
PLANNING & ZONING COMMISSION

November 5, 2007

Minutes

Members Present:

Bruce Bixby
Ovelia Campos
Fred Famble
Jack Harkins
Lydia M. Long
Clint Rosenbaum

Members Absent:

Tim McClarty

Staff Present:

Jon James, Director of Planning and Development Services
T. Daniel Santee, City Attorney
Paul Knippel, Director of Public Works
Edward S. McRoy, Assistant Director of Planning and Development Services
Bob Lindley, City Engineer
Kyle Thomas, Assistant City Attorney
Robert Allen, Transportation Planner
Matt Jones, Planner I
Zack Rainbow, Planner I
Reginald Sampson, Transportation Planner
JoAnn Sczech, Executive Secretary (Recording)

Others Present:

Richard S. Brennan, Jr.
David Ohre
Paula Browning
Doug Meadows
Rob Carleton
Mitchell & Mary Ingram
Dave & Kathy Hogan
Jerry & Ann Johnson
Eddie Chase
Michael Monhollon
J.G.M. Alcala
Richard & JoAnn James
Mike & Judy Dudley
Kyle Smith
Rachel Monhollon
Mary Meadows
Don Anderson
Erik Johnson
Darrell W. Moore
Duane Martin
Shaun Martin
Fran Meadows

Harry Hamilton
Marletta & Fred Green
Larry Sanders
Ted & Geneva Lucas
Brad Carter
Merlin & Babrara Morrow
Cass Thornton
M.L. Hughes
Tommie Harendt
Pamela Percival

Media Present: Sarah Varble, Abilene Reporter-News
Laura Alanis. KTAB News

Item One: Call to Order

Ms. Ovelia Campos called the meeting to order at 1:31 p.m. and declared a quorum present.

Item Two: Invocation

Mr. Fred Famble gave the invocation.

Item Three: Approval of Minutes

Mr. Bixby moved that the minutes of the October 1, 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. Three (3) 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. Bixby moved that the plats listed as Items a., b., and c. on the agenda be approved. Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Harkins, Long, and Rosenbaum) to none (0) opposed.

Item Five: Rezoning Requests

a. Z-2007-22

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Hendrick Medical Center; Agent: Paul Johnson, to rezone property from LC (Limited Commercial) and RM-3 (Residential Multi-Family) to SC (Shopping Center) zoning, located at 2901, 3001 S. Danville, and all adjacent properties.

Mr. Matt Jones presented the staff report for this request. The request is to rezone property from LC (Limited Commercial) and RM-3 (Residential Multi-Family) to SC (Shopping Center). The subject parcel is 3.81 acres and is currently zoned limited commercial and multi-family residential, but is currently mostly undeveloped with the exception of a parking lot. There is single-family residential zoning (RS-8) to the North and East of the property with multi-family zoning (RM-3) to the East as well. The property fronts on South Danville to the south and has GC (General Commercial) across the highway. There is also a small planned development district to the East.

The area was annexed in 1957 and was later zoned to RM-3 (Residential Multi-Family) and LC (Limited Commercial) sometime after.

Currently the property adjacent to the freeway frontage is zoned LC (Limited Commercial) and the properties behind and adjacent to local neighborhood streets is zoned RM-3 (Residential Multi-Family), but is currently not developed under those classifications. At one time there was a strip center at the location but has since burned down and never redeveloped. Given the location adjacent to a residential neighborhood, the intensity of allowable uses under SC (Shopping Center) should be consistent with the adjacent residential zoning, particularly since none of the nearby homes front onto the street separating them from these tracts. There is also a pattern of commercial type uses along the frontage of Highway 83/84, with which this proposed development would be consistent.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a commercial area, along the frontage of Highway 83/84. Since the property is adjacent to single-family residential neighborhoods, the SC zoning will allow for some buffering to the residential uses since SC is considered to be compatible adjacent to single-family residential with certain landscaping and screening requirements.

Property owners within 200 feet of the rezoning request were notified. One comment form was returned in favor of the request and 23 forms were received in opposition.

Planning staff recommends approval of SC (Shopping Center) zoning.

The property for which rezoning is being requested is in the floodway. Mr. Harkins asked if construction could take place in the floodway. Mr. Jones responded that a Development Permit may be obtained from the Public Works Department for development in the floodway. The cost for development in the floodway is much more significant as additional elevation and grading of the land is required

Mr. Bixby stated that he felt it important to explain the City's screening requirements.

Mr. Jones stated that under the Landscaping Ordinance this area would be a "Type B" Buffer Yard which is required between Heavy Commercial, General Commercial, or Shopping Center Districts and a Residential District or between any Industrial District and any other non-industrial district. Landscaping is calculated on a points system which must total 25 points.

Mr. James added that a provision is included in the Landscape Ordinance that states buffering is required between adjacent uses (uses either immediately abutting each other or separated by an alley). Under this ordinance, across the street is not considered adjacent – buffering would be required if the

use is across an alley. In this particular case, the City's buffering and landscaping requirements would not require a buffer between this use and the residential properties across the street.

Ms. Campos opened the public hearing.

Mr. Dwain Martin, staff architect with Hendrick Medical Center, stated that Hendrick Medical Center is present at this meeting requesting the zone change but also attempting to sell the property. The sale of the property is contingent upon the zone change.

Mr. Eric Johnson, broker with Paul Johnson and Associates, stated the request is for rezoning from Limited Commercial and Residential Multi-Family to Shopping Center. Shopping Center zoning is more restrictive than Limited Commercial and would be a good transition or buffer for the Single Family residential uses in the area.

Mr. Michael Monhollon stated that he owns property in this area and was included in the notification area. Mr. Monhollon stated that although homes in the area do not face the property in question, the yards are on High Meadows and are the areas in which the children play. Mr. Monhollon stated that the volume and speed of traffic on High Meadows is excessive. Mr. Monhollon stated that the proposed use of the property (restaurant) would cause additional traffic on High Meadows.

Mr. Doug Meadows stated that uses on Danville are not of special concern; however, rezoning the property on High Meadows currently zoned for multi-family residential would directly impact the neighborhood. This area was flooded a few years back and the neighborhood would like for the City to require a fence constructed and a guarantee that there will never be any ingress/egress from this property on to High Meadows.

Mr. Dave Hogan stated that his home faces this property. He stated that he is glad that the City of Abilene has zoning laws and it is his hope that the City will choose to protect the property owners and citizens who live in this area. Mr. Hogan stated that he believes the existing zoning is the most appropriate because it provides transition between single family residences and commercial zoning on Danville. Mr. Hogan stated that if the rezoning request is approved, he does have concerns regarding flooding, traffic and safety hazards, light on the property, noise pollution and the possibility of lower property values.

