
PLANNING & ZONING COMMISSION

December 3, 2007

Minutes

Members Present:

Bruce Bixby
Ovelia Campos
Fred Famble
Lydia M. Long
Tim McClarty
Clint Rosenbaum

Members Absent:

Jack Harkins

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
Kyle Thomas, Assistant City Attorney
Terry Pribble, City Engineer
Matt Jones, Planner I
Zack Rainbow, Planner I
Reginald Sampson, Transportation Planner
JoAnn Sczech, Executive Secretary (Recording)

Others Present:

Seymour Beitscher
Kyle Tatom
Ray Ussery
Rena Arrazola
Robbie Baxter
Doug Meadows
David Ohre
Rob Carleton
Mike Monhollon
Michael Burton
Kristi Price
Francis Peel
David Cory
Valarie Kennedy
Judy Dudley
Larry C. Sanders
Alex York
Joshua Reeves
Petty Hunter
Natalie Hermes
Joann Jones
Brad Carter
Lori Thorton

Arin Kessler
Terri Burke

Media Present: Sarah Varble, Abilene Reporter-News
Darcy Kupree, KRBC TV

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. Tim McClarty gave the invocation.

Item Three: Approval of Minutes

The minutes of the November 5, 2007, Planning and Zoning Commission meeting were not available.

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. Bixby moved that the plats listed as Items a., b., c., d., and e. on the agenda be approved. Mr. McClarty seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty 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. McClarty moved to remove item Z-2007-22 from the table. Mr. Famble seconded the motion and the motion carried unanimously.

Matt Jones stated that this case was considered by the Commission at the November meeting and the Commissioners tabled the item. The Planning and Zoning Commissioners requested that City staff meet with surrounding property owners and the proponent to develop a PDD that was agreeable with both parties. Mr. Jones stated that the flood map of the area indicated that the property is in a floodway. An engineering study was completed by the firm of Hibbs and Todd that was approved by the City Engineer. This study determined that most of this property is not in a floodway (mapping error). Mr. Jones provides slides of the area.

For the original mailout in November, property owners within 200 feet of the rezoning request were notified. One (1) comment form was returned in favor of the request and twenty-three (23) comment forms were returned in opposition.

Mr. Jones pointed out some of the provisions of the PDD:

- √ There shall be a solid evergreen hedge along the northern and eastern boundary of Tract 1. Plant materials selected shall be of a variety to achieve a minimum height of 8 feet within 3 years of planting and shall be spaced to provide an effective visual barrier to properties along High Meadows Drive and Wisteria Way. Visibility corners at drive entrances shall be maintained.
- √ Streets and driveways shall comply with all applicable City of Abilene and State of Texas access management regulations, in addition to the following:

A maximum of one driveway shall be permitted from Wisteria Way to serve the entire PDD, and signage shall be installed to restrict delivery vehicles from using this drive.

A maximum of two drive connections shall be allowed onto South Danville Drive.

There shall be no drive access to High Meadows Drive to/from any tract within this PDD

The property owner shall be responsible for the construction of 2 (two) speed humps along High Meadows Dr., if the speed humps are warranted by a traffic analysis conducted by the City of Abilene. The property owner shall only be responsible for costs up to \$6,000.00 (six thousand dollars) of the construction costs.

If the speed humps are not required at the time of development, a second traffic analysis will be conducted within 1 (one) year of the issuance of a Certificate of Occupancy, to determine whether or not the speed humps will need to be constructed. At which time the property owner would be responsible for the construction costs of the speed humps

- √ On Tract 1 – uses will be limited to Shopping Center districts

- √ On Tract 2 – uses will be limited to RS district uses

The tract shall be replatted and remain as a single lot fronting on Wisteria Way.

This tract shall remain undeveloped except that it may be used as a green space or for passive recreational purposes including such facilities as gazebos, picnic tables and similar uses. In no case shall the tract be covered by more than 25% impervious cover.

- √ Landscaping in the PDD must comply with the requirements of the City's Landscaping Ordinance.

Freestanding Signs:

- √ There shall be 1 (one) pole sign for the entire PDD with a maximum height of 43' and a maximum of 225 square feet.

√ Sign lighting shall be shielded from the view of residential properties. In addition, internally lit signs must use lighting and colors to avoid excessive spillover lighting on residential properties.

- a. Temporary signs and freestanding banners are only permitted for real estate signs, including a "Coming Soon" sign and a "grand opening" event within 30 days of the issuance of a Certificate Occupancy.

- √ Electronic message boards or movable LED type signage utilizing scrolling or animation are only permitted if the message or text does not change for a minimum of 15 seconds.

- √ Wall signs:

Wall signage may not exceed 10% of the area of any wall on which the signs are located.

Banners:

Banners shall only be located flat against the face of a building and shall count toward the maximum allowable wall signage.

Prohibited signs:

Portable signs

Streamers, pennants, balloons, and similar devices

- √ All site lighting shall comply with the performance standards governing exterior illumination in the City of Abilene Zoning Ordinance. Additionally, all lighting shall be fully shielded and directed away from residential areas
- √ Sidewalks: All development must comply with the requirements of the Sidewalk Master Plan except that no sidewalk shall be required along Tract 2.

Ms. Campos opened the public hearing.

Mr. Mike Monhollon stated that he was one of the residents who met with the Planning and Development staff regarding this PDD. Mr. Monhollon stated that the neighborhood had two concerns: 1) barrier between property and surrounding homes; and, 2) traffic. Mr. Monhollon stated that the neighborhood had requested a wall between the business and the homes; however, he believed the compensation for the barrier of shrubs is the residential lot that provides green space. The speed bumps are also an important part of the compromise. Mr. Monhollon stated that from his perspective a compromise has been reached.

