
PLANNING & ZONING COMMISSION

May 7, 2007

Minutes

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
Trish Aldridge, Assistant City Attorney
Bob Lindley, City Engineer
Gloria Elder, Planner II
JoAnn Sczech, Executive Secretary (Recording)

Others Present:

David Taylor
Eddie Chase
Jose Chavez
Chris Westbrook
Kenneth L. Musgrave
Gary Pierce
Sheba Figueroa
Don Green
Don Tatum
Brooke Logan
Ken P. Musgrave

Media Present:

Sarah Kleiner-Varble, Abilene Reporter-News
Jerry Reed, Abilene Reporter-News

Item One: Call to Order

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

Item Two: Invocation

Mr. Famble gave the invocation

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

Item Three: Approval of Minutes

Mr. Bixby moved that the minutes of the April 2, 2007, Planning and Zoning Commission meeting be approved as submitted. Mr. Famble seconded the motion and the motion carried unanimously.

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Item Four: **Plats**

Gloria Elder presented information regarding plats listed on the agenda. Of the six (6) plats listed on the agenda, three (3) are complete and staff recommends approval; two (2) plats are incomplete and staff is recommending denial; and one (1) plat was withdrawn by means of a 30-day waiver signed by the property owner.

The plats recommended for approval are Agenda Items a., b., and c. Ms. Elder stated that staff is recommending approval of these plats as all meet Subdivision Regulation requirements.

Ms. Campos opened the public hearing and asked if anyone wished to speak regarding any of the plats being presented for approval.

Mr. David Taylor, Development Manager for Horne Properties, stated that he will be addressing Item a. Mr. Taylor stated this property is adjacent to the new Lowe's Development and includes but is not limited to Enterprise Drive. Enterprise Drive is a roadway that Horne Properties decided to build and it has been somewhat controversial in getting all the property assembled. Horne Properties has over \$1 million dollars in this road and Mr. Taylor stated that he would be remiss if he did not explain to the Commissioners how difficult it has been to get to this point. Mr. Taylor stated that in order to get staff approval for the road, he was required to sign an agreement that he thought might not be proper. Mr. Taylor stated that he signed the agreement in the spirit of compromise – it is contrary to what was previously agreed to with the City. Mr. Taylor provided the Commissioners with a memorandum on City letterhead that explains that there are no requirements for sidewalks. Mr. Taylor stated that it seems arduous and divisive for staff to require sidewalks at this time. Mr. Taylor stated that he has fought the battle for the past few weeks and is tired of fighting. Mr. Taylor stated that he does not believe it is right that they had to get to a point where a site agreement is required but in the spirit of compromise, he signed this agreement about 15 minutes ago. However, he stated that he still does not feel it is proper, and wanted the Commissioners to know what has transpired up to today.

Mr. Bixby asked Mr. Taylor for clarification – Mr. Taylor had an agreement signed by the City Engineer referring back to Musgrave Boulevard suggesting or agreeing the sidewalks would be dealt with in the same manner as Musgrave Boulevard.

Mr. Taylor responded affirmatively.

Mr. Bixby asked Mr. Taylor if he had an idea as to the number of meetings he and his engineers had with the City staff over the past year on this issue.

Mr. Taylor stated that his guess would be about 30 meetings.

Mr. Bixby asked Mr. Taylor the first time he knew the sidewalks would be an issue.

Mr. Taylor responded that he was told last Friday that staff was going to recommend denial of the plat.

Mr. Bixby asked if this issue had been brought up prior to last Friday.

Mr. Taylor responded that it certainly has been brought up, to say that it has not been brought up would not be truthful, but they had always believed that because they had a memo from the City that

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the memo would prevail. Mr. Taylor stated that the more simplistic issue is that they purchased property within the City, they have spent \$1 million dollars to build a road, secured a building permit from the City to build the road, and now when they are trying to dedicate the road to the City, the City is now saying that they need to jump through some more hoops (provided additional infrastructure) and he does not believe that this is good development. Mr. Taylor stated that the first simple part of this is when a building permit is issued to construct a road, it should stand. The second simple part is that if a memo has been received from the City of Abilene stating that sidewalks will not be required, why would they come back and argue the point. Mr. Taylor stated the he felt as though this requirement was a hassle and he felt sure that City staff was doing what they needed to do. Mr. Taylor stated that he had a very frank conversation with Jon James on Friday regarding this issue. Mr. Taylor stated that ultimately what this Planning Commission does not want is to slow down growth in the City. The City is well behind this development. The City Council has made it very clear to him how behind them they are and he is glad to be here. Mr. Taylor stated that what he is trying to do is to explain that the process could be simpler, a little less arduous, and development could once again become a good experience in Abilene.