Mr. Harkins addressed two issues mentioned by Mr. Hogan:

1. Lighting: The current Zoning Ordinance requires that lighting be directional and shielded to avoid spill-over into residential areas.
2. Stormwater: The current Ordinances require that no more runoff be allowed after development than before (stormwater mitigation or detention of stormwater).

Therefore, these two issues are addressed by the ordinances.

Ms. Mary Meadows stated that she still has concerns regarding stormwater drainage and flooding. Ms. Meadows provided the Commissioners with photographs of her home which illustrates the closeness of her home to the property being considered for rezoning at this meeting.

Dr. Long asked staff if a drainage plan would be required if the land was developed as currently zoned (residential multi-family)

Mr. Bob Lindley, City Engineer, stated that if the property is located in a floodway, regardless of the type of building or construction, the property cannot be built upon unless an engineering study is completed and ensure that whatever is constructed (residential or commercial) will not in any way increase the base flood elevation.

Mr. Merlin Morrow stated that as water drains from Brookhollow Drive to Brentwood Drive the depth and width of the drainage area increases. Mr. Morrow stated that the one issue of concerns for the resident in this area is the fact that any type of construction in this area must ensure that there will be no increase in the amount of water on Brentwood Drive.

Mr. Harkins stated that whether or not the zoning is changed, more water cannot be released at a faster rate than as the property stands today.

Mr. Ted Lucas stated that he is opposed to the rezoning of this property. Mr. Lucas stated that he is concerned about flooding, traffic, trash/litter, property devaluation and an increase in the noise level.

Ms. Rachel Monhollon stated that unless Brentwood Drive is made a one-way street travelling south, High Meadows Drive can still be accessed via Brentwood Drive. Increased traffic and the issues that have been addressed earlier are also of concern to her.

Ms. Judy Dudley stated that increased traffic on residential streets is of a great concern to her. Ms. Dudley stated that the back of the proposed establishment will face her property - this causes concern for line of sight to the dumpsters, access by delivery trucks, and the odor produced by a barbeque restaurant.

Mr. Joe Alcala asked how many more restaurants and/or shopping centers are needed in this area? Mr. Alcala stated that there are sufficient eating establishments and shopping centers in this area.

Mr. Don Anderson stated that the developer of this property will incur a significant traffic problem on the Danville side. The traffic in the area is horrendous. Mr. Anderson urged the Commission to reject this zone change.

Mr. David Ohre stated that he is the proposed developer for this project. Mr. Ohre stated that he also lives in Abilene is it is his intent to be a good neighbor. Mr. Ohre stated that the proposed development will improve the property. Mr. Ohre stated that development can occur on the property as currently zoned. The reason for rezoning the entire parcel is to acquire additional parking. Mr. Ohre stated that a structure and landscaping would help buffer the noise from the access road.

Ms. Geneva Lucas stated that one of the problems with a barbeque restaurant is the appearance of the back of such a restaurant. Ms. Lucas stated that her property faces the back of the proposed development. A fence could not be constructed to screen the dumpsters; because of allergies, Mr. & Mrs. Lucas have concerns about the smoke from the restaurant; and, there is a concern about roaches and rodents from the restaurant. Traffic and safety issues are also of concern. Ms. Lucas stated that she is also very allergic to mosquitoes and a detention pond near her home is of great concern to her.

Mr. Kathy Hogan expressed concerns regarding trash, noise, odors, dumpsters, rodents, and traffic. Ms. Hogan stated that if a restaurant is located on this property, it is her desire that berms, trees, and a concrete or brick wall be included.

Ms. Campos closed the public hearing.

Mr. Bixby stated that it is difficult to totally ignore the number of residents speaking against this rezoning. Mr. Bixby stated that he would like to see a compromise worked out for this project. Mr. Bixby stated that he noted seven (7) issues raised – only some of which can be addressed by the City and/or this Commission. The proposed project could be a nice buffer for this residential subdivision from the Winters Freeway.

Dr. Long asked Mr. Ohre if the possibility of creating a PDD for this piece of property had been discussed.

Jon James stated that in initial discussions with Mr. Paul Johnson the possibility of a PDD was discussed. At that time, the proponent wanted to move forward with straight rezoning of the property and staff was supportive of this rezoning request.

Matt Jones briefly described a Planned Development District for the proponent and the residents.

Mr. Harkins recommended two means for reaching a compromise or agreement on this rezoning request:

1. Utilize a PDD
2. Utilization of a couple of the RM lots in the southeast corner and a couple in the northwest end of the property for a retention pond. This would leave the majority of the RM-3 lots in place to act as a buffer. This would allow conventional SC zoning for a majority of the property and RM-3 for the remainder of the lots to act as a buffer for this residential neighborhood.

Mr. James stated that in reference to the statements made at this meeting regarding the use of the property, with standard zoning the use of the property is not always known. With PDD zoning, the PDD would be tied to a specific site plan; therefore, before it is approved by the Commission and City Council, staff would know the answers to many of the questions raised at this meeting. e.g, landscaping, parking, building placement, type of screening for dumpsters, etc.

Ms. Campos asked the proponent (Mr. Ohre) if he would be willing to work with City staff to develop a PDD for this area.

Mr. Ohre stated that rezoning to a PDD would add a significant amount of time to completing the project.

Mr. James stated that the development of a Planned Development District for this property is at the Planning and Zoning Commission's discretion. If the proponent wishes to move forward with the rezoning request, the Commission could still choose to table this item or approve or deny the rezoning request and forward the request to the City Council.

Mr. James stated that if Mr. Ohre is unhappy with the contents of a PDD ordinance that is brought before the Commission, he can make this known to the Commission and Council.

Mr. Ohre agreed to the development of a PDD ordinance for this area.

Mr. Bixby moved to table Z-2007-22 and instructed staff to work with the proponent and the residents of this neighborhood to develop a PDD. Mr. Harkins seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Harkins, Long and Rosenbaum) to none (0) opposed.

b. Z-2007-23

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Seymour Beitscher; Agent: Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RM-3 (Residential Multi-Family), GC (General Commercial), RS-6 (Residential Single-Family), and RS-6/PH (Residential Single-Family/Patio Home Overlay) zoning, located adjacent to Highway 277, just North of Dub Wright Boulevard.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO to RS-6, RS-6/PH, RM-3, and GC. The area proposed for rezoning is 41.4 acres out of a 276 acre parcel that is currently zoned agricultural open space, but is currently undeveloped. The property has AO (Agricultural Open Space) to the North and East. To the South there is GC (General Commercial) and RM-3 (Residential Multi-Family), with AO (Agricultural Open Space) and GC (General Commercial) to the West across Highway 277. An elementary school is also located on the lot to the North.

