
PLANNING & ZONING COMMISSION

May 5, 2008

Minutes

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
Edward S. McRoy, Assistant Director of Planning and Development Services
Ben Bryner, Planning Services Manager
Matt Jones, Planner I
Zack Rainbow, Planner I
JoAnn Sczech, Executive Secretary, Recording

Others Present: Johnny Johnson
Nolan Payne
Tyler Payne
Ross Bennett
Barbara J. Bennett
Waneta Bennett
Glenn Barnes
Warren Goldsmith
Terry Bawcom
Charles Wolfe
Joe Covey
Judy Polk
Jerry Polk
Tommy Wilson
Lance Johnson
David Johnson

Item One: Call to Order

Mr. Tim McClarty called the meeting to order at 1:30 p.m. and declared a quorum present.

Item Two: Invocation

Mr. McClarty gave the Invocation.

Mr. McClarty read the opening statement for the Planning and Zoning Commission.

Item Three: Approval of Minutes

Mr. Bixby moved to approve the minutes of the April 21, 2008, Planning and Zoning Commission meeting as submitted. Dr. Long seconded the motion and the motion carried unanimously.

Item Four: Plats

MP-0808

A public hearing to consider a plat of Lot 204A & 204B, Block 1 J.M. Cunningham Subdivision, being a replat of Lot 204, Block 1, J.M. Cunningham Subdivision, City of Abilene, Taylor County, Texas.

Mr. Zack Rainbow presented information regarding this plat. This plat is complete and is being submitted for consideration by the Commission. Mr. Rainbow stated that staff is recommending approval of this plat as it meets Subdivision Regulation requirements

Mr. McClarty opened the public hearing and asked if anyone wished to speak regarding the plat being presented for approval. No one come forward and the public hearing was closed.

Mr. Rosenbaum moved to approve MP-0808. Mr. Famble 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.

Item Five: Rezoning Requests

a. Z-2008-15

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Scot Roppe; Agent: Lance Johnson, to rezone property from RS-6 (Single-Family Residential) to RM-3/PH (Multi-Family Residential with Patio Home Overlay) zoning, located at 1633 Griffith Road.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from RS-6 to RM-3/PH. The subject parcel is approximately 2.8 acres and is currently zoned RS-6 (Single Family Residential). The property is currently undeveloped. The adjacent properties have RS-6 (Single-Family Residential) to the north and south, AO (Agricultural Open Space) to the west, with an open utility easement across Griffith Road with RS-8 (Single-Family Residential) zoning to the west of the easement.

The area was annexed in 1964 and zoned AO (Agricultural Open Space). The property was then part of a larger PDD (Planned Development District) that was applied in 1998. In 2005 the property was rezoned to RS-6 (Single-Family).

Currently the property is zoned RS-6 (Single Family Residential). The surrounding uses are all compatible with the current zoning. The proposed RM-3/PH (Multi-Family with Patio Home Overlay) zoning would still be compatible with the single family zoning to the north and south of the subject property. The utility easement across Griffith Road would also serve as a buffer between this multi-family/patio home zoning and the single-family zoning across Griffith Road.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential use. The requested zoning does not correspond with the future land use, but low-density multi-family zoning and single-family zoning are often compatible with one another. This property was a part of a PDD (Planned Development District) that did allow patio homes along with several other uses before it was rezoned to single-family. Given the properties proximity to Abilene Christian University, multi-family zoning would be appropriate. The requested RM-3 (Multi-Family Residential) has the lowest density of all multi-family zoning, and only allows duplexes and other low density multi-family units.

Planning staff recommends approval of RM-3/PH (Multi-Family with Patio Home Overlay).

Property owners within 200 feet of the rezoning request were notified. No comment forms were returned in favor of the request and five (5) forms were returned in opposition (one comment form received in opposition was outside the notification area for a total of six (6) forms in opposition).

Mr. McClarty opened the public hearing.

Mr. Jerry Polk stated that he purchased one (1) acre of land from Mr. Scott Roppe on which to construct his residence. Mr. Polk stated that it is his belief that there is a clause in the contract that only single family residences would be constructed in this area. Mr. Polk stated that he is highly opposed to this rezoning request.

Mr. Lance Johnson, owner of the property for which the rezoning is being requested, provided the Commissioners with an illustration of his plans for this property. Mr. Johnson stated that the plan includes duplexes and townhomes. Mr. Johnson stated that this is a growth area and an excellent site for multi-family structures.

Mr. Famble asked Mr. Johnson the number of units planned for this site.

Mr. Johnson responded that his plan is for 7 or 8 duplexes – 14-16 units.