Mr. Harkins asked Mr. Taylor what the agreement was that he was required to sign today.

Mr. Taylor responded that today he signed a sidewalk deferral agreement that makes reference to the fact that he is agreeing to build a sidewalks if development occurs and if any legal action arises, the legal action will be in Taylor County. Mr. Taylor asked why the questions of suing is being brought up and he had to argue to have this portion removed from the agreement.

Mr. Bixby provided his opinion regarding this situation and that is that one of the largest national developers in the country is bringing retail to Abilene that local people are not capable of bringing to Abilene. Mr. Bixby stated that Mr. Taylor is very much appreciated in Abilene and speaking for himself he would like to make it much easier for Mr. Taylor to operate in Abilene and to stay and continue to do business in Abilene.

Mr. Famble asked Mr. Taylor for clarification: "Does Mr. Taylor have no problem putting in the sidewalks or is it the manner in which Mr. Taylor feels like he was "strong-armed." Are the sidewalks an issue?

Mr. Taylor responded that the sidewalks are an issue in that they never agreed to do sidewalks and the City sent him a letter stating that he did not have to install sidewalks. However, in order to receive approval for the plat today, he felt as though this was something that he had to do and that is not right.

Mr. Bixby stated that the sidewalks were to be provided on the site plan as individual parcels were developed according to the documents provided to Mr. Taylor. Now, that has changed to some extent.

Mr. James asked to clarify one issue: The agreement to which Mr. Taylor is referring only applies to the far southwest portion of the plat (on Enterprise Drive) approximately 1000 feet long and 40 feet wide.

Mr. Taylor asked the Commissioners to refer to the memorandum regarding sidewalks on Enterprise Drive and Quail Valley Northeast. Mr. Taylor stated that the reason he believes he has been singled out is Quail Valley Northeast is a subdivision that was approved by this Commission with no

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sidewalks and no comments from staff. Mr. Taylor stated that the developer for the Quail Valley Subdivision did not have to go through the process of traveling 800 miles to fight this or pay an engineer to fight this process for the past few months and he does not believe it is right. Mr. Taylor stated that he felt the Commission should approve the plat without the deferral agreement.

Mr. McClarty asked Mr. Taylor if the following statement is correct: What Mr. Taylor is stating is that he had an agreement with the City of Abilene at one time that states that his company will put in this development and as parcels are sold the individuals who purchase these parcels will be responsible for sidewalk installation. Mr. McClarty stated that it is his understanding the Mr. Taylor is not against the installation of sidewalks but as the land is developed sidewalks will be installed by the developer (purchaser). Mr. McClarty asked if this is correct.

Mr. Taylor stated that this is correct. However, this agreement does not force him to install sidewalks today but what it is stating is that he (Mr. Taylor) will construct the sidewalk.

Mr. McClarty asked Mr. Taylor if he was saying that now he has a piece of property that he purchased, which he has developed and the property was developed based on information provided to him by the City and Mr. Taylor has a large amount of funds expended because of this and now at the very end – when it was agreed the individuals purchasing the property and actually developing the property would install sidewalks, which means the cost of the sidewalks would be on the individuals building, not the person developing – a substantial cost will be incurred because of thousands of feet of sidewalks. Mr. McClarty asked Mr. Taylor if this is correct.

Mr. Taylor stated that Mr. McClarty's statement is very accurate.

Mr. McClarty stated that if this is the case and this is within the City codes, which we do (that when you develop this property, sidewalks have to be installed), we have not lost anything. Mr. McClarty stated that it seems to him that there is no reason to install sidewalks in the middle of a pasture until the land is sold. When the land is sold and developed, that is when sidewalks are installed.