The area was annexed in 1986 and zoned to AO (Agricultural Open Space) sometime afterwards. Currently the property is zoned AO (Agricultural Open Space), and has never been developed. Given the location adjacent to residential neighborhoods, the intensity of allowable uses should be consistent with the adjacent residential zoning.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a low density residential area. This area is a part of a larger PDP that has been submitted for the property. It calls for some commercial areas along Highway 277, along with single-family, multi-family, and patio-home overlay zones. The commercial uses along Highway 277 would be compatible in the area, then transitioning to multi-family, then to single-family homes to provide a buffer of certain types of uses, thru the use of zoning.

Section 23-305 of the Zoning Ordinance identifies strip zoning as, “an elongated, nonresidential district which parallels a highway or street, and which is characterized by one or more of the following: Shallow lot depth with abutting residences in the rear, separate lot ownership which exacerbates harmful vehicular access to the street, and inadequate provisions for off-street parking.” The Comprehensive Plan also calls for development to occur at “Neighborhood Activity Centers” at major intersections. Therefore, higher intensity commercial development is most appropriate near the intersection of Highway 277 and Rebecca Lane, then the uses should transition to lower intensity to the North, particularly as the properties become closer to the school.

Planning staff recommends approval incorporating LC, SC, and O zoning on the northern end of the property as well as GC at the intersection of Rebecca Lane and Highway 277 on the far southern end of the property.

Property owners within 200 feet of the rezoning request were notified. Three (3) comment forms were returned in favor of the request.

Ms. Campos opened the public hearing.

Mr. Tal Fillingim stated that initially General Commercial zoning was requested across the front of the property. After discussions with City staff, the agent and proponent did recognize the need for a less intense use adjacent to the school located on Highway 277. General Commercial zoning is being requested for the southern most tract, continuing with GC on the center tract, and then transitioning to Shopping Center and Office zoning adjacent to the school. Butterfield Meadows will be constructed as a collector-type road as a part of this development.

Mr. Bixby asked Mr. Fillingim if the zoning, as proposed by staff, is acceptable to the proponent.

Mr. Fillingim stated that their request would be for the Planning and Zoning Commission to approve zoning as originally submitted by the proponent.

Ms. Campos closed the public hearing.

Mr. Bixby moved to approve Z-2007-23 as requested by the proponent. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Harkins and Rosenbaum) to two (2) opposed (Campos and Long).

Item Six: Subdivision Regulation Amendment

Public Hearing and possible vote to recommend approval or denial to the City Council on proposed amendments to the Subdivision Regulations regarding the Extra-Territorial Jurisdiction.

Mr. Jon James provided the following background information regarding this item. As part of the Land Development Code rewrite, Dunkin, Sefko, & Associates reviewed all of Abilene's existing development regulations. The consultants reviewed the current development regulations and provided a list of issues that should be addressed prior to adoption of the full LDC. Policies on development in the ETJ were among the priorities because of unintentional economic incentives to develop outside the city limits.

The recommendations being presented today ensure that development in the ETJ provide the necessary infrastructure should the area be annexed into the City at some point in the future. These recommendations can also encourage development inside the City limits. Strategy #46 of the Comprehensive Plan recommends: Jointly plan and pursue intergovernmental agreements related to the City's extra-territorial jurisdiction (ETJ) with Taylor, Callahan, Jones, and Shackelford counties to:

- Direct the development of urban-intense uses within the city where a full range of existing services are available.

- Revise infrastructure requirements for development within the ETJ that are consistent with City standards.

Issues to be considered at this meeting include:

- √ Extend most city subdivision standards to increase consistency between developments in and outside the city limits
- √ No zoning authority
- √ No building code requirements

Mr. James stated that the major change by the ETJ Subcommittee from the initial P&Z recommendation was the elimination of the 1-5 acre lot category, which required full city standards under the Planning and Zoning Commission's proposal (now full standards only for lots less than 1 acre).

Mr. James stated that there are two questions that these ETJ Regulations answer:

1. Ensure that the infrastructure is either built to City standards or can easily be upgraded to City standards
2. The extent to which development is encouraged within the City versus just outside the City.

Commission members were provided with all regulations being considered for the ETJ including modifications and/or changes recommended by the ETJ Subcommittee.

Mr. James stated that in regard to the five-mile ETJ area, the City cannot treat areas of the ETJ differently (one mile versus the remainder of the ETJ). However, what can be done is to concede control of the ETJ to the County. Taylor and Callahan counties were comfortable with the five-mile ETJ. Jones County was not comfortable with the five-mile ETJ; however, under the Intergovernmental Agreement, the City of Abilene only reviews plats for subdivision within the first mile of the ETJ.

Ms. Campos opened the public hearing.

Mr. Tommy Harendt stated that he was a member of the Committee that reviewed the ETJ ordinances. In reviewing the changes, one possible concern pertains to wording in the document that states "at the discretion of the City Engineer." This item may require additional clarification. Mr. Harendt requested discussion regarding the omission of B., 2., e., 4.(page 22 of the information provided to the Commission members).

Mr. Harkins recommended changing the wording in Item 1 to: "...subject street is a continuation of an existing or planned City street."

Mr. James stated that staff would be comfortable with the elimination of item 4 of this section.

Mr. Tal Fillingim mentioned the issue of sidewalks not being required on lots greater than one acre in size except for arterial and collector streets. Mr. Fillingim stated that most of the arterial and collector streets in the ETJ do not have curb and gutter. With a one acre lot, curb and gutter would not be required even on the larger streets.

Mr. James stated that the Sidewalk Ordinance requires either a financial guarantee or a deferral agreement. The developer does not have to put up any money, a bond, or financial guarantee. This is accomplished through an agreement that is filed with the County attached to the property which states, "This property will have the obligation for sidewalks at some point in the future."

Ms. Campos closed the public hearing.

Mr. Bixby stated that he has spoken with County Commissioners and members of the ETJ Subcommittee and with the exception of #4 under Item E (City Engineer finding reasonable justification) everyone seems comfortable with the recommendations.

Ms. Campos asked Mr. Bixby if he was suggesting that #4 be reworded or eliminated.

Mr. Bixby stated that #4 should be eliminated and if it is to be replaced then specific wording should be developed for specific situations.

Mr. Bixby moved to approve an amendment to the Subdivision Regulations in the section which exempts ETJ development from certain requirements, including a revision of the wording of Item E., number 4, as follows: "...where the City Engineer with approval from the Planning and Zoning Commission finds reasonable justification." Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Harkins, Long 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 the Zoning Ordinance to establish Rural Residential Zoning districts and to change the minimum lot size requirements in the AO zoning district.

Mr. Jon James stated that this item is an amendment to the Zoning Ordinance that accomplishes the following:

Agricultural Open Space Zoning:

Amendments intended to focus more on agricultural uses instead of residential
2-acre minimum to 5-acre minimum
(original recommendation was 10 acres)
Minimum lot width from 80' to 200'
Minimum lot depth from 200' to 500'
No change in setbacks or permitted uses

Rural Residential Zoning:

Intended for single-family residential development with a semi-rural atmosphere
Uses consistent with RS zoning, with only a few exceptions
Ideal for areas where dense development is undesirable or where extension of facilities is unfeasible

Ms. Campos opened the public hearing.

