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**PLANNING & ZONING COMMISSION**

**March 3, 2008**

**Minutes**

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Members Present: Bruce Bixby  
Fred Famble  
Lydia M. Long  
Tim McClarty  
Clint Rosenbaum  
David Todd

Members Absent: Ovelia Campos

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  
Ben Bryner, Planning Services Manager  
Matt Jones, Planner I  
Zack Rainbow, Planner I

Others Present: Joe Pelton  
Brian Cargile  
Darrell Moore  
Dale Burson  
Randy Perkins  
Ronny Tutt  
Aaron Waldrop  
Jack Chamberlain  
Nancy Capra  
Clyde Reynolds  
Larry Holmes

**Item One: Call to Order**

Dr. Lydia Long called the meeting to order at 1:32 p.m. and declared a quorum present.

Dr. Long read the opening statement for the Planning and Zoning Commission.

**Item Two: Invocation**

Mr. Tim McClarty gave the invocation.

**Item Three: Approval of Minutes**

**Mr. Rosenbaum moved to approve the minutes of the February 4, 2008, Planning and Zoning Commission meeting as submitted. Mr. Bixby seconded the motion and the motion carried unanimously.**

**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.

Dr. Long opened the public hearing and asked if anyone wished to speak regarding any of the plats being presented for approval. No one come forward and the public hearing was closed.

**Mr. McClarty moved to approve MRP-1607, FP-4207 and MRP-0608. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Famble, Long, McClarty, Rosenbaum and Todd); one (1) abstention on Plats FP-2407 and MRP-0608 (Bixby) to none (0) opposed.**

**Item Five: Rezoning Requests**

a. Z-2008-06

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Javier Alanis to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at 3801 & 3865 Sharon Road.

Mr. Matt Jones presented the staff report for this case. The subject parcels total approximately 0.58 acres and are currently zoned AO (Agricultural Open Space). One of the parcels is undeveloped and the other parcel has a metal building constructed on it. The adjacent properties have AO (Agricultural Open Space) zoning to the north, south, and east, with PDD (Planned Development District) zoning to the west.

The area was annexed in 1986 and zoned AO (Agricultural Open Space). Since the property has not been developed it has remained AO (Agricultural Open Space) since it was annexed.

Currently the properties are zoned AO (Agricultural Open Space) and are used as such. The surrounding uses are all compatible with the current zoning. The applicant wishes to use the property for a landscaping business and for temporary parking of work trucks and trailers.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a low-density residential neighborhood. The requested GC (General Commercial) would not be compatible with the future plans. Transitional zoning should be used to prevent more intensive commercial uses from the residential uses planned for this general area in the Comprehensive Plan. Sharon Road is also shown on the Thoroughfare Plan to continue to the south to intersect with Rebecca Lane, which when connected with local streets would create a residential area, which would be compatible with the Comprehensive Plan. Even if this area is deemed appropriate for commercial use, GC (General Commercial) is too intensive and a less intensive zoning should be considered that is more compatible with residential uses and the high quality development in the area.

Planning staff recommends denial of GC (General Commercial). Staff does not feel that GC (General Commercial) is appropriate for the subject properties.

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) in opposition.

Dr. Long opened the public hearing

Mr. Larry Holmes stated that it is difficult to obtain financing for single family residences adjacent to commercial uses. Mr. Holmes stated that even though the request is for GC (General Commercial) zoning, it is his understanding that an office is to be placed on this site.

Mr. Jones stated that the proponent's request is to rezone to GC so allowing the parking of vehicles for a nursery.

Mr. Holmes stated that he does not understand staff's recommendation and requested that the Commission's favorable consideration.

Mr. Bixby asked Mr. Holmes for his thoughts regarding a less intensive zoning district. Mr. Bixby stated that transition zoning choices would be more like Office, Limited Commercial, Shopping Center – less intensive than GC.

Mr. Holmes responded that Office zoning, for example, would be more in keeping with a transition from one type of zoning to another.

