, the committee recommends allowing existing fencing (for example, already fenced backside of existing residential neighborhood) to get credit for the existing screening, even if not on their property.

- Planning and Zoning Commission Recommendation: Allow existing fences to count. The buffering in this ordinance is based on a point system and an existing fence would only count for ½ of the points required.

- Staff Recommendation: Staff has some concerns about the aesthetics of allowing credit for existing residential fencing. This also puts the responsibility for long-term maintenance of such screening on the residential property owner, rather than the higher intensity land use. One option would be to allow credit for such fences, but at a reduced number of points. Another would be to allow this credit, but require that one of the tree planting options be selected as well.

4. Building Materials

- Committee Recommendation: The committee believes that the requirement is too prescriptive and would not allow some “quality” uses of metal siding or concrete block. While many believe that the general intent of this requirement is desirable, they question whether there is a reasonable regulatory solution.

- Planning and Zoning Commission Recommendation: Not place any limitations on building materials.

- Staff Recommendation: Staff continues to believe that this is an issue of importance in the community, as evidenced by the complaints we have received after the construction of metal buildings in what are deemed inappropriate areas. Staff recommends working with local architects, if necessary, to revise the ordinance to better define the specific types of construction to prohibit.

Staff maintains that the Alternative Design Review option in the proposed ordinance is sufficient to address these concerns.

5. Tree Preservation

Is the list of premium trees acceptable? City staff contacted landscape architects who have been involved in this process and they made recommendations for deletions and/or additions to the list.

Planning and Zoning Commission, recommendations from previous meetings include:

1. Revised applicability to apply only when there is a new building or an increase of 50% or more of the gross floor area of buildings on a site (i.e., not based on value of improvements). {23-320(2)(A) and 23-321(2)(A)}

2. Eliminated the general requirements for a percentage of the site to be landscaped and parking lot landscaping. *Please note, however, that staff has suggested leaving these provisions in the ordinance as an alternative that could be applied through an overlay district or if referenced in individual PDDs.* {23-320(5), (6), and (8)}

3. Allowed ½ credit for screening for an existing fence or wall on an adjacent property. {23-

320(7)(3)(c)}

4. Increased the minimum size of a “premium tree” to be protected from 8 inches to 10 inches {23-321(9)(F)} (Staff Recommendation to increase size.)

5. Revised the wording on razor wire and barbed wire fencing to clarify intent and to eliminate from most residential zoning. {23-306.5(B)(4)(f) and (g)}

6. Eliminated building materials requirements. *Please note, however, that staff has suggested leaving these provisions in the ordinance as an alternative that could be applied through an overlay district or if referenced in individual PDDs.* {23-322(3) and (5)}

Given that a number of the recommendations at the previous meeting where these items were discussed were based on a 3-2 vote, staff would like confirmation from the full 7-member Commission on these recommendations. ***Staff continues to support the general requirements for minimum landscape area as a percentage of the site, parking lot landscaping for larger sites, and minimum building materials standards in certain zoning districts, as initially recommended by the Commission.***

Ms. Campos opened the public hearing.

Mr. Bob Hammond, Executive Director of the Abilene Association of Independent Business Owners, stated the he represents approximately 200 businesses in Abilene. Mr. Hammond stated that most business owners with whom he has spoken are concerned about cost. Issues included:

- When business owners learned that the Landscape Committee and the Planning and Zoning Commission had come to the consensus that existing businesses would be exempt from the new codes, they were quite pleased. The proposed ordinance rewrite being presented at this meeting includes those businesses and triggers the codes for expansions exceeding 50% of the gross floor area of the building. Mr. Hammond stated that the definition of “redevelopment” is also of concern.
- At the Landscape Committee meeting it was determined by a strong majority that redevelopment should mean the removal of walls, ceiling, roof, and foundation before it would be deemed development. Redevelopment is anything that is place on an existing slab. This definition is not included in the information presented to the Commission.
- The General Landscaping Plan is one of the concerns brought up at the Landscape Committee meeting. Mr. Hammond asked why additional “soft costs” should be created. A formal Landscaping Plan will be expensive. AAIBO members are concerned about the requirement of delineation of all landscaping areas with dimensions as well as submission of the final landscaping plan. AAIBO members do not feel this is necessary and encouraged the Commission to take this into consideration.
- The Community Appearance Overlay Standards were not discussed in the past and creates a great deal of confusion.
- Regarding Section 23.321 (2) Applicability, of the Tree Preservation Standards triggers the 50% standard and the Commission is encouraged not to enact this portion of the draft ordinance.
- The Tree Survey and Preservation Plan (No. 5) will be extraordinarily expensive and Commissioners were encouraged to modify this portion of the ordinance.