Ms. Campos thanked Mr. Monhollon for speaking at this meeting and for meeting with City staff to reach a compromise on this issue.

Mr. Bixby asked Mr. Monhollon if the neighborhood had specific concerns regarding signage.

Mr. Monhollon stated that this issues was not addressed directly – the main issue was the barrier.

Mr. Bixby asked Mr. Monhollon if the issue of building materials was presented to staff.

Mr. Monhollon stated that there was a great deal of discussion regarding appearance but not specifically building materials.

Mr. David Ohre, developer for this project, asked staff if they had received the site plan for this project. The site plan was provided to the Commissioners. Mr. Ohre asked for clarification on the following issues contained within the PDD:

1. Signage – The plan is to utilize the existing signage which is actually 42 feet in height. Mr. James stated that staff would be okay with the present height of the sign. Maximum of 200 square foot sign – Mr. Ohre stated that 225 square feet is needed. Mr. Ohre also expressed concern regarding the “spill over” of light from the sign. Mr. Ohre stated that under the 40 foot sign there will be an LCD sign that would flash every 15 seconds.

Mr. James stated that the intent of the ordinance was not to limit the LED signs but to prohibit animation or scrolling signs.

Mr. Ohre stated that currently this type of sign is listed under “Prohibited Signs.”

Mr. James stated that this information could be moved – the ordinance stated that these types of signs are prohibited except if the condition(s) is met.

Mr. McClarty stated that if this information was contained in 1) b., it would be very clear. (Delete 4d and move it to 1c).

Mr. James stated that in order to change these sections as proposed by Mr. McClarty, staff would need to reword the language in the ordinance. Mr. James stated that this can be done and believed that staff understands the intent of the Commission regarding this issue.

Mr. Ohre stated that banners are also included under prohibited signage.

Mr. James stated that this is a similar situation where the language is stating that temporary signs are prohibited except for the 30 day period of the grand opening. Mr. James stated that if Mr. Ohre or the Commission felt it necessary, this could also be reworded.

Mr. Ohre asked for clarification regarding the sidewalk on Wisteria Way.

Mr. James stated that, as a clarification, at the Commission's last meeting their recommendation was to exempt sidewalks on residential property – this is commercial property and the requirement would apply. This requirement would be required for Tract 1. The consensus of the Commission was to delete the street names and refer to tracts (Sidewalks not required on Tract 2).

Mr. Ohre stated that because there have been questions regarding water movement in this area, if the speed bumps are installed will the City provide him with some type of release that if the speed bumps contribute to water backing up in any way, he will not be held liable.

Mr. Santee stated that the City will actually install the speed bumps – Mr. Ohre is the funding mechanism. The city will engineer and install the speed bumps; therefore, they are the responsibility of the City.

Ms. Linda Carlton stated that she concerned about the exit onto Wisteria Way; however, her greater concern is regarding the sidewalks. Residents from Wisteria Place walk in the neighborhood and she is concerned for their safety.

Ms. Judy Dudley stated that her main concern is regarding the traffic issue and the possibility of having to view a parking lot until the hedge is high enough to shield this area.

Mr. Doug Meadows thanked the Commission for hearing the residents concerns twice regarding this issue. Staff and the Developer have been very accommodating. Mr. Meadows stated the he would rather there not be a sidewalk on the residential side of the property. Mr. Meadows stated that he believed people will park on High Meadows and walk to the restaurant.

Ms. Campos closed the public hearing.

Mr. Bixby stated that he is comfortable with the five changes that have been discussed at this meeting

– they all seem reasonable. Mr. Bixby stated that he does have one concern and that concern deals with #4., a, b, and c of the PDD. This does not seem to be something that visually affects the residents and he is concerned that the Commission is attempting to enforce an ordinance that does not exist. Mr. Bixby stated the he would be in favor of removing 4., a, b, and c from the ordinance.

Mr. James stated that this item is “standard language” that is included in the template for a PDD. These are items that the Commission has previously recommended be included in the upcoming sign ordinance. Mr. James stated that Mr. Bixby is correct in his statement that this ordinance has not yet been adopted. Mr. James stated that staff is implementing pieces of both recommendations of the Comprehensive Plan and a new Sign Ordinance prior to these documents being implemented Citywide.

Ms. Campos stated that she is in agreement with Mr. Bixby in removing items 4., a, b, and c.

Dr. Long stated that as long as the Developer is agreeing to the PDD, which is a higher standard than regular zoning, then the items should remain in the PDD.

Mr. Rosenbaum stated that his recommendation would be to change the five issues mentioned in this meeting and leave the remainder of the language of the PDD as written.

Mr. McClarty moved to approve Z-2007-22 with the following changes:

- 1. 1., b, Tract 2 – change from RS-8 to RS-6**
- 2. Signage, B., 1 – change height from 40 feet to 42 feet with a maximum square footage of 225 square feet**
- 3. Signage, B., 4 – take paragraph c and move it under 1., d (take it out of Prohibited Signs and put it under Freestanding Signs, and reword accordingly)**
- 4. Signage move 4., d to 1., d (and reword accordingly)**
- 5. Section E – remove High Meadows Drive and replace with Tract 2**

Mr. Rosenbaum seconded the motion.

Prior to the vote, Mr. Rosenbaum asked if #2, should be worded “use of the existing pole height.”

Mr. James stated that his preference would be (if this is a concern) to increase the height – 43 feet or 45 feet.