Ms. Pam Percival asked for clarification regarding her neighborhood. The current zoning for this area is AO and Ms. Percival requested clarification regarding how this amendment would impact existing neighborhoods. Ms. Percival stated that lot sizes in this neighborhood are currently 2 to 2-1/2 acres in size and asked the plan for existing neighborhoods within the City limits.

Mr. James stated that the intent is not to rezone many of the existing areas. Mr. James stated that he would anticipate this area remains AO unless the residents requested rezoning. This would not mean that lots would become nonstandard for AO but this would not place limitation on the lots in terms of development standards. If for some reason rezoning was proposed for an existing AO area, property owners would be notified and the rezoning request would be considered by the Planning and Zoning Commission and the City Council.

Ms. Campos closed the public hearing

Mr. Harkins moved to approve the proposed amendments to the Zoning Ordinance to establish Rural Residential zoning districts with the modification to the minimum lot depth in an RR-5 district to 400 feet. Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Harkins, Long and Rosenbaum) to none (0) opposed.

Item Eight: Sidewalk Master Plan

Public hearing, discussion and direction to staff on possible amendments to the Sidewalk Master Plan.

For clarification purposes, Mr. James stated that the terms *Ordinance* and *Master Plan* will be used interchangeably. Rather than amend the City Code in multiple locations, the Sidewalk Ordinance was adopted in August 2006 and officially called the Sidewalk Master Plan. The Sidewalk Master Plan was amended by the City Council in October 2006 to add and clarify the appeal procedure (appeals to the City Council). During the implementation of this Plan, staff has encountered a number of questions, concerns and issues raised by the development community and these are the issues to be discussed at this meeting. As part of an appeal to the City Council a few months ago, the Council recommended that the ordinance be reviewed by a Committee regarding these questions, concerns and issues and their recommendations be submitted to the Planning and Zoning Commission. The Committee's and the Planning and Zoning Commission's recommendations would then be forwarded to the City Council. The Committee met on September 19th and their recommendations were provided to the Planning and Zoning Commissioners in this month's packet of information.

Mr. James stated that the purpose of this meeting is to review the Committee's recommendations and provide the Commission an opportunity to provide direction to staff regarding possible changes to the Sidewalk Ordinance. The Committee met only once as they felt they had accomplished their review in the one meeting. Mr. James reviewed the seven (7) issues to be discussed at this meeting and then the Commission would address each issue individually (change the Ordinance as recommended by the Committee; the Ordinance should not be changed; or direction as to which recommendation should be incorporated into the ordinance - staff's recommendation or the Committee's recommendation).

- √ Completion within 5 years
- √ Alternatives: Bike Paths/Bike Lanes
- √ Redefine “existing neighborhoods” exemption
- √ Exempt all local SF streets
- √ Exempt small-lot subdivisions
- √ Sidewalks on one side of the street on local SF streets

Issue 1: Clarify “disproportionate cost”

Waiver for disproportionate cost should be clarified

- Current ordinance provides a waiver if the cost of a sidewalk is “unreasonably disproportionate” to the costs of the overall project.
- Unreasonably disproportionate is defined as more than 20% of the cost of the larger project

The Committee Proposal:

Committee Proposal is to better define and clarify when this exemption applies. ***Staff supports these changes.***

- If triggered during subdivision process, the “project costs” only include infrastructure costs required by platting (roads, water sewer, sidewalks)
- If triggered during site plan process, the “project costs” include all of the development costs associated with the site plan, including site development, buildings, parking, landscaping, etc.
- Finally, since this could still result in excessive costs, a third criteria would be added to waive a sidewalk where the cost of a sidewalk on a particular project is more than three (3) times the costs of a “standard sidewalk”

Mr. Bixby asked the reasoning behind “project costs” being so much greater in the site plan process (20% of the site plan process is substantially greater for all the development and building) than the projected costs triggered during the platting process. Mr. Bixby asked the rationale behind this item.

Mr. James stated that the current interpretation of the Ordinance that is utilized by City staff was that the project costs include all of the known costs even at the subdivision stage. What this proposal accomplishes is it clarifies that all of the costs are only calculated as the project cost at the site plan stage. Mr. James stated that at the subdivision stage – the primary concern is infrastructure; therefore, sidewalk costs should be compared to those costs and those costs only. At the site plan state, sidewalks should be incorporated as a part of the development.

Mr. Bixby stated that bullet #2 is a tremendously higher number than bullet #1.

Mr. James stated that bullet #2 would not be the case very often. For most developments, this will be the case; however, there have been projects where a basic site plan with few or no improvements have been required and if for some reason the sidewalk requirement is triggered, there have been situations where the sidewalk is more than 20% of the project costs.

Issue 2: Completion of Sidewalks (Within 5 years of subdivision approval).

- Current ordinance allows sidewalk construction to be delayed on local streets until such time as development occurs, but this delay is limited to 5 years.

Committee Recommendation: *Staff supports this change*

- Shift responsibility from developer to property owner
- Require construction within 3 years after 90% of lots in the subdivision are developed.

Issue 3a: What if a developer wants a system of bike paths instead (of sidewalks)?

- Current ordinance allows for deviations from the normal standards. Committee recommended that specific language be added for this alternative.
- Staff supports the concept as long as the result is a neighborhood-wide system of paths.

Issue 3b: On-street bike lanes in lieu of sidewalks

- Committee suggested looking into the option of on-street bike lanes instead of sidewalks.
- Staff does not support this option, based on accepted design standards
 - Bike lanes are beneficial, especially on high-traffic high-volume streets for bicyclists, but are not considered appropriate for pedestrians.

Issue 4: Exemption for “existing neighborhoods”

- Ordinance requirement “is not intended to apply to existing single-family residential neighborhoods where sidewalks are not present and have not historically been provided.”
- Under current ordinance, exemption is limited to existing streets in existing neighborhoods (i.e., any new subdivision triggers sidewalks)
- Proposed alternative: continuation of an existing subdivision without sidewalks should also not require sidewalks. *Committee was split.*
- *Staff opposes this alternative*

Mr. James provided information regarding the sidewalk appeal considered by the City Council. (This case involved a new subdivision south of an existing subdivision without sidewalks). Staff’s question is would this scenario continue to apply as this subdivision continues to develop throughout the remainder of the property and does it apply to an abutting subdivision since the adjacent subdivision does not have sidewalks. Staff’s question is where does this end? Mr. James provided the example of the original subdivision containing 38 lots – when the area develops there will be over 2,000 homes. Do we want to have 2,000 homes, 38 of which do not have sidewalks and the remainder do, or do we want to have all 2,000 without sidewalks.

