
PLANNING & ZONING COMMISSION

October 1, 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, City Attorney
Edward S. McRoy, Assistant Director of Planning and Development Services
Kyle Thomas, Assistant City Attorney
Robert Allen, Transportation Planning
Matt Jones, Planner I
Zack Rainbow, Planner I
Reginald Sampson, Transportation Planning

Others Present: Wes Crain
Daryl Khoury
Chris Westbrook
Ray Templeton

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

Ms. Campos gave the invocation.

Item Three: Approval of Minutes

Dr. Long moved that the minutes of the September 4, 2007, Planning and Zoning Commission meeting be approved as submitted. Mr. Famble seconded the motion and the motion carried unanimously.

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

Item Four: Plats

Zack Rainbow presented information regarding plats listed on the agenda. Five (5) plats are being submitted for consideration by the Commission. Mr. Rainbow 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. through e. on the agenda be approved. 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.

Item Five: Rezoning Requests

a. Z-2007-19

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Dru and Amanda Bourland Agent: Chris Westbrook to rezone property from O (Office) to PDD (Planned Development District) zoning, located at 2902 S. 27th Street

Mr. Jon James presented the staff report for this case. The subject parcel is 1.74 acres and is currently zoned office, but is currently undeveloped. There is single-family residential zoning to the West and South of the property with multi-family zoning to the North, as well as office zoning immediately to the East and single family zoning to the east of that. An electrical substation is also located on the lot directly to the East. The area was annexed in 1951 and zoned to RM3 (Residential Multi-Family) in 1981 and was later zoned to O (Office) in 1992.

Currently the property is zoned O (Office), but has never developed under that classification. Given the location within a residential neighborhood, the intensity of allowable uses should be consistent with the adjacent residential zoning. The proposed PDD prohibits some uses normally allowed within the LC (Limited Commercial) district: gasoline sales, restaurants, and any use with a drive-thru. It also provides minimum standards for building materials, landscaping, and signage to ensure aesthetic compatibility with the neighborhood. The recommended PDD also places a limit on the hours of operation of any business to ensure compatibility with the residential neighborhood.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a low density residential area, keeping with the single-family zoning that generally surrounds this property. While non-residential zoning, such as the existing Office zoning, is considered compatible within a residential neighborhood, higher intensity commercial is not. The proposed PDD references the regulations within the Limited Commercial district, while providing some additional restrictions for aesthetics and to ensure minimal negative impacts to the surrounding residential properties.

Property owners within 200 feet of the rezoning request were notified. Two (2) comment forms were returned in opposition of the request and one (1) comment from was returned in favor.

Planning staff recommends approval of the attached PDD.

Ms. Campos opened the public hearing.

Mr. Chris Westbrook, representing Dr. and Mrs. Bourland, stated that a portion of the property is under contract to be sold and the thrust of the rezoning request is to align the designated use with the proposed use of the purchaser. Mr. Westbrook stated that the Planning staff and the City's Legal staff have been working for about a month and one half to come up with a workable solution for this area. Mr. Westbrook stated that the PDD indicates their willingness to develop this property

in a way that allows for Limited Commercial use but also safeguards and retains the residential characteristics of the area.

Mr. Wes Crain with Reeves Development of Lake Charles, Louisiana, stated that they are the developers of this particular property. Mr. Crain stated that they have been working with the proponent and City staff and appreciates everyone's efforts regarding this development. Mr. Crain stated that they agree with the requirements of the PDD and are willing to implement the requirements contained within the PDD ordinance.

Ms. Campos closed the public hearing.

Dr. Long asked staff for clarification regarding the following issues:

- √ Fencing: Will fencing and landscaping be required to buffer this use from the residences in the area? Mr. James stated that the PDD addresses both fencing and landscaping.
- √ Is outdoor storage allowed in LC zoning districts? Mr. James stated that outdoor display for sales may be allowable under certain circumstances within normal LC zoning.
- √ Are freight containers allowed and if they are not allowed why is this language included in the PDD? Mr. James responded that a standard PDD template is utilized. This language is included as a requirement and if the citywide ordinance changes at some point in the future this provision would still apply to the PDD.
- √ Dr. Long asked if a change had been made to the sign ordinance regarding banners. Mr. James responded this language was included to ensure that banners are utilized in the appropriate manner (flat against the building and limited in number).