Mr. McClarty amended his motion on #2, Signage to change the maximum height of the pole sign to 43 feet.

Mr. Rosenbaum seconded this amendment.

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

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 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.

There was a notification error for the November 5, 2007, public hearing for this case, in addition the proponent requested to add additional property to the zoning request. For these reasons this case appeared on the agenda for the December 3, 2007, Planning and Zoning Commission meeting.

Planning staff recommends approval of this request.

Property owners within 200 feet of the rezoning request were notified. Two (2) comment forms were received in favor of the request and none (0) in opposition

On November 5, 2007, the Planning and Zoning Commission recommended approval, as requested, by a vote of four (4) in favor (Bixby, Famble, Harkins, and Rosenbaum) to two (2) opposed (Long and Campos). Commissioners Long and Campos supported the staff's initial recommendations of transitioning the commercial zoning districts along Highway 277.

Ms. Campos opened the public hearing.

Mr. Tal Fillingim stated that even though the vote include the northern sections (Office and RS-6), this area was not included in the notification area. A section of RM-3 property was included in this request, primarily because there was discussion at last month's meeting regarding transition zoning. The request is basically the same request as submitted last month and the Commission's approval would be appreciated.

Mr. James stated that the only area before this Commission at this meeting is the area highlighted in yellow. The tracts zoned GC are not on the table for consideration at this meeting.

Mr. Fillingim stated that the entire area being rezoned will be forwarded to City Council at one time – not in pieces for approval by the Council.

Ms. Campos closed the public hearing

Mr. Bixby moved to approve Z-2007-23. Mr. McClarty seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty and Rosenbaum) to none (0) opposed.

c. Z-2007-24

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Valarie Kennedy to rezone property from GC (General Commercial), MH (Mobile Home) and AO (Agricultural Open Space) to PDD(Planned Development District) zoning, located at 401 Loop 322.

Mr. Matt Jones presented the staff report for this case. The subject parcel is 122.5 acres and is currently zoned GC (General Commercial), AO (Agricultural Open Space), and MH (Mobile Home). The property is mostly undeveloped with the exception of a few agricultural type structures. The property has AO (Agricultural Open Space) to the North and East, with HC (Heavy Commercial) to the West along Loop 322, and LI (Light Industrial) to the South across East Highway 80. The area was annexed in 1964 and zoned to MH (Mobile Home), sometime after, and GC (General Commercial) in 2000.

Currently the property is two separate lots and zoned as MH, GC, and AO. The proposed PDD would define two tracts: Tract 1 will allow some commercial type uses as well as some banquet halls and meeting facilities, while Tract 2 will allow camping, RV parks, and uses more related to AO (Agricultural Open Space) zoning.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a commercial area, along Loop 322. The uses defined by the PDD would be appropriate in this area given its proximity to Loop 322 and recreational facilities such as the Taylor County Fair Grounds and Expo Center.

Planning staff recommends approval of the PDD (Planned Development District).

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was returned in favor of the request and none (0) were returned in opposition.

Staff provided a site plan of the proposed activities for these parcels.

Ms. Campos opened the public hearing.

Ms. Valarie Kennedy stated that the tract utilized for the RV park will be a “classy” operation. Ms. Kennedy stated that the reason for this PDD is an attempt to have family involvement and family

interaction. Ms. Kennedy stated that additional lakes will be added to the property and the land's natural beauty will be preserved.

Mr. Bixby asked Ms. Kennedy if she was satisfied with the PDD ordinance as written.

Ms. Kennedy responded affirmatively.

Ms. Campos closed the public hearing.

Mr. Rosenbaum moved to approve Z-2007-24. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty and Rosenbaum) to none (0) opposed.

d. Z-2007-25

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Harley Burnett to rezone property from AO (Agricultural Open Space) to HI (Heavy Industrial) zoning, located at East Highway 80 and Newman Road (3400 Block East Highway 80).

Mr. Matt Jones presented the staff report for this case. The subject parcel is 3.628 acres and is currently zoned agricultural open space (AO), but is currently undeveloped. There is AO (Agricultural Open Space) to the north of the property, GC (General Commercial) directly adjacent to the west, with LI (Light Industrial) to the majority of the east, west, and south. The area was annexed in 1964 and was zoned to AO (Agricultural Open Space) when it was annexed.

Currently the property is zoned agricultural open space. The surrounding areas with the exception of the commercial property directly to the west are zoned primarily for light industrial uses. The requested industrial use will be compatible with the surrounding area, but would be allowed in LI (Light Industrial), which is less intense than the requested HI (Heavy Industrial) zoning.

The Future Land Use section of the Comprehensive Plan designates this general area as part of an industrial area, along East Highway 80. Since the majority of the surrounding properties are used for industrial type uses, the rezoning of this property would coincide with the Comprehensive Plan.

Planning staff recommends approval of LI (Light Industrial), instead of the requested HI (Heavy Industrial). Light Industrial zoning fits with the surrounding zoning and the applicant is in favor of the LI zoning.

Property owners within 200 feet of the rezoning request were notified. No comment forms were received either in favor or in opposition of the request.

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

Mr. Bixby moved to approve Light Industrial zoning for Z-2007-25. Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty and Rosenbaum) to none (0) opposed.

e. Z-2007-26

Public hearing and possible vote to recommend approval or denial to the City Council on a request from St. James United Methodist Church to rezone property from AO (Agricultural Open Space) to RS-6 (Single-Family Residential) zoning, located at 3100 Barrow.