Mr. Ross Bennett and Mrs. Barbara Bennett stated that the rezoning request is for property directly behind their home. Mrs. Bennett stated that they are opposed to multi-family residences being constructed on this property. Mrs. Bennett cited the following reasons for opposition to this rezoning request: 1) disruption of a quiet neighborhood; and, 2) rental properties decrease the value of single family residences.

Mrs. Bennett stated that she contacted Coldwell Banker regarding the three parcels behind her residence as she was interested in purchasing the acre behind her residence. Mrs. Bennett stated that for some reason she was unable to obtain information about this property and she let the matter drop. Mrs. Bennett stated that they prefer this area be developed in single family residences – without multiple-family units in the area.

Mr. Bennett stated that when they purchased this lot, one of the facts that made this area appealing was that no one could build to the east of them because of a tank and because of the wildlife in the area. Mr. Bennett stated that he does not want to be forced to live next to a high-rise multi family structure

which he believes will attract many, many students. Mr. Bennett stated that this will decrease the value of his property and if this is approved he will probably place his home up for sale.

Mr. Charlie Wolfe stated that he is the owner of Wild Life Trails Subdivision. Mr. Wolfe stated that he is opposed to this rezoning. Mr. Wolfe stated that this subdivision was created back in 2000 and they are attempting to sell lots within the subdivision. The area was originally a Planned Development District. When the PDD expired, the City rezoned the property to RS-6 (residential single family). Mr. Wolfe stated that the uses permitted in an RM zoning district would be detrimental to the area, particularly due to ingress and egress to the area.

Ms. Joyce Cummings stated that this is a very peaceful, beautiful and quite area with not much traffic. If multiple family zoning is permitted, this atmosphere will be ruined. Ms. Cummings stated that she did not submit a comment form regarding this rezoning; however, she is extremely opposed to rezoning of this area to multi-family zoning.

Mr. McClarty closed the public hearing.

Dr. Long stated that multi-family structures are not normally placed within single-family zoning districts and asked why this was recommended in this case.

Mr. Jones stated that staff recommendation was made prior to receiving input from the nearby property owners and the fact that this property is separated from the single family residences across Griffith Road by a utility easement. Because of these facts, staff felt the area was appropriate for multi-family dwellings.

Mr. James stated that usually staff provides its professional recommendation prior to receiving information from surrounding neighbors. Mr. James added that while the rezoning is for multi-family units, the proposed rezoning is for the lowest density of multi-family zoning that basically only allows duplexes and townhomes.

Mr. Bixby stated that when someone purchases property in a residential single family zoning districts and constructs an expensive home in the area, that property owner has a reasonable expectation that that type of zoning (single family) will continue.

Mr. Bixby moved to deny Z-2008-15. Mr. Famble 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.

b. Z-2008-16

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Terry & Connie Bawcom to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) zoning, located at North Clack Street and Highway 83-277.

Mr. Matt Jones presented the staff report for this case. This request is to rezone property from AO to HC. The subject parcel is approximately 2.3 acres and is currently zoned AO (Agricultural Open Space). The property is currently undeveloped. The adjacent properties have AO (Agricultural Open Space) zoning as well, with HC (Heavy Commercial) zoning across Highway 83-277.

A majority of the property was annexed in 1957 and the rest was annexed in 1959 and given its current zoning, AO (Agricultural Open Space).

Currently the property is zoned AO (Agricultural Open Space). The surrounding uses are all compatible with the current zoning. The proposed HC (Heavy Commercial) zoning would be compatible with the surrounding zoning. Given the properties location along Highway 83-277 commercial activities would be appropriate. There is also some HC (Heavy Commercial) zoned property across the highway as well as to the north and south. Most of the property lies within the floodway, which would limit extensiveness of development.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial use. The requested zoning is comparable with other areas of the City of Abilene for properties that have frontage along highways. This property is not designated as a gateway into the city, but it is south of an area along the same highway that is designated as a gateway on the Future Land Use Map.

Planning staff recommends approval as requested.

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

Mr. McClarty opened the public hearing.

Mrs. Tommy Wilson stated that they own the 11 acres adjoining the property for which a rezoning request has been submitted. Mrs. Wilson stated that they are opposed to the heavy commercial rezoning request. Mrs. Wilson stated that the property is in the floodway. The front of their property does flood and any type of construction will increase the flooding problem. There are no city services in this area, the Wilsons have a well, and questioned the affect of construction on the water table in the area.

Dr. Terry Bawcom stated that he is the owner of this property and the property involved in the next case. Dr. Bawcom stated that it would be easier to discuss both properties at this time rather than separating the properties.