Mr. Bixby stated that one of his concerns is the imposition of sign requirements in the PDD without the passage of a revised sign ordinance. A Landscape Ordinance has been adopted and Mr. Bixby stated that his inclination would be to follow the guidelines as set forth in this ordinance rather than requiring additional or special requirements for this PDD. This could be the same situation with the requirement of specific building materials.

Mr. James stated that staff's first inclination was to recommend denial of commercial zoning at this location. This location was planned as an office site within the middle of a residential neighborhood. Mr. James stated that the only additional requirement for landscaping is the row of hedges.

Mr. Bixby stated that his reason for raising this issue is that the objective is to develop an ordinance that will eliminate the need for PDDs. The goal is to develop landscaping requirements that work for all zoning districts.

Dr. Long stated that in this instance a PDD with higher standards is important due to the residential characteristic of the neighborhood. The requirements of the PDD would make the site more palatable for the neighborhood.

Mr. Bixby stated that since the Landscape Ordinance has only recently been adopted, he would like to see the ordinance be utilized for this project because of the newness of the ordinance and should work for this project if the ordinance has been developed correctly.

Mr. Bixby moved to approve Z-2007-19 with the exception that the landscaping portion in the PDD be rewritten to reflect requirements of the current Landscape Ordinance.

Mr. James stated that for clarification purposes Item D in the proposed PDD would read as follows:

D. Landscaping: Landscaping in the PDD must comply with the requirements of the City's Landscaping Ordinance.

Mr. Bixby agreed with this wording and stated that his motion should include the clarification provided by Mr. James. 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). Dr. Long asked that it be made a part of the record that she is not voting against the PDD as submitted by staff but rather the changes (Item D) to the PDD.

Item Six: Zoning Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 23-129 of the City of Abilene Sign Regulations regarding exceptions to the prohibition of signs in the public right-of-way.

Mr. Jon James presented the staff report for this amendment. Currently the Sign Ordinance prohibits signs within the right of way. There are, however, some exceptions (traffic control device, traffic signs, etc.). The City Council has recently approved Wayfinding signage to improve directions to major venues. Another type of sign, the banner also needs language clarification. City staff and TXDOT will review the locations and Economic Development will be developing guidelines pertaining to banners. The language in the proposed changes will help clarify the approval of these special signs and assist staff in their review.

Staff recommends approval of this proposed amendment.

Dr. Long requested that the Commission also address benches located throughout the city as these benches also provide an advertising space. Some of the benches are positioned at bus stops; however, other are not and some block the right of way for foot traffic.

Mr. Paul Knippel, Director of Public Works, stated that he and Jon James have been working on this issue for some time now. Mr. Knippel stated that he will be discussing this issue with the Jaycees Foundation in the near future. Mr. Knippel stated that he will provide Jon James with information regarding these discussions so that this information may be communicated to the Planning and Zoning Commission.

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

Mr. McClarty moved that the proposed amendment to Section 23-129, as submitted by City staff, be approved. 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.

Item Seven: Zoning Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 23-306.4 of the Zoning Ordinance regarding Recycling Collection Points being permitted as a Special Exception subject to approval by the Board of Adjustment.

Mr. Jon James presented the staff report for this amendment. A request was recently submitted by a neighborhood association to locate a recycling collection point in RM-3 zoning. The City's Zoning Ordinance currently allows recycling collection points by right within the following districts:

SC, Shopping Center
GC, General Commercial
HC, Heavy Commercial
LI, Light Industrial
HI, Heavy Industrial
Planned Development District (as allowed per the individual PDD ordinance)

After reviewing the request, staff is recommending an amendment to the Permitted Use Chart of the Zoning Ordinance that would additionally allow Recycling Collection Points by Special Exception and approval by the Board of Adjustment in the following districts:

AO, Agriculture Open Space
RS, Residential Single Family
RM, Residential Multi-family
CU, College University
O, Office
LC, Limited Commercial
PI, Park Industrial
CB, Central Business

Staff recommends approval of this request to assist with efforts to make recycling more convenient and accessible throughout the City, while recognizing that the Board of Adjustment may add conditions to such approval in these districts to minimize or mitigate the potential negative impacts to neighboring properties.

