
PLANNING & ZONING COMMISSION

June 4, 2007

Minutes

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

Members Absent: Fred Famble

Staff Present: Jon James, Director of Planning and Development Services
T. Daniel Santee, Interim City Attorney
Trish Aldridge, Assistant City Attorney
Jeff Armstrong, Planning Services Manager
Gloria Elder, Planner II
Matt Jones, Planner I
JoAnn Sczech, Executive Secretary (Recording)

Others Present: Danielle Delhomme
M.W. Smith
Jere Welch
Clint Buck
Rachel Phillips-Povck
Larry C. Sanders
Daryl Phariss
Liz Phariss
Douglas Fournier
Diana Duncan
Holly Joyce Skyler
Bob Joyce
Eddie Chase
Peggy Densman
Rick Grant
Bill Minter
Jack Chamberlain
Larry D. Vaughn

Media Present: Blanca Cantu, 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. Rosenbaum gave the invocation

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

Item Three: Approval of Minutes

Mr. McClarty moved that the minutes of the April 16, 2007, Planning and Zoning Commission meeting be approved as submitted. Mr. Harkins seconded the motion and the motion carried unanimously.

Mr. McClarty moved that the minutes of the May 7, 2007, Planning and Zoning Commission meeting be approved as submitted. Mr. Bixby seconded the motion and the motion carried unanimously.

Item Four: Plats

Gloria Elder presented information regarding plats listed on the agenda. Of the four (4) plats listed on the agenda, three (3) are complete and staff recommends approval and one (1) plat was withdrawn by the applicant..

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. No one come forward and the public hearing was closed.

Mr. McClarty moved that the plats listed as Items a., b., and c. on the agenda be approved. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.

Item Five: Rezoning Requests

a. Z-2007-08 (Tabled March 5, 2007 and April 2, 2007)

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Kenneth L. Cleaver to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at 6502 Highway 277 South. Legal description being 23.596 acres out of Samuel J. Ricker Survey No. 45, Abilene, Taylor County, Texas

Mr. McClarty moved to remove this item from the table. Mr. Bixby seconded the motion and the motion carried unanimously.

Ms. Elder stated that this item has been previously considered (twice) by the Planning and Zoning Commission and would provide a staff report if requested. The applicant has made no changes or further requests. The applicant originally requested a very large area of General Commercial zoning, but has no definite plans for the property at this time. He has mentioned possible future uses including a medical office, electrical contracting office, or some mix of retail-type uses. However, none of these would require zoning to the intensity of General Commercial. Staff is concerned about the size of the tract and the possible types and density of uses located at the periphery of the city.

Furthermore, the tract surrounds an existing home located on the north side of Autumn Sage Lane. The Zoning Ordinance states that "residential uses are not compatible with the environment created in the GC district, due to the character and high level of activity characterized by permitted use."

Staff worked with the applicant to develop an alternative request that includes Limited Commercial and Office Zoning as a transition between the General Commercial to the north and the rural homes and churches to the south and west.

Staff is still concerned about the timing of the request given the parcel's remote location on the periphery of the city and the lack of sewer service to the site. If the property develops, sewer service would either need to be extended or on-site sewage disposal would need to be approved through the Sewer Waiver process. The nearest existing sewer line is located along Highway 277 and ends on the north side of Dub Wright Boulevard, but it appears to be too shallow to be extended to the subject parcel. The next closest sewer service is located near the Quail Hollow apartment complex northeast of the intersection of Dub Wright Boulevard and Highway 277. The Water Department estimates that the cost of extension would be approximately \$90,000-\$100,000. This cost could possibly be used to justify a Sewer Waiver for the subject parcel, but this may be a concern for the long-term development of the area. If the proposal were approved and the approximately 40 acres of General Commercial, the 5 acres of Limited Commercial, and the 7-8 acres of Office zoning was developed to its fullest potential, on-site sewage disposal could cause major problems in the future. The piecemeal nature of the development occurring in the area makes cost sharing for sewer extension complicated and problematic.