Mr. James requested to clarify a couple of issues:

- Before this became a controversial issue, City staff had acknowledged that they would agree to the waiver of the sidewalks for the platting process for everything on the plat indicated in magenta on the slide (adjacent to Lots 101 and 102, Block B and along the northern property line of Lot 101, Block A). The only area at issue is that area indicated in red on the slide (an open space strip of land). It had been agreed that sidewalks would be installed at development for everything else. The reason staff could not recommend approval of this plat involved this open space strip of land – a 40-foot wide strip of land that is undevelopable. Under the Sidewalk Master Plan/Sidewalk Ordinance, there is a requirement that a sidewalk be constructed adjacent to any undevelopable property, such as a detention pond or this strip. Unless this area is replatted in the future, those properties across this strip of land could develop with a driveway across this strip of land connecting to Enterprise Drive (and never have to do a site plan or replat). If the Commission approves this plat without the agreement in place, then, the City would lose the option of a sidewalk with future development because as platted this property is not developable.

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Mr. Bixby stated that staff is concerned – they are scared that part of the sidewalk might not get built. This is their concern; however, it is simpler than that – there is an agreement with the developer that does not discuss that and does not bring up this issue – it simply states that it will be completed in the same manner as Musgrave Boulevard and the City Engineer agree with this.

Mr. James stated that he has two additional points he would like to present to the Commissioners:

- The sidewalk deferral agreement runs with the property – what Mr. Taylor has signed is an agreement that states, “We agree that sidewalks will be constructed in the future.” If at some point the land is sold to an individual who will be developing the property, that obligation to construct the sidewalk goes with the property – it does not stay with the current property owner and/or subdivider. What everyone agreed to initially (or what was thought to be the agreement) is that staff agreed that sidewalks could be deferred for future development of the property. Mr. James stated that the problem is that there is a piece of property being created with this plat that is undevelopable. Mr. James stated that he thought that this was the only point of issue.

Mr. Harkins asked why this is being done this way. Mr. Harkins stated that it seems to him that the road should be 40-feet further to the west – why would they leave a 40-foot strip there? Mr. Harkins stated that he does not understand why the 40-foot lot remains.

Mr. Taylor stated that this 40-foot strip of land remains because of the curvature of the street – the street is in place and open for vehicular traffic. Mr. Taylor stated that a point he would like to make to staff is that 40-foot strip in question has been there and was there when the City sent Mr. Taylor the memo.

Mr. Harkins asked Mr. Taylor if he felt the City recognized that the 40-foot strip of land was there when they agreed to this.

Mr. Taylor stated that he cannot respond to what was the thought of the City Engineer but the data was before the City Engineer.

Mr. James added his final point of clarification:

- The memo from Bob Lindley was a memo in regard to the Engineering Department’s review of the construction plans for this road and it is correct to state that the sidewalk was not required at the time of the construction plans and construction of this street. Mr. James stated that he believes that what the letter does not say is that the City has agreed to completely waive the requirement for a sidewalk along that street.

Mr. Harkins stated that the memo does not state this – it states that “it would be required in the development of individual parcels” – which would occur at a later point in time. Mr. Harkins stated that the problem is that there is one area which was allowed to “fall through the cracks” which will never be developed.

Mr. Bixby stated that the street was constructed in accordance with the plans and specs and now when Horne is wanting to dedicate this street to the City and here at the last second, a wrench was thrown into the works.

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Mr. Harkins stated that he does not understand how a street could have been designed and constructed with a 40-foot undevelopable lot on the west side.

Mr. James stated that the Subdivision Ordinance permits such undevelopable lots – they must, however, be noted as such on the plat. In this case, the area is noted as open space (this makes it clear that this is not a developable tract).

Mr. McClarty stated that what is trying to be accomplished with sidewalks is to provide a safe access for pedestrians – that is the goal with sidewalks. There is an adjacent sidewalk on this street that is a safe sidewalk for pedestrians – if the property on the opposite side of the street cannot be developed, there is no reason for a sidewalk. Mr. McClarty stated that if this is wasted property, he would rather see it landscaped (trees and grass).

Mr. James stated that staff suggested an option to the applicant that if this area remains an open space strip without providing access to the adjacent businesses staff would be comfortable with landscaping. The problem would be encountered when and if the adjacent properties (one of which is a hotel in operation and a site plan has been approved for another hotel) obtained land for an access onto Enterprise Drive. Property or an easement can be purchased for such an easement.

Mr. McClarty asked Mr. James if it is correct that the City has control over connectivity to Enterprise Drive.

Mr. James stated that the City could not deny this connection to Enterprise Drive in exchange for the installation of a sidewalk except for this agreement which was signed today – which is essentially what is stated in the agreement: “In addition to a site plan or any other development that would trigger a sidewalk, they agree that an approach or driveway access onto Enterprise Drive would be considered development and would therefore trigger the sidewalk.”