Mr. Bixby asked if the Commission agrees that this is the proper course of action (Special Exception from the Board of Adjustment) how could the Planning and Zoning Commission communicate to the Board of Adjustment that the Commission does not generally believe that residential, multi-family, office, or limited commercial zoning districts are proper places for this type of use.

Mr. James stated that if this is the consensus of the Commission, in the ordinance where various types of uses are addressed a section could be included for this particular type of use. This would allow staff to include some explanatory text to assist the Board in granting a special exception.

Mr. James asked the Commission if this is an issue to be addressed by staff and then submitted to City Council or would the Commission like to review the text prior to being submitted to the Council.

Mr. Bixby stated that he has no problem with staff developing language and forwarding this information to the Council.

Ms. Campos asked Mr. Bixby if there were particular zoning districts that should not be included.

Mr. Bixby stated that recycling centers are environmentally correct but not proper in residential, multi-family, limited commercial, office, and central business district areas.

Dr. Long stated that she agreed with disallowing these centers in residential and central business district areas. Multi-family zoning could be considered under the special exception category.

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

Dr. Long moved to approve Recycling Collection Points being permitted as a Special Exception subject to approval by the Board of Adjustment with the removal of residential and central business district areas.

Mr. Harkins stated that deleting these areas would disallow a specific request from occurring – the specific request in this case is a parking lot next to a commercial development but the parking lot is zoned residential.

Dr. Long's withdrew her motion.

Bruce Bixby moved to approve Recycling Collection Points being permitted as a Special Exception subject to approval by the Board of Adjustment, as presented, with special details (text) that generally recycling centers are not approved in zoning districts other than currently allowed.

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 8: Thoroughfare Plan Amendment

Public Hearing and possible vote to recommend approval or denial to the City Council to Consider an Amendment to the Thoroughfare Plan in an area generally described as being within approximately 9,000 feet of the intersection of Buffalo Gap Road (FM 89) and Beltway South (FM 707).

Mr. Ed McRoy presented the staff report for this case. This is an item tabled at the last meeting of the Planning and Zoning Commission. The Thoroughfare Plan amendment was prompted by a Preliminary Development Plan (PDP) submitted by Mr. David Todd for an area on the west side of Buffalo Gap Road and south of Beltline South. The PDP provides City staff the first opportunity to determine how undeveloped land might develop in the future. In this particular case, the City's Thoroughfare Plan indicated a future collector road. Staff informed the proponent and indicated that they would need to provide for this collector road in some fashion. The property indicated that he did not wish to provide for this right of way as it conflicted with his development plans of a

private, gated, low density community. Modification of the Thoroughfare Plan must be approved by the Planning and Zoning Commission and the City Council.

At the September meeting, the Commission requested staff look at several options in the area to determine if the applicant's needs could be met but also look at alternatives for the collector road. Following last month's meeting various City departments and the proponent met to discuss alternatives for this thoroughfare.

Staff is proposing a number of changes to the Thoroughfare Plan at this time prompted by this specific site. The advantage for the proponent is the by relocating the collector road it would potentially allow them to have a private development.

Even though staff is not required to notify property owners in the area for a Thoroughfare Plan Amendment, notification was sent to property owners staff believed would be impacted by the proposed changes. Two responses were received from property owners in the area – both initially indicated opposition to the Thoroughfare Plan amendment. One property owner contacted the Planning Department and seemed not to be as concerned after speaking with staff.

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

Ms. Campos opened the public hearing.