It was noted that currently a "For Sale" sign has been placed on the property.

Ms. Campos opened the public hearing.

Mr. Rick Grant, homeowner on Autumn Sage and whose home is surrounded by the property involved in this rezoning request, stated that his concern is that there is still no firm plan for utilization of the property to be rezoned from AO to GC. Mr. Grant stated that as there are still no firm plans for this property he would like to voice his opposition to this zone change.

Ms. Campos closed the public hearing.

Commissioners discussed the possibility of the property owner submitting a different zoning request. Staff stated that the rezoning request would need to be substantially different from what is being requested. Also, the zoning pertains to the property not the property owner and the one year waiting period would be in affect if the zoning is denied.

Mr. Bixby moved to deny rezoning request Z-2007-08. Dr. Long seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, Harkins, Long, and Rosenbaum) to one (1) opposed (McClarty).

b. Z-2007-12

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Daryl Phariss to rezone property from RS-6 (Single-family Residential) to LC (Limited Commercial) zoning, located at 842 N. Mockingbird Lane. Legal description being Lots 43, 44, and the North 38.6 feet of Lot 42, Block A, Westview Addition, Abilene, Taylor County, Texas.

Gloria Elder presented the staff report for this item. The request is rezone property from RS-6 to LC.

The majority of the existing structure was built in 1959 to serve as the administration building for the Abilene Independent School District. A large addition was constructed in 1965. AISD vacated the building to move their offices to One City Center in downtown Abilene in Spring 2005.

The property was annexed in 1954 and zoned for residential use soon thereafter. The property to the northeast of the subject parcel, adjacent to North Mockingbird Lane, has been zoned for commercial use since at least 1955.

The applicant purchased the property from AISD in October 2006. He plans to occupy about half of the approximately 170,000 sq. ft. structure with his Kinder Hearts Home Health, PLLC. The building will serve as an office and corporate headquarters for nurses who provide in-home care throughout the community. The other half of the structure will be available for development with another use. The applicant is requesting Limited Commercial zoning to provide the widest variety of possible occupants while still remaining compatible with adjacent residential uses.

The Future Land Use section of the Comprehensive Plan designates North Mockingbird Lane as an Enhancement Corridor and shows a Local Community Center where it intersects with North 10th Street. This use would provide a transition from the more intense commercial and retail uses located north and west to the residential areas located south and east.

The Thoroughfare Plan shows North Mockingbird Lane as an arterial, which further justifies the presence of non-residential uses on the subject parcel.

Property owners within a 200-foot radius were notified of the request. Two (2) comment forms were received in favor of the request and none (0) were received in opposition.

Planning staff recommends approval of the request.

Ms. Campos opened the public hearing.

Ms. Liz Farris, owner and administrator of Kinder Hearts Home Health, stated that the plan for this building is to house the corporate office. Kinder Hearts is a home health agency that provides nursing and unskilled services to medically fragile children and to the adult geriatric population. Ms. Farris stated that the structure is primarily for their corporate office and at a later time it is hoped that therapy consultants will move into the remainder of the structure – basically health related affiliates.

Ms. Campos closed the public hearing.

Mr. Bixby moved to approve Z-2007-12. Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.

c. Z-2007-13

Public hearing and possible vote to recommend approval or denial to the City Council on a request from M.B. Eitelman, agent Amy Morris, to rezone property from RM-2/COR (Multi-family Residential with Corridor Overlay) to O (Office with Corridor Overlay) zoning, located at 7557 Buffalo Gap Road. Legal description being 0.39 acres out of the M. Talbot Survey No. 103, Abilene, Taylor County, Texas.

Gloria Elder presented the staff report for this item. The request is to rezone property from RM-2/COR to O/COR. The subject parcel is currently vacant. The surrounding area is developed with multi-family housing to the east along Marlboro and single-family residences and vacant land to the south.