Mr. McClarty asked the purpose of a sidewalk on a piece of land that cannot be developed.

Mr. James stated that the answer to this question is that the adjacent properties to the west, once developed, the 40-foot strip will effectively be the front or backyard of the property. Mr. James stated that it is his job and the responsibility of this Commission is not a discretionary decision regarding this matter – the Commission is not tasked with answering the question, “Is this a good thing, is this the right thing,” The Commission is tasked with reviewing the plat and determining if it meets the minimal plat requirements of the City of Abilene. Staff’s recommendation is that without this deferral agreement it does not. The Sidewalk Ordinance requires sidewalks on both sides of the street in situations just such as this. The proponent submitted a plat that did not show sidewalks or did not provide a guarantee of sidewalks on both sides of the street as required by our ordinances. This is the only reason for recommending denial of this plat- it does not meet the technical requirements of the Subdivision Regulations.

Mr. Bixby stated that City staff was very tardy, apparently, in recognizing this and stated that the Commission needs to be very careful of the appearance of signing agreements and then not sticking to them. Mr. Bixby stated that it is belief that this is what is happening in this event. Mr. Bixby stated that he is very uncomfortable with this situation.

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Mr. McClarty stated that 1000 feet of 5-foot wide sidewalk will amount to a substantial amount of money that the City is asking the proponent to spend after the fact – they have developed this property based on agreements and memos that came from the City. Now the City is asking them to spend additional funds – this is not good.

Mr. James stated that the City is not stating that any funds must be expended at this time – what is occurring is the proponent is being asked to sign an agreement that either they or a future property owner will do that at the time of development and defining development to include a driveway permit across the open area. This is a deferral to future development.

Dr. Long asked for clarification - if the property is undevelopable by itself, therefore, it cannot be sold.

Mr. James stated that pieces of this property could be sold to the adjacent properties in order to place a driveway on this land, e.g., the existing hotel could purchase property from the applicant to install a driveway out to Enterprise Drive.

Mr. McClarty stated that if the property was sold to an adjacent property owners, the purchaser would be responsible for the installation of a sidewalk.

Mr. James stated that this is correct.

Mr. Taylor stated that in this case, the purchaser would reduce his purchase price by the value of the sidewalk. Mr. Taylor stated that, in effect, they are paying for the sidewalk.

Mr. Bixby stated that he did not believe the cost of the sidewalk would break Horne Properties, Inc., but rather it is a matter of honoring an agreement. Mr. Bixby stated that an agreement was signed on December 1, 2006, and this issue was raised as a problem this past week – after the fact.

Mr. Harkins stated that he is bothered by the fact that the sidewalk in question will not be continuous to Highway 351. Mr. Harkins stated that there might be some interconnectivity in this area; however, the area is bounded by I-20 at one end.

Mr. James stated that the areas in the magenta color on the slide are noted that these areas are waived – this means that these areas were waived for this platting process. Future development on those sites will require a sidewalk on the site plan. The sidewalk will be continuous when these properties develop.

Mr. Taylor stated that Mr. Bixby's point regarding expenditure of funds for sidewalks will not break Horne Properties, Inc. Mr. Taylor stated that if he had to construct sidewalks all along Enterprise Drive it probably would not make a difference in the quality of life of Horne Development Company. Mr. Taylor stated that the issue here is that he can no longer rely on a memo from the City if this agreement is required. Also, regarding an additional 100 acres slated to be developed with other retailers – Mr. Taylor stated that he must be very careful because he cannot put faith in a memo from the City if the Commission allows staff to do this. Mr. Taylor stated that this is not about the cost of the sidewalk – it is about honoring a commitment made to developers – and stand behind it – it is that simple.

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Mr. Rosenbaum stated that if the property is not developable, how does Mr. Taylor propose that the sidewalk will ever be installed.

Mr. Taylor stated that if the property is not developable he does not know why there would be a need for a sidewalk.

Mr. Taylor stated that a great deal of man hours have been spent over this one issue. Mr. Taylor stated that bigger issues than the placement of a sidewalk should be discussed.

Mr. Harkins asked for clarification – if the Commission approves Item a., does this automatically mean that the agreement must be a part of the plat?

Mr. Bixby stated that the Planning and Zoning Commission can approve the plat without the waiver.