Mr. David Todd stated that they have not seen staff's proposal and have developed a proposal of their own. Mr. Todd stated that he is representing Mr. Watson, owner of the 279 acres in the Carmen Dessa Subdivision. A PDP with large private lots (77) with private has been submitted to the City for review. Mr. Todd stated that he fails to see the need to place a collector road through this 279 acres at this point in time. A piece of land to the north of this property is currently owned by the City of Abilene Water Utilities Department. There are ponds on this property that have not been utilized in years. Mr. Todd stated that he spoke with the Director of Water Utilities and the Engineer for the Water Department about the potential for a collector street crossing these ponds and they were very adamant that this not be done. Mr. Todd stated that if this property was developed to maximum density, he would be the first one to say that a collector street was needed. However, with the minimal density, he sees no reason for a collector street.

Mr. Todd stated that residents of this proposed subdivision will have access to arterial streets, i.e., FM 707 and Buffalo Gap Road.

Mr. McRoy stated that Mr. Robert Allen of the Planning and Development Department staff also spoke with a representative of the Water Department, Mr. Rodney Taylor, Assistant Director of Water Utilities, and the concerns stated by Mr. Todd were not raised during these conversations. Mr. McRoy stated that he has not had conversations directly with members of the Water Utilities Department and Mr. Todd's comments are a total surprise to the Planning staff. Mr. McRoy stated that with regard to the suggestion that a Thoroughfare Plan should be made contingent upon development – this cannot be done. A Thoroughfare Plan is approved and if conditions change, amendments can be made to the Plan. At the point that a thoroughfare is eliminated from a plan, if someone plats lots where a roadway is proposed but not indicated on the Plan, a much more expensive process will be required to gain access to the right of way because a Thoroughfare Plan

does not indicate from the beginning of the process, that a certain type of road, at a specific location and how it will impact the property.

Mr. Todd disagreed with Mr. McRoy's statements. The property in questions is in the ETJ and according to the Subdivision Regulations only a preliminary development plan is required. If the current landowner sold the property, a preliminary development must be submitted for review by staff – which is no different from purchasing another parcel of land in this area and not knowing that a thoroughfare or collector street is planned for this area. Mr. Todd stated that unless the land is purchased by someone who is a developer, this issue (Thoroughfare Plan) would not be researched. Mr. Todd stated that the City does “contract zoning” through PDDs all the time contingent upon specific requirements. Mr. Todd stated that he disagrees with Mr. McRoy's statement that the City would be unaware of a developer's change in development plans.

Mr. James stated that the manner in which a Thoroughfare Plan is adopted is not the same as an application for a PDD. While a specific applicant's request is being discussed, what is also taking place is the City questioning where roads will be required in the future based on general development patterns. If the Commission feels comfortable that the thoroughfare in this area is not needed, the Plan can be changed. This is a procedural issue that cannot be based on a contingency. Staff will know in advance of a different type of development plan than originally submitted; however, once an application for development is submitted, the proponent or developer is bound to the rules in place at the time (with some exceptions) an application is submitted.

Mr. Ray Templeton, representing Beltway Park located in southeast quadrant of this area, stated that this area (southeast quadrant) is in favor of what the City is proposing.

Mr. Robert Allen, MPO Director for the City of Abilene, stated that in his conversations with Mr. Taylor of the Water Utilities Department, Mr. Taylor indicated that while they would not want a road to cross the lagoons (water holding areas) he did not state that, operationally, there would be an issue with crossing in an area between the lagoons. The space between the lagoons is well over 100 feet wide and more than adequate for a street without affecting the lagoons. Mr. Allen stated that he has not spoken with Mr. O'Brien or Mr. Drake, but has not received correspondence from them regarding this issue.

Ms. Campos closed the public hearing.

Mr. Bixby stated that the density issue for this area is such that the Thoroughfare Plan could be adjusted to allow this subdivision. Mr. Bixby stated that his suggestion would be to remove the Thoroughfare Plan from the southwest quadrant and let the City develop an alternate plan for this quadrant of the City.

Mr. Harkins provided the following observations:

- The proposed development is a very low density development

- There are barriers to development on the west and east

- There are arterial streets on the east and south (proposed on south)

- Allow the developer to proceed with the project and install the collector street as originally proposed that connects with Sahara Sunset

- It does not make sense to cut through the proposed “rural” subdivision and require two gatehouses as opposed to one

Ms. Campos agreed with Mr. Harkins that the subdivision should not be divided by a collector street.