Dr. Long closed the public hearing,

Mr. Bixby stated that he believed a less intense commercial use would be suitable for this property – transitioning from general commercial to residential areas.

Mr. McClarty agreed with Mr. Bixby – a transitional type zoning is required. Mr. McClarty stated that his recommendation would be Limited Commercial zoning.

Mr. Jon James stated that the Comprehensive Plan indicates residential zoning to the south and staff would agree that a transitional zoning would be appropriate. Mr. James stated that based on the applicant's proposed use, General Commercial zoning is required. The Commission could vote to table this item until the April meeting to provide staff time to speak with the proponent. Tabling this item would save the applicant both time and money.

**Mr. McClarty moved to table Z-2008-06. Mr. Todd seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Long, McClarty and Rosenbaum and Todd) and one (1) vote in opposition (Famble).**

b. Z-2008-07

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Jack Chamberlain to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) zoning, located at 5948 & 5958 Highway 277 South.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO to HC. The subject parcels total approximately 2.0 acres and are currently zoned AO (Agricultural Open Space). The properties are currently used for commercial purposes. The adjacent properties have AO (Agricultural Open Space) zoning to the north, south, and west; with GC (General Commercial) zoning across Highway 277 to the east.

The area was annexed in 1986 and zoned AO (Agricultural Open Space). The zoning has not been changed since the properties were annexed.

Currently the properties are zoned AO (Agricultural Open Space). The surrounding uses are all compatible with the current zoning. There is currently no HC (Heavy Commercial) zoning in the area, and it is not compatible with the surrounding uses. There are single-family homes on the properties to the west, with an elementary school on Highway 277 to the north.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial uses. The requested HC (Heavy Commercial) zoning allows certain uses that are too intense for the surrounding area. GC (General Commercial) zoning would be compatible with the surrounding properties and the Comprehensive Plan for this area.

Planning staff recommends approval of GC (General Commercial) instead of the requested HC (Heavy Commercial).

Property owners within 200 feet of the zone change request were notified. Two (2) comment forms were received in favor of the request and two (2) in opposition (Comment: "It would cause too much noise and too much traffic.")

Dr. Long opened the public hearing.

Mr. Jack Chamberlain stated that he purchased this property in December and has had many calls, many of which are for service-type business not allowed in General Commercial zoning. Mr. Chamberlain stated that many of the businesses would be complimentary to the General Commercial zoning present in this area. Mr. Chamberlain stated that this restrictive zoning has driven many businesses outside the City limits which cause the City to lose in three ways: (1) tax base; (2) code control; and, (3) first impression of the City by (driving) visitors.

Mr. Aaron Waldrop asked that the Commission be consistent with the zoning, i.e., the General Commercial zoning across the street from this request. Mr. Waldrop stated that 435 single-family residences will be located in the Butterfield Meadows subdivision.

Dr. Long closed the public hearing.

Mr. James stated that one of the reasons General Commercial or Shopping Center zoning is recommended by staff in this area is to address the issue of entryways into the community – industrial and heavy commercial uses should be in appropriate locations. If Heavy Commercial zoning was approved for this area, it would likely set the precedent for HC on either side of the parcel in question and potentially up and down Highway 277.

Dr. Long stated that she did not feel this would be an area for Heavy Commercial zoning.

**Mr. Bixby moved to approve GC (General Commercial) zoning for Z-2008-07. Mr. McClarty seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.**

Dr. Long requested that Mr. McClarty chair the Commission for the next item since she is on the Board of Directors for this proponent and will abstain from voting.

c. Z-2008-08

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Christian Community Development Corporation, to rezone property from RM-3 (Multi-Family Residential) to GC (General Commercial) zoning, located at 202 & 218 Vine St.

Matt Jones presented the staff report for this case. The request is to rezone property from RM3 to GC. The subject parcels total approximately 0.47 acres and are currently zoned RM3 (Multi-Family Residential). The properties are currently vacant. The adjacent properties have RM3 (Multi-Family Residential) zoning to the north, south, east, and west. The properties are just south of S. 1<sup>st</sup> Street and are across the street from Lincoln Middle School. The area was included into the City in 1895 and was zoned RM3 (Multi-Family Residential) sometime after.