The area was annexed in 1980 and rezoned to RM-2 in 1981. Corridor Overlay was applied to Buffalo Gap Road in 1995.

The applicant plans to develop the parcel with a dental office. The Corridor Overlay regulations will ensure a high aesthetic standard and screening between the development and the adjacent residential area. The Future Land Use section of the Comprehensive Plan designates this general area for low-density residential development. The proposed office will be located at the corner of an arterial and a local street. This is an ideal location for a neighborhood-compatible low-intensity non-residential use where it will provide a buffer for the neighboring residential area while still taking advantage of the traffic traveling on Buffalo Gap Road.

Planning staff recommends approval of this request.

Property owners within a 200-foot radius were notified of the request. Two (2) comment forms were received in favor of the request and none (0) in opposition.

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

Mr. McClarty moved to approve case Z-2007-13. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.

d. Z-2007-14

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Billie J. Fender, agent Kim Vacca of Re/MAX of Abilene, and the City of Abilene to rezone the base zoning of property from RM-2 (Multi-family Residential) and O (Office) to CB (Central Business) zoning, located between Grape and Mulberry Streets from N. 3rd Street to N. 6th Street; between Mulberry and Beech Streets from N. 4th Street to N. 6th Street; and the east side of Beech Street from N. 5th Street to N. 6th Street. Legal description being Blocks 114, 115, 150, 151, 152, and the West half of Block 75, Original Town of Abilene, Taylor County, Texas.

Gloria Elder presented the staff report for this case. The request is to rezone property from Office to a commercial district to allow a Bed and Breakfast. Staff initiated rezoning a larger area from O and RM-2 to CB

The subject parcel included in the applicant's request is currently developed with a single-family home with Historic Overlay zoning that has been used as a Bed and Breakfast in the past. It has not been in operation for at least six months, so it lost its status as a legal non-conforming use in Office zoning.

The remaining area suggested by staff includes single-family homes, churches, a bed and breakfast, offices, and retail businesses.

The area is part of the Original Town of Abilene, which was created in 1895. The original zoning map from 1948 shows no clear definition between the area used for Central Business and Apartments. In 1955, the 500 block of Mulberry and Beech Streets were zoned for Local Retail uses and the remaining area in the request was zoned for Apartments. All of subject area was rezoned sometime before 1964 to the current zoning classifications except the 300 block of Grape Street (rezoned to Office in 1984) and the west side of the 300 block of Mulberry Street (rezoned to Office in 1994).

The original request did not specify any particular zoning district, but simply asked for one that would accommodate a bed and breakfast. Bed and Breakfasts are permitted as a Conditional Use in College University, Central Business, General Commercial, and Heavy Commercial zoning districts. They are also permitted with a Special Exception in Agricultural Open Space, Single-family Residential, and Multi-family Residential zoning districts. After consulting the Comprehensive Plan and surveying the surrounding area, staff feels that Central Business is the most appropriate district to accommodate the request. In order to maintain the cohesive nature of the CB district, staff recommends the inclusion of some of the surrounding blocks to make the extension continuous and logical.

The mixed use nature of the area makes it ideal for inclusion in the Central Business District. CB zoning allows a wide variety of residential, office, cultural, and low-intensity commercial uses. Many of the structures do not comply with current setback requirements and will become conforming if the more liberal CB setbacks are applied. This will provide the opportunity for possible building expansions in the future without the need for variances and bring some of the legal non-conforming uses along Grape Street into compliance. Furthermore, the expanded list of the permitted uses associated with CB zoning will help encourage continued investment while still protecting the existing residences and preserving the character of the area.