Mr. Matt Jones presented the staff report for this case. The subject parcel is 4.0 acres and is currently zoned AO (Agricultural Open Space), but has been developed as a church/daycare center. There is single-family residential zoning (RS-8) to the North and East of the property with single-family zoning (RS-6) to the West. There is also property zoned agricultural open space (AO) to the South, which is being used as a public park (Red Bud). The area was annexed in 1957 and was zoned AO (Agricultural Open Space) when it was annexed.

Currently the property is zoned for agricultural use. The land has been developed as a church along with a daycare, which is allowed by right in both AO (Agricultural Open Space) and RS (Residential Single-Family) zoning.

The Future Land Use section of the Comprehensive Plan designates this general area as being low-density single-family residences. The rezoning of this property to the requested RS-6 (Single-Family Residential) would coincide with the future land use for its surrounding area.

Planning staff recommends approval of RS-6 (Single-Family Residential).

Property owners within 200 feet of the rezoning request were notified. No (0) comment forms were returned either in favor or in opposition to this request.

Dr. Long asked the reason for this rezoning request.

Mr. Jones stated that in AO zoned property only one (1) sign is allowed. The Church has a daycare facility on the premises and rezoning to RS-6 will allow for another sign on the property.

Ms. Campos opened the public hearing.

Ms. Natalie Hermes stated that the reason for the zone change is to allow an additional sign on the property.

Ms. Campos closed the public hearing.

Dr. Long moved to approve Z-2007-26. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty and Rosenbaum) to none (0) opposed.

f. Z-2007-27

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Atlantis Realty to rezone property from AO (Agricultural Open Space) to O (Office) zoning, located at 7601 Buffalo Gap Road.

Mr. Matt Jones presented the staff report for this case. The subject parcel is 0.79 acres and is currently zoned agricultural open space, but is currently undeveloped. There is single-family residential zoning (RS-6) to the South of the property with multi-family zoning (RM-2) to the west and most of the north, with the exception of the lot directly to the north is zoned O (Office). The property across Buffalo Gap Road is zoned agricultural open space (AO), and is developed with single-family homes. The property also lies within the Buffalo Gap Corridor Overlay district. The area was annexed in 1980 and was zoned to AO (Agricultural Open Space) when it was annexed.

Currently the property is zoned AO/COR (Agricultural Open Space/ Corridor Overlay). The property adjacent to the subject property to the north was recently zoned to O (Office).

The Future Land Use section of the Comprehensive Plan designates this general area as part of a commercial area along Buffalo Gap Road. Since the property is adjacent to residential neighborhoods, the O (Office) zoning will allow for some buffering to the residential uses since O (Office) is considered to be compatible adjacent to residential zoning.

Planning staff recommends approval of O (Office) zoning.

Property owners within 200 feet of the rezoning request were notified. Two (2) comment forms were returned in favor and none (0) in opposition.

Ms. Campos opened the public hearing.

Ms. Christy Price stated that she resides at 7542 (Buffalo Gap Road) and both 7602 and 7610 are zoned residential, would the Commission be opposed, at some time in the future, rezoning 7542 to commercial to bring in more offices and business spaces to the area. Ms. Prince asked if there would be any opposition to rezoning to office on the other side of the street.

Ms. Campos stated that a rezoning request would be considered by this Commission if an application was filed with the Planning and Development Services Department.

Ms. Price asked about ingress and egress for this zoning request (do they have the curb cuts).

Mr. Jones responded affirmatively to this question.

Ms. Campos closed the public hearing

Mr. Bixby moved to approve Z-2007-27. Mr. McClarty seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty and Rosenbaum) to none (0) opposed.

Item Six: Sidewalk Master Plan

Public hearing and possible vote on amendments to the Sidewalk Master Plan.

Mr. Jon James provided the Commissions with a roster of the members of the Sidewalk Committee and a packet of recent newspaper articles and letters to the editor on the issue, as requested by a Commissioner.

The Sidewalk Master Plan, or “Sidewalk Ordinance,” was a discussion item on the Commission’s November agenda. The current Sidewalk Ordinance was adopted in August 2006 and amended in October of 2006. Basically, the only change was to add an appeal process to Council. During the course of implementation, questions have come up both policy issues and language clarification. City Council requested that the Planning and Zoning Commission review the ordinance and make recommendations for both the Committee and City Council. The Committee met on September 19, 2007, and made recommendations. These recommendations were included in the packet of information submitted to the Planning and Zoning Commission in November of 2007. This information was also included in this month’s packet of information including a summary of the Commission’s recommendations from the November meeting. This item was posted on last month’s agenda as “discussion and direction to staff” in order for staff to actually write the ordinance changes. Therefore, the Commission did not formally make a recommendation to the City Council on the recommended changes and that is why this information is being submitted for the Commission’s consideration at this meeting. Mr. James provided a brief summary of the Commission’s recommended changes:

1. Clarifying what is considered “disproportionate cost”
A sidewalk waiver can be obtained if the cost is considered excessive or disproportionate
Recommended changes to clarify “disproportionate cost” waiver:
 - For subdivision, project costs only include required infrastructure
 - For site plan, project costs include all development costs.

The proposed changes resulted in changes to the Ordinance in the following areas:

- Revised definition of “unreasonably disproportionate” (G.24, page 6)
- Added definition for “project cost” (G.17, p. 6)
- Clarified Exceptions & Waivers section to allow partial waivers (F.1.a, page 4)

2. Simplification of the construction requirement:
 - Simplified construction requirement to require sidewalk to be constructed at time of road construction for collectors or larger
- Amended D.2, page 2
 - Clarified language in E.3, page 3
(no substantive change in policy)

The original recommendation from the Committee, which staff supported, was changing the requirement that required construction of sidewalks within five (5) years on local streets. Due to the recommendation from the Planning and Zoning Commission resulting in the removal of sidewalks on local residential streets, the idea was to simplify this requirement by stating that “sidewalks will be constructed at the time of road construction.”