- Urban Design Standards (Section 23-322) were discussed at great length at the Landscape Committee and within the membership of the AAIBO. Metal and concrete block materials are utilized on a daily basis and is a tool the AAIBO would encourage the Commission not to remove from the ordinance.

Ms. Campos closed the public hearing.

1. The first issue addressed by the Commission was whether or not to require a minimum percentage of the site to be landscaped.

Dr. Long requested clarification regarding the 50% requirement vs. the value of a structure – the 50% requirement was recommended due to the value of older structures (because any type of remodeling or rehabilitation to an older building will trigger the 50% requirement).

Mr. James stated that the landscaping requirements would be triggered; however, the draft ordinance contains an “Alternative Landscaping Plan” option. If an alternative plan was submitted that did not meet the technical standard but met the intent of the ordinance, the alternative plan could be considered. Options available to a proponent include requesting a variance from the Board of Adjustment and the alternative landscaping plan which would be presented to City staff indicating a method of meeting the intent of the ordinance without meeting the technical standards. If staff denies the alternative landscaping plan, an appeal could be made to the Planning and Zoning Commission for final determination as to whether or not the proposal meets the intent of the ordinance. Staff is currently developing an infill development strategy (encourage infill development through relaxed standards). This strategy has not yet been finalized and once developed will be presented to the Planning and Zoning Commission for input.

**Mr. Bixby moved that this section be approved as recommended by the Committee – Option 2 - (but, with a 10-foot strip of streetscaping in lieu of the minimum percentage requirement). Mr. Rosenbaum seconded the motion and the motion failed by a vote of two (2) in favor (Bixby and Rosenbaum) to four (4) opposed (Campos, Famble, Harkins and Long).**

**Mr. Harkins moved to approve Option 3 (consider percentage for area between front of building and any public thoroughfare – vary by zoning District and apply to area between building and street – none in Industrial districts/10% in CU, MU, SC, GC, LC, HC, Commercial, and O/15% in RM zoning districts). Dr. Long seconded the motion and the motion failed by a vote of three (3) in favor (Campos, Harkins and Long) to three (3) opposed (Bixby, Famble and Rosenbaum).**

Mr. Santee and Mr. James recommended that the Commission proceed to the next issue and then come back to the minimum percentage of landscaping at the end of the meeting. Commissioners agreed with this recommendation and proceeded to issue #3.

Issue #3: Should existing fences on adjacent properties be allowed to count toward the “buffer points” for a more intensive use?

Dr. Long stated that she strongly disagrees with this issue.

**Dr. Long moved to NOT allow existing fences on adjacent properties to count toward the “buffer points” for a more intensive use.**

Mr. James stated that the maximum number of point would be allow for a solid wall of masonry or brick (15 points), wood fence (5 points), each additional five (5) feet of buffer yard would provide five (5) points, a tree every 25 feet would provide 10 points and three smaller trees would provide 10 points. At the last meeting the Commission recommended providing ½ credit for an existing fence (i.e., 2.5 points for a wooden fence).

**The motion failed for lack of a second.**

**Mr. Bixby moved to approve Option #3 (Yes, but with a reduction in the number of points of ½ credit). Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, Famble, Harkins and Rosenbaum) to one (1) opposed (Long).**

Issue #6 was discussed next: What tree caliper size for tree preservation? Mr. James stated that this item refers only to “premium” trees (listed in the draft ordinance). Mr. Bixby requested that the list of “premium trees” be discussed prior to voting on Issue #6.

Issue #7: Is the list of “premium trees” acceptable?

Mr. Bixby stated that his question is in regard to the tree survey issue. Mr. Bixby stated that he is having difficulty accepting a tree survey. Mr. Bixby stated that his concern is that a tree survey would not be the most efficient use of money, efforts or focus. Mr. Bixby stated he did not feel the beneficial impact would be equivalent to the effort involved.

Mr. James stated that the way the ordinance is written, a site plan identifying all premium trees must be submitted to the City. Mr. James stated that if the property owner submits information to the City stating: “I have performed a survey of the property and have located no premium trees” this would be accepted by City staff.