The Future Land Use section of the Comprehensive Plan recommends expansion of the Central Business District as far west as Grape Street and as far north as N. 10th Street. The current proposal would implement a portion of the recommendation by extending the district to the intersection of Grape and N. 6th Streets. The expanded list of uses, the smaller setbacks, and the possibility for higher densities will provide opportunities and help encourage infill and redevelopment of the area. The Comprehensive Plan supports this trend by stating that “a more compact city will ensure the efficient use of public infrastructure, capitalize on previous investments in the central city, and promote more attractive and stable conditions within existing neighborhoods.”

Property owners with 200 feet of the rezoning request and property owners within the area being proposed by staff were notified. Two (2) comment forms were received in favor of the request and two (2) comment forms were received in opposition of the request.

Planning staff recommends approval.

Mr. Bixby asked Ms. Elder to define the purpose of the Central Business (CB) district.

Ms. Elder responded that this zoning provides more flexibility in an area and is typically in an area where the buildings are constructed closer to the street. The Central Business district is more of a mixed use area.

Mr. Armstrong explained how the Landscaping requirements recently adopted by the City of Abilene affect the Central Business District. The percentage of front yard landscaping requirements varies by

zoning district. In the Central Business district there is no percentage requirement for front yard landscaping. Central Business district prohibits outdoor storage and allows outdoor display but only within ten feet of the building.

Ms. Campos opened the public hearing.

Mr. Robert Joyce stated that he is present at this meeting with his family to oppose this rezoning request. Mr. Joyce stated that regardless of the current zoning, he considers this a residential neighborhood. The current rezoning request would be a setback for the residences in this area. Mr. Joyce stated that they are currently surrounded by uses that they would prefer not be increased by this rezoning request.

Mr. Bill Minter, Executive Director of the Abilene Preservation League, stated that this neighborhood is fragile and there are many issues of concern in this area. Mr. Minter proposed that residences in this area form a historic district to provided the best protection for their homes and the fabric of the community. Mr. Minter urged the Commission to proceed slowly and carefully with rezoning of this area.

Mr. Douglas Fournier stated that he has lived in this area for almost six years and is in the process of renovating a historic structure. Mr. Fournier stated that he is not opposed to the Bed and Breakfast; however, he is concerned about other uses that might come into this area as a result of the proposed rezoning. Mr. Fournier stated the he understood that there other means under which this structure can become a bed and breakfast and would suggest this route. Mr. Fournier stated that he is opposed to the Central Business district basically because it is unknown at this time as to uses that might be allowed under this zoning.

Ms. Jere Welch stated that she is not opposed to a bed and breakfast at the location requested; however, would like for this area to retain the characteristics of a residential neighborhood.

Mr. Clint Buck stated that he and his wife oppose rezoning of the area in the current form. Mr. Buck stated that both he and his wife would like for the site in question to return to a bed and breakfast.

Mr. Larry Vaughn stated that he does not live within the 200 feet of the rezoning request; however, he does reside with the area being proposed for CB zoning. Mr. Vaughn stated that he would very much like a bed and breakfast establishment in the area but under some other zoning (rather than CB).

Ms. Campos closed the public hearing.

Mr. Bixby stated that his recommendation for the area is to rezone as much of the Office as possible to residential and rezone the property on Grape Street to some type of commercial zoning.

Mr. Bixby moved to zone the two pieces of property fronting on Grape Street on either side of North 3rd Street would remain Office (as currently zoned); the remainder of the property fronting on Grape Street would be Limited Commercial; and, the remaining property within the area identified on the map provided to the Commissioners zoned as RM-2. Dr. Long seconded the motion.

Commissioners expressed concern regarding the proposed rezoning without re-notifying the property owners in the entire area.

Jon James stated that the Commission could table this item until property owners had been re-notified or forward a recommendation to the City Council, in which case staff would notify property owners prior to the City Council public hearing.

Mr. Santee stated that many of the property owners of the area being considered are present at this meeting and the public hearing could be reopened.

Ms. Campos reopened the public hearing and asked for comments regarding the motion proposed by the Planning and Zoning Commissioners.