The two issues above are more for clarification and “clean-up.” The primary recommendation from the Planning and Zoning Commission is the exemption of local streets in a single family subdivision.

- Exempt local streets in a single-family subdivision
- Amended D.1, page 2

Mr. James stated that the Planning and Zoning Commission discussed these issues at length at the November meeting. Staff concurred with items 1 and 2 above; the Sidewalk Committee was split regarding local street exemption (5 in favor to 4 opposed); and, staff is not recommending the exemption for local streets.

Mr. Bixby stated that in those instances where Mr. James has stated that the Committee's vote was "split," he felt it would be more accurate to reflect the exact vote – since it is really not a split vote as an odd number of people were in attendance at the Committee meeting.

Mr. James stated that this can be done.

Mr. Bixby stated that on E.2 (b. and d.) it appears as though sidewalks are being worked back into local streets in these situations. What is happening in these areas?

Mr. James responded that this is language contained within the current Sidewalk Ordinance that was not recommended to be changed.

Mr. Bixby asked how a pedestrian route is designed within a neighborhood plan and could this require sidewalks on local streets?

Mr. James stated that this could require sidewalks on local streets; however, that would have to be accomplished through a plan adopted by City Council. Mr. James provided the example of the Butternut Street Study Area and this section would allow for a sidewalk requirement if specifically designated in a neighborhood plan. This plan would be submitted to the Planning and Zoning Commission for a recommendation prior to adoption by City Council.

Mr. Bixby stated that "d." seems to say that if adjacent properties have sidewalks then local streets could have to have sidewalks in subdivisions.

Mr. James stated that this applies only to existing streets – this would not apply to newly constructed streets. Section "E." applies to existing streets. The intent here is if there is a situation where other homes along a block have been developed with sidewalks, construction on property within the block would also require a sidewalk.

Mr. Bixby stated that "C.3" seems to require sidewalks between buildings. Mr. Bixby asked what action would be required if it became necessary to cross a parking lot to connect buildings with a sidewalk?

Mr. James stated that basically what this section addresses are areas "internal to the site." The idea is that a connection would not be required from one property to another - the purpose is to connect the buildings on a site to each other.

Mr. Bixby asked if this was developed as one tract with say a restaurant on site and shops across the parking lot, this would seem to say that the two businesses would have to be connected with a sidewalk.

Mr. James stated that actually what is stated is “internal pedestrian circulation” so this can be accomplished with striping on the pavement. In many cases this requirement falls under ADA regulations.

Mr. Bixby stated that that sounds like what he wanted to hear.

Mr. Bixby stated that this section goes on to state that this needs to be connected to the public street system (the buildings to the sidewalks on the public street).

Mr. James stated that in addition to providing the sidewalk along the street, an individual must be provided the ability to walk from the sidewalk to the front door of the business.

Mr. Bixby asked if this could be striping across parking lots.

Mr. James responded that it could and staff could provide language to clarify this section.

Mr. Bixby stated that this situation exists a lot, so, it would be good to clarify that. Mr. Bixby stated that if it is not clarified, it could be interpreted as building sidewalks across parking lots, which would be almost impossible.

Mr. James stated that he would be comfortable with revising the second sentence of this section by removing the word “sidewalks” and replacing it; however, the definition of a sidewalk is “an improved facility intended to provide pedestrian movement.” If it is internal to the site, the “normal” street sidewalk construction standards would not apply.

Mr. Bixby requested that this section be made very clear.

The consensus of the Commissioners was that they would be satisfied with staff developing language to clarify this issue.

Mr. Rosenbaum stated that regarding the five year timeframe, the Commission’s thought was that the developer did not want to be encumbered for this period of time and the Commission decided that the developer would install the sidewalk. Mr. Rosenbaum asked if there is a middle ground, e.g., single family units on a collector street – some of the homes are built and some not – the sidewalks should be connected but sidewalks should not be installed prior to the construction of a home (which could be destroyed by trucks driving over the sidewalk). Mr. Rosenbaum stated that he not sure there is an answer for this other than the recommendation made by this Commission.

Mr. Bixby stated that single family lots on collect streets could be exempted until the houses are built.

Mr. Rosenbaum stated that this could potentially result in sporadic construction/vacant lot situation. The Commission was trying to get away from this situation and have a single sidewalk. Mr. Rosenbaum stated that he did not know if there is a good compromise for this issue.

Dr. Long stated that if a home is never constructed on the lot then there will never be a sidewalk constructed on that piece of property.

Mr. James stated that that was the intention of the way the Sidewalk Ordinance currently reads – it can be deferred until the house is built. But, at the end of five (5) years, the sidewalk must be constructed regardless if there is a house on the lot. There was a question as to who installs the sidewalk. Mr. James stated that under the current ordinance, the developer is ultimately responsible five years out. One of the Committee's recommendation was to change this somewhat, but the basic recommendation was to shift the responsibility to the owner of the lot. The Committee's recommendation on this issue was to model this after the manner in which this is handled in Victoria, Texas – rather than five years, it is actually three years after 90% of the homes in the subdivision are developed (which could be much longer). The basic question comes down to: At the end of whatever time period is decided upon, who is responsible for the sidewalk?

Mr. Bixby asked Mr. Rosenbaum if he had a suggestion for answering this question. Mr. Rosenbaum responded that he did not. Mr. Rosenbaum stated that he was trying to remember why this issue came up and it seems that the Commission got caught up in a loop.