Currently the properties are zoned RM3 (Multi-Family Residential) but are vacant. The surrounding uses to the west and south are all compatible with the current zoning. The properties to the north are vacant until the First National Bank of Baird at the intersection with South 1<sup>st</sup> Street. The property to the east across Vine Street is Lincoln Middle School. The requested GC (General Commercial) zoning would not be consistent with the existing zoning and uses on the adjacent properties.

The proposed use for this site is a youth homeless shelter, classified in our Zoning Ordinance as "Social Service Organization Facility". Rather than rezoning this property to GC, Staff recommends pursuing an ordinance amendment to allow such uses in RM districts as a Special Exception.

Planning staff recommends denial of the GC (General Commercial) zoning request. The Zoning Ordinance Amendment, listed as Item 7. on today's agenda will address this issue. It is staff's opinion that it is more appropriate to address this issue through a Special Exception rather than rezoning.

Property owners within 200 feet of the request were notified. Two (2) comment forms were returned in favor of the request and three (3) forms were returned in opposition (Comments: (1) "It is zoned for residential right now and it should stay that way." (2) "Have enough noisy neighbors as is." (3) "I definitely oppose this. This would affect the value of my property.")

Mr. McClarty opened the public hearing.

Mr. Randy Perkins, Chairman of the Christian Community Development Corporation, stated that there are several reasons for choosing this particular piece of property. The Corporation viewed over 18 facilities in the community in an effort to determine how to house youths in need of a "transitional living facility." Mr. Perkins stated that Child Protective Services will have a large influx of juveniles "aging" out of foster care this year – 18,000 in Texas – that have no place to go. These juveniles have no skills or training to cope on their own and many require medical needs. The youths 16-17 years of age could stay at this facility for up to two years. This would allow sufficient time to get these youths back in school, keep them in school, or provide an opportunity to obtain a GED. Those individuals 18 years of age could stay at the facility for up to 18-20 months. Mr. Perkins stated that the Corporation's goal is to construct a high-energy efficient facility. The other 18 properties viewed presented problems in the areas of meeting standards in order to obtain CPS licensing.

Mr. McClarty asked Mr. Perkins if he would have any objections to allowing this type of facility by Special Exception rather than General Commercial zoning.

Mr. Perkins stated that he would have no objections just as long as the request is approved so they can get started on this facility.

Mr. McClarty stated that he is please with the City's effort to begin the process of addressing homelessness in Abilene. However, Mr. McClarty stated that when a Special Exception is requested from the Board of Adjustment, they will be inundated with neighbors wanting answers to the questions being asked at this meeting. Mr. McClarty stated that this could possibly hurt the chances of making this work. Mr. McClarty stated that he is also unsure if there is sufficient land at this site to accomplish all that is being proposed. Mr. McClarty stated that parking, detention ponds, and other requirements must be taken into consideration and if this is forwarded to the Board of Adjustment, as presented, the Board will be faced with a great deal of questions and concerns.

Mr. McClarty stated that this is a wonderful idea; however, this issue will require more time and research and his recommendation would be to table this item and direct City to appoint a committee to address this issue and perhaps present information that is "more concrete" at the Commission's next meeting.

Dr. Long asked Mr. McClarty to state specifically the issues he wanted this committee to address.

Mr. McClarty responded: All the definitions of the different categories of homeless shelters  
Appropriate sites within the City for these shelters

Mr. James responded to these concerns:

Staff could provide definitions for the various terms (regarding homeless shelters)

Recommendations for appropriate sites within the City (Mr. James stated that he felt this issue is a question for the community – whether it be this Commission or Committee with a broader representation of the community.)

Mr. Bixby stated that he felt broader representation of the community is needed and the answer may be that the selected site might not be the appropriate location for this facility and a different location may be more agreeable to the community.

Mr. Clyde Reynolds stated that he felt the area should remain residential.