Mr. Douglas Fournier asked for clarification regarding the area proposed for residential zoning. Once the rezoning proposal was explained, Mr. Fournier stated that he is in favor of residential zoning.

Ms. Jere Welch stated that she owns property that is currently zoned residential and office. Ms. Welch stated that rezoning to residential would be wonderful for her.

Mr. Clint Buck stated that he would support rezoning to residential. Mr. Buck asked for a point of clarification: Explain the difference between multi-family and single family zoning.

Mr. James stated that single family residential refers to one structure per lot – multi-family zoning would allow a duplex, triplex or up to 24 units per acre (apartment complex).

Mr. McClarty stated that it would be in the neighborhoods best interest to collectively apply for historic overlay zoning (district).

Mr. Robert Joyce stated that his property is currently zoned office and residential. Mr. Joyce stated that he has no problem with the elimination of the “office” portion of the zoning.

Ms. Campos closed the public hearing.

Mr. Bixby restated his motion: Mr. Bixby moved that the two pieces of property fronting on Grape Street on either side of North 3rd Street remain Office (as currently zoned); the remainder of the property fronting on Grape Street would be Limited Commercial; and, the remaining property within the area identified on the map provided to the Commissioners zoned RM-2. Dr. Long seconded the motion and the motion carried by a vote of five in favor (Bixby, Campos, Long, McClarty and Rosenbaum) to one (1) abstention (Harkins).

Mr. Harkins asked if the proponent would be required to submit an application to the Board of Adjustment with the RM-2 zoning.

Ms. Elder responded that the proponent would have to make application to the Board of Adjustment. Staff will contact the proponent. The proponent’s case could be heard at the August meeting of the BA (second Tuesday in August).

e. Z-2007-15

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Bruce Bixby, agent Tal Fillingim of Jacob and Martin, Ltd., to rezone property from AO (Agricultural Open Space) to RS-6 (Single-family Residential) zoning, located at the eastern extension of Lewis and Clark Trail and the southern extension of Trinity Lane. Legal description being 6.54 acres out of the Northwest Quarter of Survey No. 68, Blind Asylum Lands, Abilene, Taylor County, Texas.

Gloria Elder presented the staff report for this item. The request is to rezone 6.54 acres from AO to RS-6 for single-family residential development. The subject parcel is currently vacant, but is adjacent to an existing single-family residential neighborhood. The most recent section was platted in June 2006 and has many homes currently under construction. 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 April 2006.

This subject parcel is an extension of the existing South Lytle single-family residential subdivision. The proposed development will provide 28 new lots, according to the recently-submitted Preliminary Development Plan.

The Future Land Use section of the Comprehensive Plan designates this general area for low-density residential development. The proposed subdivision is near the existing Lone Star Ranch, Lytle South, and Indian Wells subdivisions and will be consistent with the residential trends in the area.

Planning staff recommends approval of this request.

Ms. Campos opened the public hearing.

Mr. Tal Fillingim stated that the request is a planned extension of an existing subdivision. Mr. Fillingim stated that it is believed that this is an appropriate use for the property and requests the Commission's approval.

Ms. Campos closed the public hearing.

Mr. Harkins moved to approve Z-2007-15. Mr. McClarty seconded the motion and the motion carried by a vote of five (5) in favor (Campos, Harkins, Long, McClarty and Rosenbaum) to one (1) abstention (Bixby).

6. Thoroughfare Closures:

a. TC-2007-04

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Danielle Delhomme to abandon Fair Drive between East Highway 80 and Sandy Street; and the west 660 feet of Sandy Street. Located adjacent to Blocks 1&2, Tutt Subdivision, Abilene, Taylor County, Texas.