Mr. Bixby asked what the City Council's decision was regarding this waiver.

Mr. James stated that the Council granted this waiver and sent the ordinance back to the Committee and to the Planning and Zoning Commission to make a final decision on how to handle these requests in the future.

Issue 5: Exemption for all local streets

- As part of the discussion of the previous issue, the suggestion was made to simply exempt all local streets in single-family residential subdivisions.
- *Committee was split.*
- *Staff does not support this option.*

Mr. James stated that as part of the discussion on the issue of existing neighborhoods, the discussion veered off to the exemption of local streets in single family neighborhoods. The idea behind this was that it is most important to have sidewalks on arterial and collector streets where traffic speeds are higher, traffic volume is greater and therefore the need for a separate pedestrian facility is greater along these streets. Staff agrees that it is more important to have sidewalks on arterial and collector streets, if we are going to have sidewalks on some streets and not others. Staff feels it is important to have sidewalks throughout neighborhoods – even on local streets. The Committee vote on this item was 5 in favor of exempting local streets to 4 opposed.

Issue 6: Should small lot subdivisions be exempted?

- Current ordinance only exempts large-lot semi-rural lots over 1 acre.
- Proposed alternative:
exempt small lots, because:
 - these developments are intended to be “affordable” and sidewalks increase the cost of housing, and
 - parked vehicles tend to block the sidewalks in these neighborhoods due to short setbacks
- *Committee was split.* (Four Committee members were in favor of the small lot exemption and three were opposed.)
- *Staff opposes this option.*

Mr. Rosenbaum asked the size of a lot considered a “small lot.”

Mr. James stated that this was not discussed and this is an issue that the Commission will need to address if they choose this exemption – perhaps the RS-6 zoning category.

The final issue is not one discussed by the Committee but rather raised at a recent City Council meeting.

Item 7: Sidewalks on one side of the street

- To reduce cost, should sidewalks be required on only one side of the street for local streets in single-family residential neighborhoods?
- *Committee did not discuss.*
- *Staff does not support this option.*
- Questions: Which side of the street? Who pays?

Mr. Bixby asked if sidewalks were placed only on one side of the street, which side of the street do you think would sell first?

Mr. James responded that based on his experience he would say the side with sidewalks would sell first.

Mr. James stated that based on the Commission's direction, there are a couple of different options:

1. If the changes are relatively minor and the Commission is comfortable with staff making the changes and forwarding the information to City Council, then staff can do this immediately.
2. If there are substantial changes, the Commission will provide direction to staff, staff will make the changes and a revised ordinance will be presented to the Commission for consideration prior to forwarding to Council. In this case, the information would be submitted to the Commission in December and forwarded to the Council in January.

Once the Commission makes a recommendation, staff will forward the recommendation along with the Committee's recommendation to the City Council.

Ms. Campos opened the public hearing.

Mr. Tommie Harendt stated that he will be speaking on behalf of the Homebuilders Association. Last year when this issue came up, the Association voiced their opposition to requiring sidewalks. One reason was that the developer (the person investing money) should have the right to choose whether or not to install sidewalks. Mr. Harendt stated that the marketplace should determine if sidewalks are installed more than City policy. Mr. Harendt stated that most of the members in the Homebuilders Association would probably be in support of issue #5 which exempts local single family residential streets.

Mr. Brad Carter, President of the Cedar Creek Neighborhood Association, stated that he was present at the Planning and Zoning Commission meeting when the issue of sidewalks was discussed last year. Mr. Carter stated that the first step in seeing the Comprehensive Plan come to fruition is a community-wide pedestrian network - one of the guiding principles of the Comprehensive Plan. Mr. Carter stated that it is amazing to see once again that this Ordinance is being reviewed and the weakened issues that are being considered at this meeting. Mr. Carter stated that if his recollection is correct it was this Commission and the Council that stated that we must start and we must start now to begin this pedestrian network. Mr. Carter encouraged the Commission to say "no" to these issues - Sidewalks are not about something that looks nice in front of a house - sidewalks are street systems - a network for pedestrians.

Mr. Carter provided the following statements regarding the seven issues mentioned by Mr. James:

- Issue 2: This might be the issue that prices people out of a home – that is coming up with \$1,500 for a sidewalk – unless a way is found to make this more affordable.
- Issue 3: Bike paths – as Mr. James stated as long as this is a “network” this might be acceptable. A bike lane is not an acceptable alternative to not having sidewalks in neighborhoods. A wider street is only going to encourage people to drive faster – adding a bike lane will encourage people to drive faster and pedestrians will be less safe.
- Issue 4: As Mr. James pointed out, where does this stop - exempting a neighborhood that is next to a neighborhood without sidewalks – therefore, Mr. Carter stated he would say no to this issue.
- Issue 5: This issue deals with exempting local streets. Mr. Carter stated that sidewalks are needed not just on main thoroughfares (collectors and arterials), but neighborhoods need sidewalks to get safely around the neighborhood. This encourages people to get out of their homes and meet their neighbors – this creates a safer neighborhood.
- Issue 6: Mr. Carter stated that he would rather walk around a parked car on the sidewalk occasionally rather than dodge cars in the street.
- Issue 7: Mr. Carter stated that when citizens and politicians talk about affordable housing, we are also talking about safe housing.
- Issue 8: Mr. Carter stated that sidewalks on only one side of the street is a great answer for some existing neighborhoods but probably not a good answer in new developments where sidewalks should be on both sides of the street.

Mr. Carter encouraged the Planning and Zoning Commissioners to strengthen the Sidewalk Ordinance, rather than weaken the ordinance, as recommendations are formulated for City staff and to the Council.

Dr. Long asked Mr. Carter if there were sidewalks in his neighborhood.

Mr. Carter stated that his next door neighbor has a sidewalk and the neighbor three houses down and across the street has a sidewalk.

Dr. Long asked Mr. Carter, since his neighborhood has a Neighborhood Association, how does his neighborhood feel about paying for sidewalks.

Mr. Carter stated that in position papers sent to this Commission and the Council last year, the neighborhood is very willing to pay for the sidewalks. Mr. Carter stated that the Association has asked Council and City staff to find creative ways in which sidewalks can be placed in existing neighborhoods.

Mr. Rosenbaum asked Mr. Carter why the neighborhood did not just install sidewalks themselves.

Mr. Carter stated that they could do that. Mr. Carter stated that today it is his hope that the City requires sidewalks in new neighborhoods so that people do not have to install sidewalks themselves at a later time.

Dr. Long asked Mr. Carter if he would support the method utilized by other cities – sidewalks required in existing neighborhoods and this is triggered by new homes within an established neighborhood.

Mr. Carter stated that this would require some thought and investigation.

Dr. Long asked Mr. James if development on a vacant lot within a neighborhood would trigger sidewalks.

Mr. James responded that other cities referenced earlier require any new development to have sidewalks. The sidewalk would be only for the property where new construction occurs.