Mr. Nancy Capra stated that this is an issue that needs to be resolved quickly. A facility such as this is need in the City of Abilene – an independent living facility.

**Mr. Bixby moved to deny Z-2008-08. Mr. Famble seconded the motion to deny GC zoning and the motion carried by a vote of five (5) in favor (Bixby, Famble, McClarty, Rosenbaum and Todd); one (1) abstention (Long); and, none (0) opposed**

**Item Seven: Zoning Ordinance Amendment**

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

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residing in a group home. This is the same case with a different twist because the type of individuals living in group homes has an employee living in the home as a caregiver. Many of these group homes are located in single family residential neighborhoods and the City does not know where all these homes are located because they are not required to seek approval from a City board in order to locate in an area.

Mr. James stated that this ruling was preempted by the State – as long as group homes meet certain guidelines they can be located in any residential area. Mr. James stated that a benefit of the Special Exception and the reason staff feels it appropriate:

Not only does it give the Board the discretion to approve this type of facility (a youth shelter) but it also allows the Board to place conditions on the facility (e.g., screening and buffering requirements; presentation of a site plan prior to approval; etc.).

**Mr. McClarty moved to approve agenda item #7, Zoning Ordinance Amendment (Social Service Organization Facilities being permitted as a Special Exception subject to approval by the Board of Adjustment). Mr. Famble seconded the motion and the motion carried by a vote of five (5) in favor (Famble, Long, McClarty, Rosenbaum and Todd); and one opposed (Bixby).**

**Mr. McClarty moved to direct the City to create a Committee to discuss this issue further and to develop recommendations that can be used to further define these facilities and where they should be located. The Committee should be composed of:**

**At least two (2) Planning and Zoning Commissioners**

**At least two (2) City staff members**

**At least six (6) individuals involved in serving the homeless community**

**At least two (2) members of the Christian Community Development Corporation**

**Representatives from Homeowners Association**

**And other as required**

**And, that Committee recommendations be provided to the Planning and Zoning Commission as soon as possible (preferable prior to the Commission's next meeting).**

**Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.**

Mr. McClarty asked Dr. Long to begin identifying key members for this Committee and submit the names to City staff so that this project can begin as soon as possible. Mr. McClarty stated that the reason for this is that when a request is received by the Board of Adjustment, a public notice must be posted and the neighbors notified. The neighbors will turn out in large numbers to determine what is being requested. Mr. McClarty stated that it would be easier if it was addressed in the ordinance that this activity can occur in the area requested without the public forum.

Mr. McClarty turned the Chairmanship of the meeting back to Dr. Long.

**Item Six: Thoroughfare Closure**

a. TC-2008-04

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Ronny Tutt, to abandon approximately 1,300 ft. of CR 312 beginning at the northern right-of-way of Collett Road extending to the north to the city limits of the City of Abilene.

Mr. Matt Jones presented the staff report for this case. The request is to abandon approximately 1,300 ft. of CR 312 beginning at the northern right-of-way of Collett Road extending to the north to the city limits of the City of Abilene.

The applicant owns property on the north, east, and west of the requested abandonment. The right-of-way is currently being maintained by the county. CR 312 continues to the north out of the city limits for approximately 2,300 ft. where it dead ends into private property.

The applicant has requested the abandonment for security issues on his property. The applicant owns an auto-salvage yard that abuts CR 312. Currently this business is operating as a legal non-conforming use of the property. The applicant also owns land to the north and west of CR 312. There are several single-family homes being developed to the west on Collett Road, which would be reason to believe that this area will develop as a low density residential area, which would not be compatible with intensive commercial or industrial uses.

The Zoning Ordinance addresses extension of non-conforming uses by prohibiting any extension except for very limited situations. This non-conforming use would not be permitted to extend beyond the existing limits of the use.

The Plat Review Committee recommends denial of the request as they do not want to encourage the expansion of a non-conforming use and do not see a benefit to the public with the abandonment.