Mr. James asked for staff's clarification, in this particular case, that the motion be clear as to whether or not the Commission intends for the Sidewalk Deferral Agreement to be included.

Mr. Santee stated that if this is the Commission's intent for this item, the motion should be made that the plat be approved because it meets the requirements for plat approval notwithstanding any type of deferral agreement. Mr. Santee stated that he believes staff's recommendation is contingent or dependent upon the agreement. Otherwise staff would recommend that the plat not be approved.

Mr. Harkins stated that typically plats receive a "rubber stamp" approval once all requirements are met. The Commission may be in somewhat of a legal bind if staff is stating the plat does not meet the requirements without the waiver. Mr. Harkins stated that he does not have enough information or knowledge to know if all requirements have been met.

Mr. Santee stated that the Commission has not discussed whether or not the memorandum from the City Engineer is an agreement – part of the question is does Mr. Lindley have the authority to bind the City of Abilene irrespective of Subdivision Regulations requirements.

Mr. Bixby stated that this is a very divisive issue and should not have happened. Mr. Bixby stated the Commission should not be in this position – the Commission did not have to be in this position today.

Ms. Campos asked if anyone else had questions for Mr. Taylor.

Ms. Campos asked if anyone else wanted to speak regarding this item.

Mr. Kenneth Musgrave stated that he feels as though he is in the middle of this issue because he sold this property to Mr. Horne. Mr. Musgrave stated that when he sold the property about three years ago, Mr. Horne expressed concern about developing in Abilene because they have developed in other areas and other states and some of his people told him that Abilene is a very difficult town in which to develop. Mr. Musgrave stated that he told Mr. Horne that that used to be true but is not true any longer. Mr. Musgrave stated that we got rid of the other City Manager, some good changes have been made – we have a good City Council, a good City Manager, a good Planning staff – everything is going real good right now. Mr. Musgrave informed Mr. Horne that if he comes to Abilene he would

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find cooperation. Mr. Musgrave cited Musgrave Boulevard as a joint venture between himself and the City and is a good example of cooperation. Mr. Musgrave told Mr. Horne that Abilene is behind development and if Mr. Horne developed in Abilene he would not encounter problems. Now he has a problem that should never have happened. Mr. Taylor's boss is Mr. Horne – he is a strong, strong man who develops all over the country. Mr. Musgrave stated that when he made a deal with Mr. Horne they took an option on 265 acres in the area around Wal-Mart. Mr. Musgrave stated that their deal was if Mr. Horne could secure a “big box” operation such as Lowe’s, Mr. Musgrave would sell him the rest of the property. Mr. Musgrave stated that they have performed – they secured a Lowe’s – and because of this problem Mr. Horne has informed Mr. Musgrave that he does not want the property (265 acres) they discussed. Mr. Musgrave stated that Mr. Horne told him that he has plenty of property in other places that welcome his development – welcome him to come in and spend millions of dollars developing their city and therefore he (Mr. Horne) is turning part of the property back over to Mr. Musgrave. Mr. Musgrave stated that as a result of this simple item that should have never happened he has lost a big customer and the City of Abilene has lost someone that is capable of bringing some more real good people with which he (Musgrave) does not have contact. These people would spend a lot of money, create a lot of jobs in this one area alone. About three years ago this was a mesquite pasture with a total valuation of less than \$500,000. Since then, the value has been increased the value of the taxes in this one area by \$48 million. This does not include the Lowe’s under construction – this is another \$10 million. Mr. Musgrave stated he did not know the number of jobs (hundreds). Mr. Musgrave stated that this is a big deal and he hates to see the City jeopardize that. Mr. Musgrave stated that Mr. Jon James has made the statement both publicly and privately that he wants to discourage any development outside the peripheral area of Abilene, Texas. That is not in step with what our City Council wants and is not in step with he believes the Planning and Zoning Commission wants. Mr. Musgrave stated that he wants the Commission to know that in the last three years everything that he has tried to do in that entire area he (James) has made it extremely difficult – extremely difficult. Mr. Musgrave stated that if he was not here someone else would be developing that area. Mr. Musgrave stated that as long as he is here he will not put up with that – he is going to do what he thinks is best for the City of Abilene and he will not come up here and fight this battle every time they have a little plat. This is not what we should have to do.

Ms. Campos closed the public hearing.