Mr. Bixby stated that Mr. Rosenbaum asked for a solution and the one he provided earlier is the only other solution he could think of.

Ms. Campos asked if the Commission is at the point when they must decide when the sidewalk is to be constructed.

Mr. James stated that he would hold this discussion until after the public hearing.

Ms. Campos opened the public hearing.

Ms. Terri Burke stated she is dismayed by the fact that 23 other Texas cities provide residential sidewalks. Ms. Burke stated that 96% of the cities in Texas have residential sidewalks. Ms. Burke stated that she hoped that the Commission rejects this exemption for residential streets. Ms. Burke stated that she feels as though something has gripped the City of Abilene recently – a feeling that if we don't bow to developers and businesses that somehow our City will be less attractive. Ms. Burke stated that she does not believe that we should give in to the notion that if we don't continue to exercise these rules/guidelines/ordinances that make this such a livable city that people will not move here. Ms. Burke stated that she believes this is quite the opposite. Ms. Burke stated that during the eight years she has resided in Abilene, she has heard over and over what a family oriented city Abilene is and sidewalks seem to her to be the essence of this. Ms. Burke asked the Commissioners to reject the change in the Sidewalk Ordinance – keep sidewalks in Abilene's residential areas.

Ms. Campos closed the public hearing.

Mr. Bixby stated that he has one other change to the ordinance for the Commission's consideration. In F.1., Mr. Bixby stated that he would like to see – since it is unknown in the future who the Planning Director and/or City Engineer might be – that the word "and" be changed to the word "or" in F.1 and F.2.a.

Ms. Campos asked Mr. Bixby if the proposed wording was “Planning Director or City Engineer.”

Mr. Bixby responded affirmatively. Mr. Bixby stated that this wording has already created a problem in past discussions and believed this wording would solve future problems.

Mr. McClarty stated that the word “both” should also be deleted.

Mr. Bixby agreed with this.

Dr. Long stated that she has a problem with this recommendation because at the Commission’s last meeting there was discussion regarding placing the final approval in one person’s hands. The Commissioners agreed that this responsibility should be shared. By changing this wording, it seems there is backward movement – the same area where there were objections last month.

Mr. Bixby stated that either way, the final choice is being placed in on person’s hands.

Dr. Long state that as written two people are discussing the issue.

Mr. Bixby stated that either one of these individuals has final say in nixing the project. Mr. Bixby stated that this problem was encountered in the Enterprise Park project a few months ago.

Mr. Rosenbaum stated that that was a conflict between Planning and Engineering. Perhaps a hierarchy should be established. Mr. Rosenbaum stated that to him this is saying that one could go to the City Engineer and he did not like it, but then you could go to the Planning Director and he liked it so he approved it. Mr. Rosenbaum stated that to him this is what happens when the word “or” is added.

Ms. Campos stated that at least they would share dialogue (if both positions were involved).

Mr. Bixby stated that his thought results from the experience they had a few months ago.

Mr. Rosenbaum stated that he is not sure that we don’t complicate things rather than making them simpler.

Mr. Bixby stated that what happened before is one said yes and one said no.

Ms. Campos stated that this is when these individuals get together to come up with a compromise.

Mr. Rosenbaum asked what the results would be if the word “or” is included and one individual says yes and one says no- what would happen in this situation.

Mr. Bixby stated then it would go forward.

Mr. Santee stated that currently there is an appeal process to the City Council.

Mr. James stated that this is correct and part of the reason the items was worded this way is because the Planning Director and City Engineer look at different sets of criteria. Mr. James stated that he

would not want to be in the position of saying something is okay if there is a technical reason known to the City Engineer that would not allow the project to proceed. Mr. James stated that, likewise, he would hope that the City Engineer would not just review the technical criteria and state that everything is okay perhaps not thinking of some of the bigger picture things that Planning would review. This is the reason for the wording – requirement of review by both the City Engineer and Planning Director.

Mr. Bixby stated that this is something that perhaps should remain as written; however, it is something that he would like for the Commission to discuss and ensure they are comfortable with the wording.

Mr. Bixby reiterated discussion thus far:

Clarification of C.3 as the only additional change.

Ms. Campos stated that this is correct. Also, the Commission is discussing the inclusion of “and” or “or” – Ms. Campos stated that in her opinion “and” should be included in this wording.

Mr. Bixby stated that this seems to be the consensus of the Commissioners.

Dr. Long stated that just because this was discussed at last month’s meeting, it is not an indication that she is happy at all with the recommendation. Dr. Long stated that she has considered this very carefully over the past month and has received numerous phone calls and emails regarding the subject of sidewalks. Dr. Long stated that she realizes that this Commission is a recommending body to the City Council and considering the fact that this is a “planning commission” this body should be looking forward into the future for the next 50 to 75 years. Dr. Long stated that she has heard many objections to the cost of sidewalks that will be bore by the developer and builder and passed on to the homeowner; however, many existing neighborhood associations and individuals have expressed interest in paying today to have a sidewalk put in that would have been put in much cheaper at the time of construction. Regardless of these facts, Dr. Long stated that she reviewed the purpose of the Sidewalk Master Plan that has been developed over the past several years and the plan states that it will improve the safety of walking, improve the public welfare, facilitate walking and establish minimum criteria. Dr. Long stated that as Planning Commissioners, she believes that this is what this group is supposed to be doing – planning for the future of Abilene. City Council is well within their rights as elected officials to override any recommendation this Commission makes – that is their decision; however, Dr. Long stated that this Commission should strongly recommend sidewalks. Dr. Long stated that she has heard many times that sidewalks would add \$6 per month to a mortgage payment because she has calculated this and the current interest rates in Texas are excellent. Dr. Long stated that she checked the newspaper last Sunday to locate the cheapest new home in Abilene and the cost was \$115,000. Dr. Long stated that when she calculated the interest rate and payment – the payment was over \$1,000 per month. Dr. Long stated that if she could not afford the extra \$6 (for sidewalks) she stated that she probably was not shopping in the right subdivision. Dr. Long stated that when we are building a transportation system in Abilene, and especially in new developments, not only should the traffic be considered but also pedestrian safety. Dr. Long stated that we are putting our children at risk by putting them in the street. Dr. Long stated that it is ridiculous to build a subdivision on a local street for the purpose of families and then telling the families your kids can play in the driveway or in the street. Whether the developers want to build or bare the cost is another issue, but as planners the Commission should be more responsible for our children and our residents’ safety in the future.