Mr. James stated that Dr. Bawcom could address both properties; however, the Commission must vote on the requests separately.

Dr. Bawcom stated that the he owns 111 acres in this area and most of the land is in the area of the floodway and therefore undevelopable. Dr. Bawcom stated that the portion adjacent to the access road was recently cleared. There is a large strip of wooded area between his land and his neighbor's home that cannot be developed due to the fact that it is in the floodway. That portion that has been cleared, which is floodplain, may possibly be developed. Dr. Bawcom stated that one reason for the rezoning request is that there is an individual who owns a landscape business who has expressed an interest in this property. This portion of the property lies within a gateway area into Abilene and its proximity to the Interstate and 83/84 makes this portion of the area somewhat valuable; however, the amount of property that can be utilized is very limited due to the amount of property in the floodway. Dr. Bawcom stated that only the portion adjacent to the access road has any possibility of being developed

and there is a great deal of area that will serve as a buffer between the residential structure and this development.

Mr. McClarty asked Dr. Bawcom if he would be opposed to discussing a Planned Development District (PDD) with City staff. With a PDD, the frontage road area can be separated and a plan developed for utilizing this area and state within the PDD that the remainder of the area would not be developed. Mr. McClarty stated that this PDD would probably provide Dr. Bawcom all he needs in order to develop this land and provide his neighbors with a large buffer of forest between them and the highway.

Dr. Bawcom stated that he would be agreeable in order to make this plan workable.

Mr. James stated that if the proponent was to apply for a PDD as a separate case, that fee is higher than a regular zoning case. Staff did not propose a PDD due to the fact that a great deal of the land is in an undevelopable floodway.

Dr. Bawcom stated that he is sensitive to the opposition to this rezoning. Dr. Bawcom stated the he did not feel his proposal would create a problem due to the geography of the property.

Mr. McClarty stated that if a landscape company did purchase this property they could build a structure on the front of the property and the remainder of the property could be utilized for landscape supplies.

Mr. Todd stated that the floodway can be utilized for storage. Mr. Todd stated that he would be more comfortable with a PDD. Mr. Todd stated that Dr. Bawcom might be able to secure an engineer who could actually remove this property from the floodway so that much of the property could be developed. Mr. Todd asked Mrs. Wilson if she would be amenable to working with Dr. Bawcom and City staff on a Planned Development District that would provide a buffer for the Wilsons and allow Dr. Bawcom to develop the front of the property.

Mr. Wilson stated that it is not in his best interest for the property to be rezoned Heavy Commercial. Mr. Wilson stated that he has spoken with Dr. Bawcom regarding purchasing this property – not for any type of development but for livestock.

Mr. Todd stated that as the City annexes property around residences, such as that of the Wilsons, because of the location that area should be a heavy commercial area due to the road system in the area.

Mr. McClarty closed the public hearing.

Dr. Long asked the uses that would be permitted if the property was rezoned to Heavy Commercial.

Mr. James provided the permitted uses in HC zoning for Dr. Long.

Mr. Bixby stated that the Commission must consider these requests separately and did not see any reason to rezone the area currently being considered.

Mr. Bixby moved to deny Z-2008-16. Mr. Rosenbaum seconded the request and the motion carried by a vote of six (6) in favor (Bixby, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.

c. Z-2008-17

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Terry & Connie Bawcom to rezone property from AO (Agricultural Open Space) to HC (Heavy Commercial) zoning, located at 3774 West Overland Trail.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO to HC. The subject parcel is approximately 10.73 acres and is currently zoned AO (Agricultural Open Space). The property is currently undeveloped. The adjacent properties have AO (Agricultural Open Space) zoning as well, with HC (Heavy Commercial) zoning across Highway 83-277 and further west along West Overland Trail.

A majority of the property was annexed in 1957 and the rest was annexed in 1984 and given its current zoning, AO (Agricultural Open Space).

Currently the property is zoned AO (Agricultural Open Space). The surrounding uses are all compatible with the current zoning. The proposed HC (Heavy Commercial) zoning would be compatible with the surrounding zoning. Given the properties location along Highway 83-277 commercial activities would be appropriate. There is also some HC (Heavy Commercial) zoned property across the highway as well as to the north and south. Most of the property lies within the floodway, which would limit extensiveness of development.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial use. The requested zoning is comparable to other areas of the City of Abilene for properties that have frontage along highways. This property is not designated as a gateway into the city, but it is south of an area along the same highway that is designated as a gateway on the Future Land Use Map.

Planning staff recommends approval as requested.