Mr. James stated that the plan submitted illustrates three (3) exits onto Buffalo Gap Road. Mr. James stated that he believed it would be possible to arrange the design of the subdivision in such a way that only three gates would be required. Since the plan indicates multiple accesses in and out of the subdivision, more than one gate would be required in any event.

Mr. McClarty stated that in his estimation the cost for the collector street would be approximately \$750,000. The number of lots being served by the collector in this subdivision would be approximately 17 or 18 lots. This is not feasible. Mr. McClarty stated that he still feels, as stated at the last meeting, the collector street be moved to the top of the development (where a road already exists). Mr. McClarty stated that he feels this is the best option.

Dr. Long stated that if the collector street is eliminated, the Commission needs to examine the impact on the entire area.

Mr. McRoy stated that this would require further research by the Planning staff. If Sierra Sunset is the only collector road passing through this area, this will cause an additional crossing of the petroleum pipeline. This would initiate significant additional costs placed on someone – either the City, the developer, taxpayers, or the property owner.

Mr. Bixby moved to remove any collector streets going through this proposed subdivision. Mr. McClarty seconded the motion.

Mr. James stated that if this recommendation carries forward as proposed, technically the result is a collector street that dead ends at the north end of the subdivision because the collector street has been removed from this subdivision (applicant). Mr. James stated that staff would like for the motion to clarify as to what would happen to the property to the north.

Mr. Bixby stated that the City could come back to the Commission with a proposal.

The motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Harkins, Long, McClarty and Rosenbaum) to none (0) opposed.

Item Nine: Director's Report:

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

Mr. James mentioned the following items:

Z-2007-17: Request to rezone property from AO to LI, located at 4034 Newman Rd.

P & Z Recommendation: Approval of PDD as amended(5-0)

Council Decision: Approved as amended (7-0)

TC-2007-04: Request to abandon Fair Drive between E. Highway 80 and Sandy Street, and the West 660 feet of Sandy Street.

P & Z Recommendation: Approval (5-1)

Council Decision: Approved (7-0)

Oral Resolution: Proportionality Appeal

PA-2007-01: A petition from Danielle Delhomme for relief from a dedication or construction requirement for property located at 1901 East Highway 80.

Council Decision: Approved with condition as amended(7-0)

Oral resolution approving an Interlocal Agreement between the City of Abilene and Jones County providing for subdivision regulation within the extraterritorial jurisdiction of the City of Abilene.

- b. Discussion and possible vote to request the opportunity to further review ordinance amendments related to regulations pertaining to subdivision ordinance amendments related to development regulations within the City's extraterritorial jurisdiction (ETJ) and zoning ordinance amendments related to Rural Residential zoning districts prior to City Council consideration.

Mr. James stated that the reason this item is before the Planning and Zoning Commission for a determination as to whether or not the Commission wishes to review subdivision ordinance amendments and submit a recommendation to the City Council. Mr. James stated that since it has been more than a year since the Planning and Zoning Commission reviewed this information and because the ETJ requirements have changed, does the Planning and Zoning Commission want to review this information and either confirm the previous recommendation or submit an updated recommendation to the City Council. If the Commission wishes to take action on this item, it will be placed on the November agenda.

Mr. McClarty moved that this item be placed on the November agenda of the Planning and Zoning Commission. Mr. Rosenbaum seconded the motion and the motion carried unanimously.

Dr. Long asked if this should be on the agenda of the regular meeting or the second meeting of the month.

Mr. James stated that since the agendas have been rather short recently, the item will be placed on the regular November agenda (first Monday in November). If the agenda becomes lengthy, the Commission can table the item to be considered at the second meeting in November.

Dr. Long asked that a date for this second meeting be sent to the Commissioners so that date can be reserved.

Item Eight: Adjourn

There being no further business, the meeting was adjourned at 4:17 p.m.

Approved: _____, Chairman