Jeff Armstrong presented the staff report for this case. The request is to Abandon Fair Drive from East Highway 80 South to its termination and the west 660' of Sandy Street. The Fair Drive right-of-way in this area has never had street improvements. The applicant owns property on the east side of the north

417 feet of Fair Drive. Sandy Street is a substandard east-west street. Schaffner Street is the only right-of-way connecting East Highway 80 with Sandy Street in this area and is improved with a street. It is located approximately 1100 feet east of Fair Drive. West of Schaffner Street, all of the lots served by Sandy Street are vacant except for one parcel that has a house owned by Stuart Lindley, located at the corner of Fair Drive and Sandy Street. Mr. Lindley owns three parcels all of which are accessed only via Sandy Street or Fair Drive. The remaining parcels along the two subject rights-of-way are part of properties that have frontage on East Highway 80.

The applicant's property is currently vacant, but she intends to construct a building in which to work. The applicant is an inventor and intends to construct a building on a parcel adjacent to Fair Drive. To fully utilize her property, she will need to replat, which will require her to make improvements to Fair Drive where her parcel is adjacent to it. However, the improvements may be deferred until such time that the rest of Fair Drive is constructed. She has requested the abandonment of Fair Drive to eliminate the improvement requirement. Staff included the portion of Sandy Street in the request to reduce the length of Sandy Street as a dead end street. However, Sandy Street needs to stay in place from Schaffner to the parcel with Mr. Lindley's home, which is approximately 1000 feet. In most cases, including areas that have industrial zoning such as this one, the maximum cul-de-sac length permitted by the Subdivision Regulations is 600 feet, although 1000 feet is permitted in AO and RS districts. Approval of this request would leave Sandy Street substandard regarding maximum cul-de-sac length.

The Plat Review Committee recommended denial of the proposal, except for the portion of Sandy Street west of Fair Drive. Although not on the ground, Fair Drive will provide needed circulation as this area develops in the future. Schaffner Road alone would not be adequate. If approved, the Plat Review Committee recommends that the areas of both rights-of-way be kept as Open Drainage and Utility Easements.

Staff recommends denial of this request. The request would create a dead end street that would be longer than permitted and the abandonment of Fair Drive would eliminate needed future circulation.

Property owners within 200 feet of the request were notified. One (1) comment (in the form of a phone call) was received in favor of the request and one comment form was received in opposition of the request.

Mr. McClarty asked about the location of the fire hydrants in the area (are there any fire hydrants on Sandy Street).

Mr. Rosenbaum asked the reason for the Thoroughfare Closure.

Mr. Armstrong stated that the applicant recently acquired the property and want to develop the property for personal use. The applicant also has 22.4 feet of the adjoining lot. Replatting of this property will trigger street improvements on Fair Drive and this is a concern for the property owner.

Mr. Armstrong stated that the applicant requested a Special Exception from the Board of Adjustment to allow a residence in an area zoned Industrial.

Mr. Armstrong stated that currently there is no requirement for a replat – the applicant could provide a site plan for development of the lot and a replat would not be required unless development occurred on the 22 feet outside the lot line.

Ms. Campos opened the public hearing.

Mr. Jack Chamberlain, President of Bronco Properties, stated the when he sold this property to Mr. Lindley a plat was submitted dedicating Fair Drive (January 4, 1962). Mr. Chamberlain stated that Mr. Lindley has encouraged him for years to close this road. Mr. Chamberlain stated that he spoke with Mr. Lindley on Friday. Mr. Lindley informed Mr. Chamberlain that he had not submitted a comment form and stated that it was too late to return the comment form. Mr. Chamberlain encouraged Mr. Lindley to call the Planning staff and provide comments regarding the Thoroughfare Closure. Mr. Chamberlain stated that Mr. Lindley told him that he would call the Planning staff to let them know he was in favor of closing this road. Mr. Chamberlain stated that he had spoken with Mr. Armstrong and Mrs. Elder of the Planning staff and was told by both that there should be no problem with closing the street.

Mr. Eddie Chase stated that he is currently preparing the preliminary site plan for Ms. Delhomme. Mr. Chase stated that the Thoroughfare Closure is being requested because if the street is not closed and Ms. Delhomme replats the lots, she will be responsible not only for installation of the street, but also water and sewer lines.