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

Mr. McClarty opened the public hearing.

Dr. Bawcom stated that the property adjacent to the pecan orchard and the property to the west is currently zoned Heavy Commercial. Dr. Bawcom stated that he spoke with the property owner of the land between his property and the property to the west. This property owner is ready to put his property on the market and they are hoping to be, at least in part, Heavy Commercial.

Mr. McClarty asked Dr. Bawcom if his plan is to sell this land to a landscaping company.

Dr. Bawcom responded that he misspoke if he indicated that the property would be sold to a landscaping company. Dr. Bawcom stated that as he looked at the property and what uses could be utilized on this site, at this point in time nothing much could be done with the property. Dr. Bawcom

stated that he has a person of interest with whom he has discussed this property, however, has no plans, contract or agreement with anyone to sell the land at this time. The primary use discussed with the interested party was a landscaping business.

Mr. McClarty closed the public hearing.

Mr. Bixby stated that there is a substantial amount of General Commercial and Heavy Commercial uses in this area. Mr. Bixby stated that Heavy Commercial is an appropriate zoning category for this area and the Wilson's are very fortunate with the amount of buffering due to the number of trees in this area between them and the developments around them.

Mr. McClarty stated that he felt this zoning (HC) would be appropriate 200 to 300 feet along the highway only.

Mr. Bixby moved to approve Z-2008-17. Mr. Rosenbaum seconded the motion and the motion failed (due to lack of majority) by a vote of two (2) in favor (Bixby and Rosenbaum) to four (4) opposed (Famble, Long, McClarty and Todd).

d. Z-2008-18

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Village Investment Partners, LP to rezone property from AO (Agricultural Open Space) to GC (General Commercial) zoning, located at 5250 South Clack Street.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO and LI to GC. The subject parcel is approximately 3.2 acres and is currently zoned AO (Agricultural Open Space) and LI (Light Industrial). The property is currently undeveloped. The properties to the north, south, and west, are zoned PDD (Planned Development District), the PDD allows commercial uses closer to the freeway, while allowing for industrial and multi-family uses behind the commercial uses, with AO (Agricultural Open Space) and Kirby Lake, across Highway 83/84 to the east.

A portion of the property was annexed in 1957 and the rest was annexed in 1978 and given AO (Agricultural Open Space) zoning. A portion of the property was later zoned to LI (Light Industrial).

Currently the property is zoned AO (Agricultural Open Space) and LI (Light Industrial). The surrounding uses are all compatible with the current zoning. The proposed GC (General Commercial) zoning would be compatible with the surrounding zoning. Given the properties location along Highway 83/84 commercial activities would be appropriate. The property directly to the north of the subject property has been developed for commercial use.

The Future Land Use section of the Comprehensive Plan designates this general area for commercial use. The requested zoning is comparable to other areas of the City of Abilene for properties that have frontage along highways. This property is not designated as a gateway into the city, but it is just north of an area along Highway 83/84 that is designated as a gateway as well as a Special Activity Center on the Future Land Use Map.

The applicant has indicated to staff that they wish to retain the LI zoning on this parcel. The request is for the AO property to be rezoned to GC.

Planning staff recommends approval as requested.

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

Mr. McClarty opened the public hearing.

Mr. Tal Fillingim stated that the request is for the Agricultural Open Space to be rezoned to General Commercial zoning. The proponent wishes the section of land zoned as LI to remain as currently zoned. Mr. Fillingim stated that the proponent has no current plans – the rezoning is an attempt to have consistent zoning throughout the area.

Mr. Bixby asked for clarification regarding the rezoning request. The agenda reads to rezone AO and LI to GC.

Mr. Fillingim stated that their intent and request is to rezone from AO to GC.

Mr. James provided the following clarification: The actual request included the entire property. Mr. James stated that Mr. Fillingim is clarifying the request by stating that only the AO to GC is intended. What is before this Commission and what has been advertised in the newspaper and listed on the agenda is the entire property. The Commission has the authority to make a decision on the entire property.

Mr. McClarty closed the public hearing.

Mr. James stated that while staff did review the entire property, per the request as included in the Commission's packet, staff is in agreement with the revised request of only the property zoned AO.

Dr. Long moved to approve Z-2008-18 as follows: AO rezoned to GC and the LI remains as currently zoned. Mr. Famble 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.

e. Z-2008-19

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Warren Goldsmith to amend the text of PDD-49 (Planned Development District), regarding carports, located at Champions Drive and Winners Circle.

Mr. McClarty stated that prior to the meeting the proponent has requested that this item be tabled; however, the public hearing will be held as listed on the agenda.