Staff recommends denial of the abandonment as staff sees no reasonable justification for the thoroughfare closure. However, if the Commission decides to approve the closure, staff recommends a condition that the county road remains open and that no closure should occur unless and until the County votes on closing the portion in the county.

Property owners within 200 feet of the Thoroughfare Closure were notified. No comment forms were returned either in favor or in opposition of the request.

Dr. Long stated that this case is a prime example of an area where signage is required to let the neighbors know of a rezoning request or thoroughfare abandonment request. Dr. Long stated that the county road dead ends into someone's property (outside the 200 foot notification area) and this country road is the only access to this property.

Dr. Long opened the public hearing.

Mr. Ronnie Tutt stated that in his opinion the City of Abilene and Jones County are maintaining a "private drive." Mr. Tutt stated that it is his understanding that there an alternate access to the property owned by Mr. Pelton. Mr. Tutt stated that it is not his intention to block access to anyone's property. Mr. Tutt stated that he has no objection to Mr. Pelton utilizing this thoroughfare to his property and has



for the past 20 years assisted in the maintenance of this road. Mr. Tutt stated that he owns all the property around this thoroughfare and no one else has any need to use this road. Mr. Tutt stated that he has a petition circulating in Jones County currently regarding this same issue.

Mr. Todd asked Mr. Tutt when this issue would be considered by the Jones County Commissioners Court.

Mr. Tutt responded that he has spoken with the County Commission and the County Judge and they would like to have this Commission's response to this request. Mr. Tutt stated that they have no problem with abandoning this road.

Mr. Todd asked for the date this is to be discussed at the Commissioner's Court.

Mr. Tutt responded that they are waiting for a decision from this Commission. Mr. Tutt stated the regardless of the decision of this Commission he will be filing his petition with Jones County to abandon this road.

Mr. Joe Pelton stated that this thoroughfare has been a dedicated county road for as long as he can remember. Mr. Pelton stated that he and his son encountered Dr. Long and her husband on this road on Sunday and asked them the reason for being in this area. Dr. Long responded that the Planning and Zoning Commission would be considering a thoroughfare closure for this road at the Commission's meeting on Monday. The property which is accessed off FM 600 is owned by his Mother. Access to Mr. Pelton brother's property off FM 600 is through his mother's property; however, the mother's property is currently for sale. Currently, a portion of this area is being developed with residences. Also, the property accessed by the county road being considered today has over one (1) mile of frontage to the Clear Fork of the Brazos River. Mr. Pelton stated that his brother purchased this property for development. Mr. Pelton stated that development will create a need and necessity for this road.

Mr. Bixby asked for clarification on the following:

The road is indeed a dedicated county road; and,

This road has been utilized for many years by the Peltons

Mr. Pelton responded affirmatively to both of these points. Mr. Pelton stated that this section of the road is in Jones County; however, it is within that part of the City limits that is maintained by the City of Abilene.

Dr. Long closed the public hearing.

Dr. Long asked if the road was actually maintained by the City or the County.

Mr. James stated that a portion of the road is within the City limits and, therefore, the City's responsibility for maintenance. Once the road exits the City limits of the City of Abilene, maintenance becomes the responsibility of Jones County.

**Mr. Bixby moved to deny TC-2008-04. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Long and Rosenbaum) to two (2) opposed (McClarty and Todd).**

**Item Eight: Director's Report**

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

Mr. James stated that all the cases recommended for approval by the Commission were also approved by the City Council.

Mr. James informed the Commissioners that on March 13, 2008, at 5:00 p.m. a City University session will be held. City University is seeking volunteers from various Board and Commissions to participate in a panel discussion with citizens regarding City Board and Commissions. Mr. James asked Commissioners interested in serving on this panel to contact him.

**Item Nine: Election of Officers**

Mr. McClarty recommended that this item be placed on next month's agenda for the Commission's consideration.

**Item Ten: Adjourn**

There being no further business, the Planning and Zoning Commission meeting was adjourned at 4:15 p.m.

Approved: \_\_\_\_\_, Chairman