Mr. Harkins stated that he did know whether the Commission can legally approve or deny this plat today.

Mr. Bixby stated that if there is a legal problem, it is the City’s legal problem and the Commission should simply honor the agreements that are in place.

Mr. Famble asked what type of precedence is being set if the motion is made to approve the plat without the waiver agreement.

Mr. Santee stated that with a plat, if the Commission takes no action, the plat is approved 30 days from the day it is filed - if this Commission takes no action whatsoever. Mr. Santee stated that whether staff recommends approval or denial the plat is approved if the Planning and Zoning Commission takes no action. In answer to Mr. Famble’s question of precedence, Mr. Santee stated that no precedence is being set either way on this plat or any other plat that comes before you because a plat must conform to the general plan. Therefore if the Commission moves to approve this particular plat, what is being

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stated is that it conforms, generally, to the City's Subdivision Regulations. Mr. Santee stated that the Commission may disagree with staff – staff is present to provide a recommendation even if staff is recommending that it not be approved (staff does not agree that the plat conforms to the general plan, absent the agreement). If the Commission makes the determination that the plat conforms to the general plan and decides to approve the plat, irrespective of the sidewalk deferral agreement, it is the opinion of the Legal staff that a precedence is not being set – other than the Commission is disagreeing with staff on their interpretation of “does it conform to the general plan?”

Mr. Bixby moved that the plat listed as Item a. on the agenda be approved and that the plat conforms with the City's general plan irrespective of the Sidewalk Deferral Agreement. Mr. McClarty 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).

Mr. McClarty moved that the plats listed as Items b. and c, on the agenda be approved. 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. McClarty moved that the plats listed as Items d. and e. on the agenda be denied. 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.

Item Five: Rezoning Requests

a. Z-2007-11

Public hearing and possible vote to recommend approval or denial to the City Council on a request from William Steven West, agent Chris Westbrook, to rezone property from AO (Agricultural Open Space) to RS-6 (Single-family Residential) zoning, located on the north side of Hardison Lane approximately 400 feet west of Oldham Lane. Legal description being 28.5 acres out of the East part of Section 67, Blind Asylum Lands, Abilene, Taylor County, Texas.

Gloria Elder presented the staff report for this case. The request is to rezone 28.47 acres from AO to RS6 for single-family residential development. The subject parcel is currently vacant. There are multiple underground gas pipelines located along the southern boundary of the site. The area was annexed in 1980 and has remained AO since that time. The property directly to the north was rezoned to RS-6 in December 2005.

Current Planning Analysis

A Preliminary Development Plan was submitted that includes the subject parcel and the property to the north that was rezoned in 2005. The full proposed development would create approximately 185 residential lots. Twenty lots have already been platted and homes are currently under construction. The Plat Review Committee has already reviewed an additional 23 lots and the proponent is currently constructing the necessary public improvements prior to plat approval.

Comprehensive Planning Analysis

The Future Land Use section of the Comprehensive Plan designates this general area for low-density residential development. The proposed subdivision will eventually adjoin the Lone Star Ranch and Vaquero residential subdivisions when they are extended as shown on their Preliminary Development Plans, creating a large, continuous single-family residential area.

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The Thoroughfare Plan shows an east-west and a north-south collector street in this general area, which have both been accommodated through the proposed Preliminary Development Plan.

Property owners within 200 feet of the rezoning request were notified. There is only one (1) other property owner in the area, other than the applicant, and no responses were received regarding this rezoning request.

Planning staff recommends approval of this request.

Ms. Campos opened the public hearing.

Mr. Chris Westbrook thanked Ms. Elder for her presentation which provided the applicant's position on this rezoning request quite well. Mr. Westbrook stated that this is the continuation of a process that was begun in 2005. Since that time development in this area has occurred. The Indian Wells Subdivision has begun – currently 19 homes are at or near completion. The second phase contains 23 lots of which 15 have already been sold. The next phase contains 39 lots, 10 of which have been sold.

Ms. Campos closed the public hearing.

Mr. Bixby moved to approve Z-2007-11. 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.

Before continuing on to the Thoroughfare Closure, Mr. Santee stated that he has had a request from a citizen who was attending this meeting to speak to the plat identified as Item e. on the agenda. The proponent has requested that plat Item e., be reconsidered. This item was denied by the Commission earlier in the meeting. Mr. Santee stated that he did not see a problem with reopening the public hearing to consider this item since this item is a part of the agenda for this meeting.