Ms. Pam Percival stated that she agrees with the statements made by Mr. Carter. Ms. Percival urged the Commission to “hold the course” and do the right thing for our community’s future by not changing the Sidewalk Ordinance. If “fine tuning” the current Ordinance is required, the suggestions made by the Planning staff are good and reasonable; however, the problem is not going away – Abilene still needs sidewalks and this is what people have said they wanted. This issue has been discussed previously and Ms. Percival stated that she does not understand why the current discussion leads in a backwards direction. Ms. Percival urged the Commission not to take the City backwards. Ms. Percival stated that too often it is said, “This is Abilene, we cannot do good things here – we’re just Abilene.” Ms. Percival stated that this type of thinking cheats the citizens of obtaining the things that can improve the quality of life for everyone. Ms. Percival asked the Commissioners to be good stewards of the future of our community and help the city go forward with walkability and good quality of life in all neighborhoods.

Ms. Campos closed the public hearing.

The consensus of the Commissioners was to review the seven issues individually and vote on each issue.

Mr. Bixby stated that if each issue is considered separately, it would make sense to begin with Issue 5 because some of the other issues become insignificant if not.

Mr. James stated that this is true because if Issue 5 is approved, Issues 4, 6, and 7 are eliminated.

Dr. Long stated that she has had numerous conversations and numerous phone calls about this issue with residents who have recently purchased homes ranging from \$250,000 to \$30,000 homes and not one person has said that they do not want a sidewalk. Dr. Long stated that she hears repeatedly that the City wants sidewalks – the City does not want sidewalks – the community wants sidewalks. Dr. Long stated that 30% of the residents of this City do not own cars – the greatest part of this percentage is in the lower, more affordable neighborhoods. Dr. Long stated that when this issue first came up, she received phone calls from neighbors and neighborhood association members asking why the City has no sidewalks. Dr. Long stated that she wants sidewalks in her neighborhood and as Mr. Carter stated, the residents are willing to pay for these sidewalks (the cost could be added to the Water Bill). The reason that they do not want to do it individually is because even though all residents along an entire

street have said they want sidewalks, there will always be someone not willing to pay for the sidewalk or simply does not want foot traffic in front of their home. Voluntary installation of sidewalks could result in six or seven of the homes having sidewalks and one property without a sidewalk. If sidewalks were a City requirement, everyone could have sidewalks.

Mr. Rosenbaum stated that this Commission is not discussing the installation of sidewalks throughout the entire City.

Dr. Long stated that they are because if we don't start somewhere with building sidewalks in new developments the sidewalks cannot be connected to provide a route for pedestrians. Dr. Long stated that this is an emotional issue for her because she has watched neighbors who don't have cars pushing strollers down City streets with 35 miles per hour traffic. Dr. Long stated that children/pedestrian injuries is the second leading cause of death – we should not be questioning this as it is not a matter of cost – it is a matter of safety for the residents.

Mr. Harkins agrees that everyone with whom the issue of sidewalks is discussed is going to say that they are in favor of sidewalks. Mr. Harkins stated that he has a problem with legislating. Mr. Harkins stated that this should be in response to “supply and demand.” If an individual wants a sidewalk then that individual should build the sidewalk.

Dr. Long stated that she did not believe it is the City driving this issue – it is the community.

Mr. Harkins stated that the community will state that they want a sidewalk – they are not being asked if they are willing to pay for the sidewalk. Mr. Harkins stated that he is in favor of sidewalks but he is not in favor of legislating this requirement throughout the entire City. Mr. Harkins stated that, in his opinion, if everyone wants sidewalks, then the home builders and developers are going to realize that everyone wants sidewalks and they will begin installing sidewalks. This is what should drive this issue – citizens should not be taxed or forced to install sidewalks.

Mr. Bixby shared his experience regarding this issue. He stated that he began wondering about this issue and questioning this issues a couple of years ago, prior to becoming a P & Z Commissioner. Mr. Bixby stated that he approached this subject with an open mind and listened carefully to responses. The answers he received were different in different demographics. Mr. Bixby stated that there is no question that a great many people would like sidewalks; however, when the equation of cost is added, the large majority of people become disinterested quickly.

Mr. Famble stated that he lives in a subdivision without sidewalks. He stated that if his builder had come to him and informed him that another \$2,000 would be required in order to install sidewalks, he would have more than likely looked to build elsewhere. If he had been told that this could be included in his water bill, he might have been more in favor.

Dr. Long asked the number of new developments in Abilene where sidewalks are provided.

No one could provide the number or percentage but Mr. Bixby stated that there are subdivisions in Abilene where sidewalks are provided.

Ms. Campos asked Mr. James to proceed with discussion of the seven (7) issues.

Mr. James asked the Commission if they wanted to begin with Issue 5. Commissioners were in agreement with beginning with Issue 5.

Issue 5: Exemption for all local streets

Mr. James stated that this exemption refers to single family residential subdivision only.

Dr. Long stated that she did not understand why the Commission is considering this issue. The Planning and Zoning Commission considered this issue and forwarded their recommendation to the City Council. When the Council considered this item, the Council Chambers were crowded with individuals wanting sidewalks.

Mr. Bixby stated that he could provide insight regarding this issue. Mr. Bixby stated since this Sidewalk Ordinance was enacted, the Council has exempted sidewalks in new subdivisions eight or nine times. Mr. Bixby stated that he believed that the Council is having a problem with the ordinance because they keep having to exempt sidewalks so they want the Commission to review the ordinance in an attempt to fix this problem.

Mr. James provided clarification for the exemptions – of the exemptions, only one (1) has been considered by the City Council. Of the approximately 10 exemptions, about one-half were approved by staff; one-half were denied by staff; and, only one was appealed to City Council (staff denied the request and Council granted the request).

Mr. Bixby stated that he knows that there have been more, e.g. Enterprise Park.

Mr. James stated that this was a plat considered by the Planning and Zoning Commission. This was somewhat different as it was not a matter of waiving the requirements but a technical issue (was there an agreement in place to not have to install a sidewalk).

Mr. Bixby stated that the Planning and Zoning Commission is reviewing this Ordinance because the Council has instructed the Commission to do so.

Dr. Long asked if the one appeal to City Council is the reason for the Commission's review of the Ordinance.

Mr. James stated that there have been issues raised by the people that this Ordinance affects – developments have been submitted that raise these issues and Council believed that it was important enough to send back to the Planning and Zoning Commission.

Dr. Long stated that to her this is the “meat” of the Sidewalk Ordinance – people want sidewalks on local streets – where are pedestrians supposed to walk?

Mr. James stated that one of the questions that this comes down to is: “How do you view sidewalks?” “Are sidewalks an amenity or an integral part of the street?”