Commissioners discussed the survey and method of surveying premium trees.

**Mr. McClarty moved that the tree preservation portion of the zoning ordinance (also known as the tree survey) be removed totally as recommended by the Landscape Committee.**

**Mr. James asked for clarification on this issue. The last time the Planning and Zoning Commission discussed this issue, the Commission wanted to keep the credits that would be allowed for preserving trees. Mr. James stated the he would assume that this would continue, i.e., keep this portion – eliminate the tree requirement but keep the credit portion in place.**

**Mr. McClarty revised his motion to the following: delete the portion for tree surveys altogether and provide credits for preserving trees. Mr. Bixby seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Harkins, McClarty, Rosenbaum and Campos) to two (2) opposed (Famble and Long).**

Mr. Rosenbaum asked Mr. James if this vote covered the premium tree caliper issue – Issue #6. Premium trees are still referenced in this portion of the ordinance.

Mr. James stated that this is correct – credit is given for premium trees. Mr. James stated that there are outstanding questions regarding caliper and the list of premium trees.

**Mr. McClarty moved that the caliper of trees be eight (8) inches. Mr. Rosenbaum seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Harkins, Long, McClarty and Rosenbaum) to one (1) opposed (Famble).**

Mr. McClarty asked if the premium tree list still come into effect since the 8-inch caliper has been included.

Mr. James stated that this decision is up to the Commissioners. The Commission could eliminate the concept of premium trees and include language that states that if the tree caliper is eight inches or larger credit is received for the tree regardless of the type of tree.

Issue #7: Is list of “premium trees” acceptable?

**Mr. McClarty moved that the Commission accept the recommendation of the Committee and include the list of premium trees (as indicated in bold in the information provided to the P & Z Commissioners and does not include the “Best of Abilene” plants). Mr. Bixby seconded the motion and the motion carried by a vote of six in favor (Bixby, Campos, Famble, Harkins, McClarty and Rosenbaum) to one (1) opposed (Long).**

Mr. McClarty requested that the issue of building materials be addressed next.

Mr. Harkins reiterated his stance on this issue – that prescriptive limitations should not be placed on design issues.

Mr. McClarty stated that the way to solve the problem of metal or concrete buildings is to have architectural input for every building more than 5000 square feet. This will protect the aesthetics of the building, but also address health, safety and welfare of the occupants of such buildings

**Mr. Bixby moved to not place limitations on building materials. Mr. McClarty seconded the motion and the motion failed by a vote of three (3) in favor (Bixby, Harkins and McClarty) to four (4) opposed (Campos, Famble, Long and Rosenbaum).**

Mr. McClarty requested that an item be placed on the next agenda to discuss recommending to City Council that the design threshold of building be lowered to 5000 square feet. This will be equal to the threshold for engineers and will address life, health and safety issues and aesthetics addressed in the Comprehensive Plan.

Mr. Santee stated that staff will investigate this issue to determine if it is appropriate for this Commission or the Board of Building Standards.

**Dr. Long moved to approve the wording on Page 18 (building material standards) with the addition of wording to indicate that these standards only apply to the Central Business District and Enhancement Corridors (the exemption for Industrial and Heavy Commercial zones would be included). Mr. Famble seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Mr. James stated the next issue to be considered is whether or not to require parking lot landscaping.

**Mr. McClarty moved to not require landscaping in parking lots. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Harkins, McClarty and Rosenbaum) to one (1) opposed (Long).**

The next question to be addressed pertained to minimum percentage of site to be landscaped. This issue was considered earlier in the meeting. Two motions were made regarding this issue and both failed (4-2 and 3-3).

**Mr. McClarty moved to approve the recommendation of the Committee (No, but offer incentives to accomplish this). Mr. Bixby seconded the motion and the motion failed by a vote of three (3) in favor (Bixby, McClarty and Rosenbaum) to four (4) opposed (Campos, Famble, Harkins and Long).**

**Mr. Rosenbaum moved to approve Option 3 (Yes, but only apply to the area between buildings and the street – 0% for Industrial zoning districts, 5% for Commercial or Office zoning districts and 15% for Multi-Family zoning). Mr. Bixby seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Discussed next was the outstanding issue of should there be a minimum threshold where these requirements apply other than a 50% addition (for large buildings)? Mr. James stated that the question is whether the Commission wishes to consider a minimum size threshold regardless of the percentage of the site – if the addition exceeds a certain size, landscaping requirements would be required.