Mr. Matt Jones presented the staff report for this case. The request is to amend PDD-49 concerning carports. The subject parcels total approximately 2 acres and are currently zoned PDD (Planned Development District).

The area was annexed in 1980 and zoned AO (Agricultural Open Space) and was later zoned to PDD (Planned Development District) in 1987.

Currently the regulations of the PDD (Planned Development District) only allow a limited number of uses/structures as permitted uses within the district, including one and two story patio homes, accessory swimming pools, and accessory storage buildings. Since carports are not listed as a permitted use, the applicant is requesting the ordinance be changed to allow carports within the district as a permitted use.

Planning staff recommends denial; the request does not meet the original intent of the PDD.

Property owners within 200 feet of the request were notified. Seven (7) comment forms were returned in favor and six (6) forms were returned in opposition of the request.

Mr. Bixby stated that there is a Homeowners Association in this vicinity and asked Mr. Jones which properties are included within the area covered by the HA area.

Mr. Jones stated that he is unsure; however, in speaking with Mr. Goldsmith it is believed the HA covers those properties along Winners Circle. Mr. Jones stated that it is his understanding that much of the opposition to this request came from the HA. The HA has asked that they be allowed to meet prior to consideration of this request to discuss regulations that might be imposed as a part of the deed restrictions.

Dr. Long asked how deed restrictions interact with PDD regulations.

Mr. Santee responded that the HA would enforce the deed restrictions unless the deed restrictions are incorporated into the ordinance by reference – typically, this is not done by the City. Mr. Santee stated that nothing prevents the Commission from placing appearance standards within a PDD. Mr. Santee stated that if appearance standards are incorporated into a PDD, staff would want to know what the HA requires so that the verbiage could be matched. In this case, enforcement could be through the PDD process.

Mr. McClarty opened the public hearing.

Mr. Warren Goldsmith requested that this item be tabled until the June meeting of the Planning and Zoning Commission.

Mr. Bixby moved to table Z-2008-19 until the Planning and Zoning Commission's June meeting. Mr. Famble 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.

Item Six: Street Name Change
SNC-2008-01

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Johnny Johnson to change the name of Glen Cove to Rhonni Court.

Mr. Matt Jones presented the staff report for this case. The request is for a street name change from "Glen Cove" to "Rhonni Court"

The street is a short cul-de-sac that extends approximately 120 feet to the west from Amarillo Street. There are currently five (5) platted lots with frontage on Glen Cove.

The applicant is currently the only developed property fronting on Glen Cove; the remaining four (4) properties are undeveloped and are currently under the ownership of a single developer. The applicant has contacted the developer, and the developer has no objection to changing the name of the street.

The Plat Review Committee recommends approval as requested.

Planning staff recommends approval as requested.

Property owners within 200 feet of the street name change were notified. No comment forms were received in favor and one (1) comment form was received in opposition.

Mr. Bixby asked what expenses would be incurred by the City (Fire Department, Police Department, etc.)

Mr. Jones responded that for this street it would involve changing only one street sign and the GIS Department of the City would change addresses.

Mr. James stated that the cost to the City for this request would be minimal. In the past for street name changes that affected many, the City has requested that a condition be placed upon the applicant to pay for the street signs (in cases where the change resulted in the expenditure of thousands of dollars).

Mr. McClarty opened the public hearing.

Mr. Johnny Johnson stated that the reason for this request is to rename the street after his wife (on his behalf and of his children). Mr. Johnson stated that in the Chimney Wood Addition every street is a "court" and this change is consistent with the current street designations. Mr. Johnson stated that his is the only developed property on this street and there would be no problem for him to pay any expenses in order for this change to occur.

Mr. McClarty closed the public hearing.

Mr. Bixby moved to approve SNC-2008-01. Mr. Todd 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.

Item Seven: Director's Report

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

Mr. James provided a memorandum to the Commissioners regarding the City Council's vote on items recommended by the Planning and Zoning Commission. The Council approved the items recommended for approval by the Planning and Zoning Commission with the exception of the CIP Program. Regarding the Industrial Boulevard project (remove this project in lieu of a sidewalk program), the Council's decision was to complete one-half of the project as Phase I of the Industrial

Boulevard project in 2010 and one-half of the sidewalk project in 2012. This would allow \$600,000 for each project rather than the entire \$1.2 million for either Industrial Boulevard or all of these funds for the sidewalk project

Item Eight: Election of Officers

It was the consensus of the Commissioners that this item be placed on next month's agenda for consideration.

Item Nine: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at 3:05 p.m.

Approved: _____, Chairman