Mr. Harkins stated that it would be great to have sidewalks everywhere, conceptually. Mr. Harkins stated that he has a problem with sidewalks being dictated.

Mr. Bixby stated that there many sidewalks in the City and he has made it a point to observe the use of current sidewalks. Mr. Bixby stated that he questioned whether the sidewalks installed on Judge Ely Boulevard would be useful. At first they were not used; however, they are now being utilized and are important on this type of collector or arterial streets. Mr. Bixby stated that he has not observed sidewalks being utilized in those subdivisions that have sidewalks.

Dr. Long stated that in response to Mr. Harkins concern of regulating sidewalks – this is not an amenity it is a public safety issue.

Mr. Harkins stated that he agrees with this at the level of the arterial and/or collector streets. Mr. Harkins stated that many families walk in his neighborhood all the time in the street (there are no sidewalks in their neighborhood) and there is no traffic.

Dr. Long stated that she has spent a great deal of time looking at the numbers and the pedestrian accidents occur on the smaller streets at three times the rate as arterial and collector streets because people are more aware of traffic on the busier streets (arterials and collectors). More children are being injured and/or killed on smaller streets. Dr. Long stated that the cost would be worth saving a life. Dr. Long stated that sidewalks are not only safe but teach safety to our children.

Mr. Rosenbaum asked Mr. James what was meant by a “local street” when this issue was raised?

Mr. James responded that the City has a street classification system (freeways/expressways, arterials, collectors, and local streets). Basically most of the streets in a residential subdivision (in front of a home) will be local streets, unless it is a feeder street into the neighborhood.

Dr. Long stated that when this issue was address previously by City Council, residents came forth and stated that this is a community issue. Dr. Long stated that many individuals stated that they would not be in attendance at this meeting because they were waiting to be present at the City Council meeting. Dr. Long stated that these individuals are going to want to know why the Planning and Zoning Commission did not back this Ordinance as they said they would do a year ago.

Ms. Campos stated that regarding Issue 5, it is her opinion that the Commission needs to exempt completely (at this time) sidewalks on all local streets in existing subdivisions.

Mr. James stated that the basic question is for a new subdivision (currently farmland that will be subdivided and developed as home sites), should the local street within the subdivision have sidewalks? Mr. James stated that the Sidewalk Ordinance would be in affect for newly platted lots (platted after August of 2006). The question is should this be changed for new developments or leave the requirement in place (currently, Issue 5 does not pertain to existing streets).

Mr. Bixby asked Ms. Compos how he would respond to this requirement when he has witnessed the withdrawal of concurrence when costs are associated with sidewalks.

Ms. Campos responded that it is her belief that the cost of the sidewalk should be included in the cost of a new home in a new development. Ms. Campos stated that she has heard from citizens who have stated that they would be okay with the cost of the sidewalk if it was included in the cost of the mortgage. Ms. Campos stated that she believed that new subdivisions should have sidewalks.

Mr. Bixby stated that he spoke about the demographics being different – he has found that the lower incomes are more adamant about not paying for sidewalks and the richer people are more accepting of sidewalks. Mr. Bixby stated that this is a strong difference when audiences are polled.

Mr. Rosenbaum stated that he would make a motion to bring this discussion to end if the Commission so desired.

Mr. Rosenbaum moved that the Sidewalk Master Plan be modified to exempt sidewalks from all local streets in single family residential subdivisions (accept the Committee's recommendation on Issue 5). Mr. Harkins seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Harkins and Rosenbaum) to two (2) opposed (Campos and Long).

Mr. James asked the Commission if they wished to discuss Issues 4, 6, and 7 or move on.

Mr. Bixby stated that there would be no point to discussing these Issues.

Mr. James then proceeded to Issue 1: Clarification of “disproportionate cost.”

Mr. Bixby asked how this applies now.

Mr. Harkins stated that he thought he was the one that brought this up at the Committee. He stated that he has seen some situations where a project is such – say a commercial project – where a sidewalk was required and the topography was such that the sidewalk would have to be built up substantially to place it appropriately in the parkway – it did not make sense. Yet, the way the exemption is currently written, it would cost a couple hundred thousand dollars for a million dollar project. Mr. Harkins stated that he is not sure if he mentioned the “three times” or if this is something developed by staff (perhaps it could be five times), but there could be a “cut-off point” where a sidewalk must be constructed that is in essence a suspension bridge in order to have pedestrian traffic along the street, then it is excessive and the developer should not have to spend that money.

Mr. Rosenbaum also mentioned the possibility of a sloping lot where a retaining wall would be required in order to construct a sidewalk.

Mr. Bixby stated that if the amount is 20% of the project cost – only including infrastructure – this makes sense.

Mr. Harkins stated that even with bullets 1 and 2, the project cost of the total project might mean that the developer would have to spend \$200,000 on the sidewalk. But, then bullet three would kick in and preclude the developer from have to construct the sidewalk.

Mr. Bixby stated that there is a point where sidewalks could potentially stop projects.

Dr. Long stated that perhaps “cost-sharing” with the City should be discussed because to say that on a collector or arterial street except where disproportionate costs are encountered does not make sense to her.

Mr. Bixby stated that the City can always build a sidewalk anywhere they want to.

Mr. James addressed Dr. Long’s comment. Staff did encounter a situation where rather than completely waiving the sidewalk because of excessive cost, the developer would have had to pay for a standard sidewalk but the cost would be capped at that amount and if the City wanted a sidewalk they would cover the remaining cost.

Under the current options, the developer could obtain a waiver. Mr. James stated that if this is the Commission’s desire, staff could rewrite this section to include that if the cost is excessive it does not completely waive the requirement – the developer was required to put in up to that amount toward the sidewalk.

Mr. Rosenbaum stated that this is a reasonable option but is unsure if he would want the land encumbered by this. At the platting process, an agreement should be in place to either install or not install a sidewalk. At the time the plat is submitted it should be determined that the City will kick in whatever over and above that amount to construct a sidewalk.

Mr. James stated that this is a reasonable answer; however, many of the developments going in today are deferring sidewalk construction anyway so they are having to put up either financial guarantee or a deferral agreement. A common situation where this is allowed is if neither property on either side of the street have a sidewalk, it can be deferred until those adjacent properties build a sidewalk. The City already has a system in place.

Mr. Rosenbaum stated that if the deferment meets bullet two or three – 90% or three years – and if tied to these conditions, then, it is satisfactory. Mr. Rosenbaum stated that there should not be an indefinite tie to the property.

Mr. James stated that there are many properties in Abilene that in lieu of constructing sidewalks immediately, they have voluntarily encumbered this upon themselves in order to defer sidewalk construction. Mr. James stated that he believed it to be to the developer’s advantage to be able to defer the construction even if the timeframe is indefinite.

Mr. Harkins asked if the first two bullets are tied to the 20% of either the subdivision cost or total project cost.

Mr. James stated that this is correct.