**Mr. McClarty moved that the minimum threshold be increased to 20,000 square feet and this increase would trigger the landscaping requirements for the entire site. Mr. Harkins seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Mr. James stated that the one other question concerns the percentage of parking lot landscaping and building materials. These issues were removed from one section of the ordinance; however, these requirements were included in an “optional” section that could be referenced for developments such as PDDs.

Mr. McClarty stated that the intent of the ordinance rewrite was to eliminate PDDs. Mr. McClarty stated he did not want to leave an opening in the proposed ordinance that would allow someone to rezone to a PDD.



Mr. James stated that staff is working to simplify the corridor overlay – to eliminate the complicated point system utilized in the current corridor overlay zoning language and replace it with the language proposed in this draft ordinance.

Commissioners were provided with draft ordinance language and the issue being discussed can be found on Pages 12 (Landscaping) and Page 19 (Community Appearance Overlay Standards).

**Mr. Bixby moved that the Community Appearance Overlay Standards be removed from the draft ordinance. Mr. McClarty seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Dr. Long asked for clarification regarding the issue of fencing. Previously, the Commission has discussed this issue, particularly the fencing in residential areas. Dr. Long stated that she is concerned about barbed wire fencing in residential areas.

Mr. James stated that revisions recommended by the Commission prohibit the use of razor or barbed wire within residential zoning districts except for agricultural uses.

Dr. Long asked how this type of fencing would be eliminated once this ordinance takes effect.

Mr. James stated that the proposed ordinance would not be retroactive regarding the use of razor or barbed wire fencing. Mr. James stated that this issue could perhaps be addressed through the nuisance code.

Mr. Bixby referred to Page 19, Item G (Prohibition Against Use Restrictions). Mr. Bixby stated that he is unsure as to the reason for consideration of this item by the Planning and Zoning Commission,

Mr. James stated that this item was based on a model ordinance for regulating big box development. This would eliminate the possibility of large retail stores (such as Wal-Mart) moving to a new site and restrict the sale of the original store to a competitor.

Mr. Bixby stated that he did not feel the Planning and Zoning Commission would want to place use restrictions on owners.

**Mr. Bixby moved that Item G. be removed from Page 19 of the draft ordinance. Mr. McClarty seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Regarding the lighting issue (Replacement Light Requirements), Mr. Bixby stated this section places restrictions on light pole replacements (height and design). Mr. Bixby stated that he would like to be allowed to replace damaged poles with the same height and design as currently on the site. The section (Page 20, Item B) reads as follows: “Any replacement of said lighting fixtures shall comply with all the outdoor lighting standards as set forth in this subsection.”

Mr. James offered clarification for this item. This does not limit the number of lights poles – the only requirement is that the light be shielded so that light does not spill over onto neighboring properties (the light would have to be shielded so that the light is projected down).

**Mr. Bixby moved that the word “replacement” and all wording following the word “however” be removed from Page 20, Item B. Dr. Long seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Mr. Bixby stated that the last issue to be discussed is on Page 10 of the draft ordinance (Screening of rooftop mechanical equipment). Mr. Bixby recommended that Items A., B., and C of this section be dealt with through buffer yard requirements.

**Mr. McClarty moved that Items A., B., and C. on Page 10 be reworded (Items B., and C screening can either be a landscape buffer zone to cover all screening elements or a fence of seven (7) feet in height) and change the word “including” to “excluding” regarding roof-mounted equipment from Item A. Mr. Bixby seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Mr. James stated that if there are no further issues to be discussed, a final motion is needed to state that the Planning and Zoning Commission approves the ordinance, as amended, and recommend to City Council for consideration.

**Dr. Long moved to approve the ordinance, as amended, and forward to the City Council. Mr. Famble seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.**

Mr. James requested the Commission take the same action with the sign ordinance considered at the April 2, 2007, meeting (approve and recommend to City Council, as amended).

**Mr. Rosenbaum moved to approve the sign ordinance, as amended, considered by the Planning and Zoning Commission at their April 2, 2007, meeting and forward this recommendation to the City Council. Mr. Harkins seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, Famble, Harkins and Rosenbaum) to two (2) opposed (Long and McClarty).**

**Item Ten: Adjourn**

There being no further business, the meeting was adjourned at 10:55 p.m.

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