Item Four: Plats (Reconsideration of Item e.)

Ms. Campos stated that at this time the Commission will reconsider Item e. under the listing of plats.

Mr. Bixby moved to reopen consideration of plat Item e. on the agenda. Mr. McClarty seconded the motion and the motion carried unanimously.

Ms. Campos reopened the public hearing and asked if anyone wished to speak regarding this plat.

Mr. Gary Pierce stated that he is unsure why this item was recommended for denial. Mr. Pierce stated that this plat was to subdivide land into two lots. Mr. Pierce stated that he plans to construct a residence on this property and, in fact, a contract is in place for construction of the structure. Mr. Pierce stated that he does not know why the plat was recommended for denial.

Gloria Elder stated that currently staff has not received all information required to recommend approval of the plat. Staff has not received the geo-reference AutoCAD file of the document. The current ordinance requires a paper copy signed by the applicant and an electronic copy that is geo-

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referenced to our GIS system. The surveyor was unable to provide a geo-referenced copy of this plat; therefore, the plat does not meet the requirements of the Subdivision Regulations.

Mr. Eddie Chase, Chase Surveying, stated that he did not realize there was a problem with this plat until after 1:00 p.m. today. Mr. Chase stated that he hired Mr. Jim Williams to provide the GPS information. Mr. Williams completed the geo-reference and informed Mr. Chase that the information had been submitted to the City.

Ms. Elder stated that the City received an AutoCAD file that was incomplete – usually this information contains the plat template, the labeling, the lot lines, the surrounding properties, etc. Ms. Elder stated that what was received by the City was an outline of the lots – not geo-referenced, no labeling, no template and did not line up with the City's GIS maps. Ms. Elder stated that she did contact Williams Surveying to notify them that the plat was not geo-referenced. Williams Surveying submitted information last week that also did not meet all requirements. Williams Surveying submitted additional information which did not work either. Ms. Elder stated that she spoke with one of the surveyors today at Williams Surveying and short of resurveying the entire property there was little they could do at this time. At this time this was not an issue that could be resolved prior to the Planning and Zoning Commission meeting and therefore staff's recommendation is denial of the plat.

Mr. Chase stated that the geo-reference requirement is new and he has no problem with this; however, not knowing early enough has caused problems. Mr. Chase stated that he can provide the City with whatever is required. This will entail Williams Surveying resurveying the property – which will be an extra cost for him – but this should not stop this plat. This has nothing to do with the drawing that will be signed by the Commission or anything submitted.

Mr. McClarty asked Mr. Chase if this can be done and will not be a problem.

Mr. Chase responded affirmatively.

Mr. Bixby asked Mr. Santee if this plat can be approved subject to the required information being submitted to the City.

Mr. Santee responded no, that has not been his understanding regarding plats. Mr. Santee stated that the reason for this is that if the plat is approved with conditions and the conditions are not met, the plat will still be approved after 30 days. Mr. Santee stated that there are no checks and balances on plats because they are approved by operational law.

Mr. James stated that the other option is the waiver of the 30 day timeframe to allow the applicant to waive their right to a decision within 30 days. This allows the plat to remain "in process" and the applicant is not required to restart the platting process (application fee, etc.).

Mr. McClarty asked Mr. Santee if there was any legal way to allow this process to continue because it is known that Mr. Chase will correct this issue.

Mr. Santee stated that currently the Subdivision Regulations and the approval process are written in such way that do not allow for conditional approval on a plat. Currently there is no mechanism in place to allow for this process.

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Mr. Harkins stated that technically the file was sent to the City via a computer file. Whether the file worked or not is debatable and it could even be the City's system that did not work – Mr. Harkins stated that he did not know the answer to this. However, technically, the file was submitted.

Mr. James stated that a file was submitted to the City but not the correct file. The ordinance clearly states that the information submitted must be a geo-referenced file. The City received a file that was not geo-referenced (a file that was not compatible with the City's GIS system). Mr. James stated that Williams Surveying was notified shortly after the plat was initially filed with the City last month. Mr. James stated that Williams Surveying was notified the day after the internal plat review and staff may have notified them one more time after an additional file was submitted which also did not work. Mr. James stated that this is the first time staff has had this problem. Mr. James stated that it is not unreasonable to expect that this is a fixable problem; however, as of today, staff has not received all of the information required by the ordinance in order for staff to recommend approval of the plat.