Mr. Harkins asked if the cost exceeds 20%, sidewalks will be waived even if there are sidewalks on surrounding properties.

Mr. James stated that this is correct. Mr. James stated that it can be waived – this is only criteria. Mr. James stated that the waiver and deviations are not guaranteed – one must still go through a process that must be completed.

Mr. Harkins stated that perhaps rather than triggering a waiver a cap can be placed on the amount with the City offering to assist.

Mr. Harkins asked if bullets 1 and 2 were included in the information originally sent to the City Council.

Mr. James stated that this information was included in the section that referred to the disproportionate cost waiver; however, the language was not clear. The total project cost figure was not well defined.

Mr. Harkins stated that what was sent to the Council a year ago had this language built in – the language presented at this meeting provides further definition of the project cost and at the Committee meeting the third bullet was added.

Mr. James stated that this is a clarification of the definition of “project cost” and adds the third item.

Mr. Harkins stated that he wanted to clarify this for the benefit of Dr. Long. This information was included in the previous ordinance.

Dr. Long stated that she would still raise the point that to totally waive the sidewalk requirement is absurd because now we are talking about collector and arterial streets where there is high speed traffic. What happens when one comes to an area where there is no sidewalk because it cost too much or is a topographical issue.

Mr. Rosenbaum moved to accept bullets 1 and 2 in Issue 1 but not bulleted item 3.

Mr. Harkins responded to Dr. Long’s statement prior to a second to Mr. Rosenbaum’s motion. Mr. Harkins stated that his answer to Dr. Long’s statement is if the cost of the sidewalk gets great enough, the development won’t occur and the sidewalk will not be there anyway.

Dr. Long stated that is why she agreed to a cap. In this way the sidewalk is installed if the City wants it – they put up the money. This information needs to be included in this Issue if we are to have this option.

Mr. Bixby stated that there is another option and he is not suggesting that this be done; however, another option is to say that the City can put sidewalks wherever they want sidewalks in rights of way.

Mr. Rosenbaum stated that the Commission’s charge was to clarify “unreasonable disproportionate” which was defined as 20% of the cost of the larger project and bullets one and two do this. Bullet item three is an interjection beyond this and this is the reason for his motion.

Mr. Bixby seconded the motion and the motion carried by a vote of five (5) in favor (Campos, Bixby, Famble, Harkins and Rosenbaum) to one (1) opposed (Long).

Mr. James stated that the basic result of the Committee recommendation on Issue 2: Completion of Sidewalks (Within 5 years of subdivision approval) was:

1. It would shift the responsibility of sidewalk construction from the developer to the property owner.

Dr. Long stated that if the property abuts an arterial or collector street within a subdivision, then that part of the subdivision will require sidewalks.

Mr. Harkins asked if the developer is required to install sidewalks on arterial and collector streets at the time of the development as opposed to at the time of construction.

Mr. James responded that the developer would not because for a collector street in a single family subdivision where homes are fronting on the collector street, sidewalks can be delayed until the building of the homes. This issue still applies but it would only apply in those rare instances of collector streets in residential subdivisions.

Mr. Rosenbaum asked if this is also allowed in commercial development. Mr. Rosenbaum asked if this was not the case with a plat considered at last month's meeting.

Mr. James stated that under the Master Plan, any collector street and above, except for a collector street in a single family neighborhood, has to be built at the time of the street construction. The plat considered at last month's meeting was based on an agreement and was a unique circumstance.

Mr. Rosenbaum asked if the Master Plan contained a time limit for construction.

Mr. James stated that currently the time limit is just once the subdivision develops, five years later all the sidewalks have to be in place. If not, the developer is responsible for completion.

Mr. Harkins stated that the problem that the Committee recognized is the in five years that developer may or may not be in business, there may not be anyone on which the responsibility can be placed. This is why the responsibility was shifted from developer to property owner.

Mr. James stated that from staff's perspective, there are some equity issues with shifting the responsibility to the property owner. If only collector streets are involved in this discussion, the more complicated system of three years after 90% has been developed then staff's recommendation would be to keep the five year timeframe.

Dr. Long asked who keeps track of this, follows up on the matter, and what if only 89% of the subdivision is developed. Dr. Long stated that this is just too confusing.

Mr. James provided an option that has not been discussed. Many of the other cities surveyed just require construction at the building of the street for all collectors and above. Mr. James stated that this would not be an unreasonable approach.

Mr. Harkins moved to amend Issue 5 to state that for collector streets only, sidewalks would be built at the time the development is completed, not when the houses are built. Mr. Rosenbaum seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Harkins, Long and Rosenbaum) to none (0) opposed.

Mr. James stated that the only remaining issue is Issue 3 – this issue was split into two parts:

- a. What if a developer wants a system of bike paths instead (of sidewalks)?

b: On-street bike lanes in lieu of sidewalks

Mr. Harkins asked the difference between a sidewalk and a bike path.

Mr. James responded that a bike path would typically be wider.

Mr. Bixby stated that he did not see any reason to entertain this Issue. This alternative is not needed and the sidewalks are now in the areas where they are needed. Mr. Bixby stated that he did not feel this is an issue that needed to be addressed.

Mr. James stated that since a system on local streets is not being required, this issue becomes moot. Even if specific language is not included that addresses this issue, if a unique development is brought forth with a bike path rather than sidewalks on collector street this could be accomplished through the deviation process included in this Ordinance.

Mr. Bixby asked if no action is taken on this item does this issue go away. Mr. Bixby stated that he did not believe the Commission is ready to have this discussion and it is still an option for a developer.

The Commission took no action on Issue 3a and 3b.

Mr. James asked the Commission if they wanted to review the revised language for this Sidewalk Ordinance at their next meeting or are they comfortable with forwarding today's recommendations to the Council.

Mr. Bixby asked that each Commission be sent a copy of the wording but he felt the Council is anxious to get this behind them.

Mr. James stated that the Sidewalk Ordinance recommendation will be submitted to the Council in December. If in the meantime any of the Commissioners requests this item be placed on the December agenda, this would be done.

Mr. Santee encouraged Mr. James to place this item on the Commission's December agenda since the P & Z meeting occurs prior to the first Council meeting.

Mr. Rosenbaum asked if this would be a public hearing.

Mr. James stated that this would be a public hearing since it will be a recommendation on an ordinance amendment. Mr. James asked the Commissioners if they did or did not want this to be posted as a public hearing if this is not a legal requirement.

Several commissioners stated that they did not want to go through a public hearing again. Dr. Long disagreed and stated that it should be a public hearing.

Item Nine: Director's Report

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

Mr. James provided information to the Commissioners regarding recent City Council actions. The Council approved items as recommended by the Planning and Zoning Commission.

Item Ten: Adjourn

There being no further business, the meeting was adjourned at 6:33 p.m.

Approved: _____, Chairman