Mr. McClarty stated that he drove through several subdivisions in Grand Prairie this past weekend to determine how sidewalks are being used. Mr. McClarty stated that what was surprising to him is that in the smaller subdivisions (RS-6 and RS-8 lots) where there are sidewalks and driveways cutting through the sidewalks, the sidewalks could not be utilized because of the vehicles parked in the driveways and not allowing continuous use of the sidewalks. Mr. McClarty stated that his first concern is that the lots are not large enough in RS-6 or RS-8 to utilize a sidewalk because people are completely covering these lots with vehicles. If the Planning and Zoning Commission or the City Council does make a recommendation to put it back in (sidewalks in single family residential areas), they also need to also increase the lot size in RS-6 and RS-8 to make it possible for people to use the sidewalks.

Mr. McClarty stated that he is also bothered by the fact that the Commission is working on and talking about an ordinance that is going to affect only 5% of the people in Abilene. Mr. McClarty stated that Abilene is not growing rapidly and even if residential lots were included, he would not get sidewalks and the majority of people in Abilene would not get sidewalks. Mr. McClarty stated that he believes that sidewalks should be put in all developments, including existing neighborhoods – he stated that he would love to have sidewalks in his neighborhood – but that is not going to happen unless the city as a whole gets on board and says, “We want these and we’re willing to pay for them” and that is going to take bond money. Mr. McClarty stated that this brings him to this point – he has also received all the emails and has been counting them as they arrive (77 so far) – but this concerns him. Only one person addressed this Commission today to say they want sidewalks – where are the other 105,000 citizens? Mr. McClarty stated that this is at the point where the City Council needs to – instead of throwing this back on the Planning and Zoning Commission like they did, in his opinion they threw it back to the P & Z when they ran into some objections from the developers. Mr. McClarty stated that he thinks they (City Council) probably need to take care of this situation by addressing the City by asking if sidewalks are wanted in Abilene and if so he did not feel sidewalks should only be for 5% - they should be for 100% of the citizens. Mr. McClarty stated that it concerns him that this is just affecting a small group of people – those that are buying and developing new homes and new sites and this is a very small percentage of the population.

Ms. Campos stated that this Commission has been discussing the sidewalk issue for a long, long time. A survey was sent out, 80-85% of the citizens responded that they wanted sidewalks. Ms. Campos stated that in response to the question, “Where are the other people beside the 77 that sent email” she believes that the citizens are tired of hearing the Commission go round and round on this. They have responded, the citizens have spoken – why are we going round and round on this sidewalk issue?

Mr. McClarty stated that he is asking this same question – Why was it thrown back on us?

Ms. Campos stated that she does not know the consensus of the Commission, but she feels (after speaking with many, many people) she is hearing that we need sidewalks in our City – new developments, existing neighborhoods and people are saying that they would be willing to pay for a sidewalk in front of their home.

Mr. McClarty stated that he does not know how elections are done or how bond packages are done, but it is time – if the City Council is throwing this back to the Planning and Zoning Commission for direction – Mr. McClarty stated that he felt the Council should put this to the public and find out what the public wants.

Dr. Long stated that over \$800,000 was allotted for new sidewalks in the last bond election.

Mr. McClarty stated that that figure will not cut it.

Dr. Long stated that this was a start – but then part of those funds had to be spent on schools.

Mr. Rosenbaum stated that the Commission is not discussing doing away with sidewalks – which is what most of the emails seemed to imply. The Commission approved an exemption for local residential streets. Collector, arterial streets and everything of this caliber will still have sidewalks. Mr. Rosenbaum stated that prior to this meeting he drove around in some of the local subdivisions that have sidewalks and found that the sidewalks were blocked by cars and could not be used. Mr. Rosenbaum stated that he lives in a subdivision that has sidewalks and they do not use the sidewalks – they walk in the street. Sidewalks seem to be a pretty emotional issue – everyone would say yes they love sidewalks – he has a sidewalk in front of his home but in practicality, they do not use the sidewalk.

Ms. Campos asked Mr. Rosenbaum why he walked in the street when he has a sidewalk in front of his home.

Mr. Rosenbaum responded that the street is easier – it is wide open – the sidewalk goes around and into someone's driveway.

Dr. Long stated that we are not meant to face 35 mph traffic.

Mr. Rosenbaum stated that there will be sidewalks on collector streets.

Dr. Long stated that she is talking about local streets – where most of the people are walking. Dr. Long stated that a car blocking the sidewalk is an enforcement issue. Dr. Long stated that when she takes her grandson for a walk, they walk in the neighborhood – not on a main drag even if there was a sidewalk.