Ms. Danille Delhomme stated that she had believed she completed “due diligence” prior to purchasing this property. However, the submission of a site plan has triggered the necessity of installation of a street. Ms. Delhomme stated that if installation of a street is required, she will be forced to locate another parcel of land for her project.

Mr. Bixby asked Ms. Delhomme if her concern was that she would be required to put up a bond or be responsible for improvement of this street – is her concern basically being relieved of the obligation for street improvements?

Ms. Delhomme stated that this is an accurate statement

Ms. Campos closed the public hearing.

Dr. Long asked if it is correct that the site plan submitted to the Commission would not trigger street improvements.

Mr. Armstrong responded that he has not seen the site plan submitted to the Commissioners; however, staff has determined that if all development occurs on the fully platted lot and the 22 feet on the adjacent lot is not utilized, then there would be no obligation to replat and therefore not require the street improvements.

Mr. McClarty stated that if in the future Ms. Delhomme wishes to sell or subdivide the property, in reality, on paper the replatting requirements are still in place (e.g., construction of street). What Ms. Delhomme is attempting to accomplish is to eliminate this obligation entirely.

Mr. McClarty asked for staff to locate the closest fire hydrant to Mr. Lindley's property.

Mr. James recommended that the Commission consider the next item while staff is researching the requested information regarding the fire hydrant.

Mr. McClarty moved to table this item until the fire hydrant question had been answered. Mr. Rosenbaum seconded the motion and the motion carried unanimously.

b. TC-2007-05

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Berry's Discount Warehouse, Inc., agent David Berry, to abandon Lynn Avenue from N. Treadaway Boulevard east to the railroad right-of-way. Located between Tracts 1 & 4, Risley Subdivision of the North Park Addition, Abilene, Taylor County, Texas.

Jeff Armstrong presented the staff report for this case. The request is to abandon Lynn Avenue from Treadaway Boulevard east to the railroad right-of-way. The right-of-way has never had street improvements. The applicant owns property on both sides of the ROW and has structures on it. The area is zoned for industrial and heavy commercial uses, except to the east where there is a railroad ROW and beyond that, vacant land in the flood zone. Note: The City's GIS maps, including graphics with this report show the width of the street right-of-way inaccurately. It is shown as a 60' ROW, but is actually 40 feet in width.

The applicant operates a business on property on both sides of the subject right-of-way and is attempting to unify his property. In addition, approval of this request would clean up issues involving structures and business activities occurring in the public right-of-way itself.

The Plat Review Committee supports this request and recommends that a condition of abandonment be that the right-of-way be replatted with adjacent property.

Staff recommends approval with the condition that the area of the right-of-way be replatted with adjacent property within 12 months of the Council approval date if approved.

Property owners within 200 feet of the thoroughfare abandonment were notified. One (1) comment form was received in favor of the request and none were received in opposition of the request.

Ms. Campos opened the public hearing. No one came forth and the public hearing was closed.

Mr. McClarty moved to approve TC-2007-05. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.

Item Seven: Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 23-363 of the Zoning Ordinance regarding definition of "Freight Containers" and to add subsection 23-306.5.B(26)(j) to the Zoning Ordinance regarding the use of trucks, trailers, and railcars as freight containers.

Mr. Jeff Armstrong stated that the City has received a request to amend the freight container ordinance to allow a truck trailer to be considered a freight container. The freight container ordinance approved in 2005 specifically precludes trucks, trailers and rail cars from being used as freight containers. It defines freight containers as:

“Any structure or storage receptacle designed or built to be generally intended for the shipment or transportation of products or goods; however, shall not include trucks, trailers, or rail cars.”

The intent was to allow various sea containers and other box-type structures to be used as permanent buildings with a number of conditions, but to not allow trucks and trailers to be permanent buildings.