Ms. Campos asked if the problem was rectified prior to the next Planning and Zoning Commission meeting, could this plat be approved.

Mr. Santee stated that the Commission is at liberty to make such a motion. Currently City staff has nothing in place to guide the Commission as to how to accomplish this. With the direction of the Planning and Zoning Commission, staff could prepare a policy to rectify this situation. Mr. Santee stated that if a motion was made the wording could be, “to approve the plat with the condition that a geo-referenced file be submitted to the City (in less than 30 days) which is in compliance.” Mr. Santee stated that failure to submit this information (by a certain date) would cause the plat to be denied.

Mr. Chase stated that if this plat is not complete and approved by the 15th of May it will not matter – the process would not help the proponent.

Ms. Campos closed the public hearing.

Mr. McClarty moved that plat Item e. be approved contingent upon the geo-referenced information being supplied to the City by the 15th of May and if this information is not supplied to the City of Abilene by May 15th, the plat will be denied. 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.

Item Six: Thoroughfare Closure

TC-2007-03

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the City of Abilene, agent Enprotec/Hibbs & Todd, Inc., to abandon portions of the public roads west of Highway 36, located at Abilene Regional Airport. Legal description being Lot 1, Block A, Abilene Regional Airport Addition, Abilene, Taylor County, Texas.

Gloria Elder presented the staff report for this case. The request is to The original request involved only a small portion of Airport Boulevard that needs to be relocated due to the

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bond project involving reconfiguration of the parking lots. In order to accommodate the request if the roads remain public, the new portion of road created by the modified configuration would need to be dedicated to prevent a gap in the continuous roadway. After closer inspection, the alternative of closing all of the roads and converting them to internal circulation (similar to a park road, instead of a typical city street) was suggested to provide the airport additional flexibility for security and operational purposes.

The original reasoning behind the dedication was to allow the Police Department to enforce traffic and parking regulations and for the Streets Division to be responsible for maintenance. There are also city-owned structures that are leased to private entities with addresses along the existing roads.

The Planning Staff met with representatives from Traffic Engineering, Abilene Regional Airport, and the Legal Department to determine the most desirable solution. Traffic regulations could still be enforced on the property since it is owned by the City, but Don Green, Director of Aviation, was still concerned about maintenance of the roadways because the airport lacks the proper equipment.

In order to clarify the difference between public and private areas and to meet the project needs for the new parking lot, Staff recommends closure of West Access Drive, East Access Drive, and the portion of Airport Boulevard that will become part of the proposed parking area. The Access Drives leading behind the terminal are already closed to the public with gates to prevent access to the runway and other operational areas. Staff recommends these closures with the condition that the new portion of Airport Boulevard is dedicated to provide a continuous loop of public access to the terminal area. Lance Drive, which currently provides a secondary continuous loop, will be separated by curbing from the existing Upper Parking Circle and the new portion of roadway. The staff recommended dedication will be necessary to prevent a gap in the loop once the new curbing is constructed.

Another alternative we are still considering is the possibility of converting all of the roads to internal circulation. The concerns regarding financial responsibility for maintenance and enforcement of parking and traffic violations could possibly be overcome through other means. Furthermore, this option would provide greater flexibility to the airport for future development.

The Plat Review Committee reviewed this request and identified several utility lines on the subject property. The utility providers will need to maintain full access to all of their facilities in order to conduct proper maintenance.

Ms. Campos opened the public hearing. No one came forth to speak regarding this thoroughfare closure and the public hearing was closed.

Mr. McClarty moved that TC-2007-03 be approved with staff recommended conditions. Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty and Rosenbaum); one (1) abstention (Harkins); and (0) in opposition.

Item Seven: Election of Officers

Currently only one officer position is vacant. Mr. Luther was Sergeant at Arms and he is no longer a member of the Planning and Zoning Commission. This is the only position the Commission will be taking action on today. Other Officers will be elected in the month of October.

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Dr. Long nominated Fred Famble as Sergeant at Arms.

Dr. Long moved that Mr. Fred Famble be appointed as Sergeant at Arms. 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.

Item Eight: **Director's Report**

Mr. James provided information to the Commissioners regarding recent City Council actions. The Council approved two items forwarded from the Planning and Zoning Commission (also recommending approval of these items).

Item Nine: **Adjourn**

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

Approved: _____, Chairman