Mr. Bixby reflected once again on his observations and the questions he has asked in the community. Mr. Bixby stated that he has spoken with hundreds of people and made observations. When he first began looking at the sidewalk issue, he stated that he promised himself that he would have a totally open mind, ask questions, and make observations. Mr. Bixby stated that he addressed a Kiwanis Club a few months ago and at the end of his talk he asked about sidewalks. He asked those present how many would like to require sidewalks in new subdivisions – about 30% of them raised their hand. He then asked those who had their hands raised if they would be willing to pay \$1,500 for that sidewalk and every hand in that room went down. Mr. Bixby stated that what he is hearing is what Lydia said and what Ovelia said – people do want sidewalks. But, as he dug deeper, the hands went down when asked if they are willing to pay for sidewalks. What is being done is weighing something desirable with the cost and what he is finding is that while sidewalks are desirable, people are not willing to spend the money that it takes to put them in if they had a choice. Mr. Bixby stated that as he has spoken to other clubs, he has experienced that the higher the income level the more willing they are to pay for sidewalks. Those that are borderline qualifying for new homes are less willing to pay for sidewalks. Mr. Bixby stated that this is what he is hearing when he asks questions, detailed questions.

Mr. Bixby stated that what he has observed is what Tim has observed in his travels through subdivisions with sidewalks – in every case people are walking in the street not on the sidewalks. Mr. Bixby stated that he has made many trips to the Lone Star Subdivision here in Abilene that has sidewalks. Mr. Bixby stated that he has made it a point to go on weekends and in evenings (after school and after work) and to this day he has never seen anyone using a sidewalk. Mr. Bixby stated that the sidewalks on Judge Ely are used quite a bit. These are his observations so he believes that the Commission has it right – from the questions he has asked the community and the observations he has made in the community – he believes the Commission has it right. Sidewalks should be installed on collector streets and arterials and probably not in residential subdivisions.

Dr. Long stated that she agrees with Mr. Bixby to a certain point – and in agreement with Tim that this is a philosophical issue – we should not be discussing these details – this is, do we want sidewalks in Abilene and how important they are to the community as a whole. Dr. Long stated that there are people stating that they want to pay for the sidewalks. This Commission needs to make a recommendation to the City Council to look at the future – this is basically what we need to be doing – we need to remedy the situation of existing sidewalks but we want to make sure 50 years down the road the new Planning and Zoning Commissioners and City Council members do not face the same issue.

Mr. Bixby stated that part of the answer to the first part of Dr. Long's comment is that these are only sidewalks and it is just another \$1,200 to \$1,500 to the cost of a home, but there is an accumulation affect on home costs. Currently, in Abilene we have one of the highest housing costs in the State of Texas. Mr. Bixby stated that this information is obtained from the ACCRA Cost of Living Index. It is just a never ending accumulation of it's only – a Happy Meal or another \$500 or another \$1500. The Fire Department has come to the City previously and requested that sprinkler systems be required in every home – that is only another \$4,000. As these costs accumulate, homebuyers are being knocked out of the market. Mr. Bixby stated that he believed that is the reason this Commission must weigh more and more heavily the cost and benefit of everything being added at this point.

Mr. Famble asked how the Commission could accomplish both – how do we vote on what has been put before us but at the same time send a strong message to the Council that this is an issue that they need to address.

Mr. Bixby stated that he believes that Mr. McClarty has it right – if the populous of the City, as a group votes for a bond and says we want sidewalks and are willing to pay for them then that answers both sides of the question.

Mr. McClarty stated that the simplest way to solve the problem is to put it out to the voters.

Dr. Long asked if this issue could be sent back to City Council for them to decide what to do about this. Dr. Long stated that the reason this has come back to the Commission is because one exemption was pushed before City Council. The Council then sent the Ordinance to a Sidewalk Committee and then sent it back to the Planning and Zoning Commission. Dr. Long stated that if the Commission sends this Ordinance back as is without City Council making a firm stance as to how to deal with sidewalks in Abilene, the next thing is that this will be back in another six months with someone objecting to having to build sidewalks on collector streets or arterial streets. Dr. Long stated that the Commission can go around in circles regarding this issue forever.

Mr. Bixby stated that the City Council asked the Sidewalk Committee to look at the Ordinance and asked the Planning and Zoning Commission to look at the Ordinance.

Mr. McClarty stated that he sat in on all the Sidewalk Committee meetings and the Planning and Zoning Commission meetings where this Ordinance was discussed and it is his belief that this issue should be thrown back to the City Council. Mr. McClarty stated that he has no problem with voting on the Ordinance and sending it back to Council, as it is, but as stated previously, it is not answering the questions before this Commission.

Mr. Bixby moved to send the Sidewalk Ordinance back with the change made by the Planning and Zoning Commission (the clarification in C.3) and suggest also that the Council might want to consider a bond election. Mr. McClarty seconded the motion.

Ms. Campos asked for clarification. If the Sidewalk Ordinance is sent back to the City Council with the corrections/changes proposed by the Planning and Zoning Commission and yet the Ordinance only addresses having new sidewalks on both sides of new streets except local streets, she is not in agreement with this.

The motion carried by a vote of four (4) in favor (Bixby, Famble, McClarty and Rosenbaum) to two (2) opposed (Campos and Long).

Item Seven: 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 an item that failed to get a recommendation of approval from the Planning and Zoning Commission (the vote was three in favor; one opposed; and one abstention).

Item Eight: Adjourn

There being no further business, the meeting was adjourned at 4:00 p.m.

Approved: _____, Chairman