Staff has prepared a draft ordinance that would allow trailers to be used as freight containers, but only in LI and HI (Light and Heavy Industrial) zoning districts and by Board of Adjustment approval of a Special Exception. All conditions for any other freight container would also apply.

Although staff has prepared the draft ordinance for the Commission’s consideration, staff does not support this amendment. Trailers are intended for transporting goods and were not constructed or designed for permanent occupancy as a building. There are a large variety of trailers that could potentially be used in this manner that may not be sturdy, safe, or meet the most minimal aesthetic standards.

Staff recommends denial of the proposed amendment for the following reasons:

1. Trailers are not buildings – not designed, built or inspected as building within the building code
2. Utilizing trailers for this purpose, places competitive business owners (building contractors, retailers, warehouse owners, and portable building sales) at a disadvantage.
3. The issue of property taxes has arisen.
4. Issues with the maintenance of trailers as far as being utilized as “over the road” carriers (tire pressure, condition of tires, construction specifications, etc.)
5. Aesthetics

Mr. Armstrong stated that this ordinance amendment came about as a result of a business that wishes to refrigerate their products in a semi trailer prior to distribution to local retailers. When this business was informed that use of the trailer was in violation, they applied for and received a temporary permit which has a six month duration. This temporary permit would allow them to conduct business and allow time to address this issue.

Mr. Bixby stated that when the Commission first addressed freight containers it was a very controversial issue. Those in favor of the use of freight containers went to great lengths to obtain engineering specifications of a freight container and the viability of a freight container for this use. Mr. Bixby stated that if this ordinance amendment is approved, it would appear as though the Commission has totally abandoned the work completed on the present ordinance if it was determined that a trailer is a freight container.

Mr. Harkins asked the manner in which City staff is currently handling the mini storage containers (PODS). Mr. Harkins asked if these units are temporary enough so as to be permitted as a temporary unit?

Mr. Armstrong stated that the only units that have been inspected by staff or investigated are those units utilized as advertising signs.

Mr. Harkins requests that this item be placed on a future agenda for consideration by this Commission (those units being utilized as storage units).

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

Mr. McClarty moved the deny the zoning ordinance amendment regarding freight containers. Mr. Harkins seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.

Mr. McClarty moved to remove TC-2007-04 from the table. Ms. Campos seconded the motion and the motion carried unanimously.

Mr. Armstrong stated that there are no fire hydrants located on Sandy Street – the only fire hydrants in the area are located on East Highway 80.

Mr. James stated that regardless of the action taken by this Commission, Sandy Street will be a substandard street in terms of exceeding the cul-de-sac length (basically, 2000 feet of street from the dead-end to the nearest through street). Schaffner Road and Fair Drive are the only two public right-of-way connections between East Highway 80 and Sandy Street.

Mr. Armstrong reiterated that under the current zoning ordinance, there is no requirement for sidewalks on Fair Drive. The only trigger for street improvements will be replatting of the property.

Mr. Bixby moved to abandon the west end of Sandy Street, west of Fair Drive, and deny the abandonment of Fair Drive. Mr. Harkins seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, Harkins, Long and Rosenbaum) to one (1) opposed (McClarty).

Item Eight: Director's Report

Mr. James provided information to the Commissioners regarding recent City Council actions. The Council approved the Community Appearance Ordinance for Landscaping and Urban Design as recommended by the Planning and Zoning Commission.

The Council made changes to recommendations submitted by the Planning and Zoning Commission regarding Sign Regulations.

Mr. James informed the Commissioners that today's meeting will be the last meeting for Jeff Armstrong and Gloria Elder. Both of these Planners have accepted positions in other cities.

Jeff Armstrong introduced Matt Jones. Mr. Jones will be replacing Justin Fortney and will officially begin work with the City on June 5, 2007.

Item Nine: Adjourn

There being no further business, the meeting was adjourned at 4:27 p.m.

Approved: _____, Chairman