
PLANNING & ZONING COMMISSION

June 2, 2008

Minutes

Members Present:

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

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
Robert Allen, MPO Director, Transportation Planner
Ben Bryner, Planning Services Manager
Matt Jones, Planner I
Zack Rainbow, Planner I
JoAnn Szech, Executive Secretary, Recording

Others Present:

L. Mike Landers
David Taylor
Claudia Jones
Leytron Hunt
John W.
Ronnie Miller
Glenn Gable
Dave Boyll
Warren Goldsmith
Bill Bradshaw
Robert Kern
Tim Ritter
Kenneth L. Musgrave
Eddie Chase
Andrew Dunigan

Item One: Call to Order

Ms. Ovelia Campos called the meeting to order at 1:30 p.m. and declared a quorum present.

Item Two: Invocation

Mr. Famble gave the Invocation.

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

Item Three: Approval of Minutes

Dr. Long moved to approve the minutes of the April 7, 2008, Planning and Zoning Commission meeting as submitted. Mr. McClarty seconded the motion and the motion carried unanimously.

Mr. Bixby asked that additional information be included on Page 6 of the May 5, 2008, Planning and Zoning Commission meeting regarding buffering and landscaping. This information will be included and these minutes will be approved at the Commission's July meeting.

Item Four: Plats

MRP-1108

A public hearing to consider a plat of Lot 101, Block A, The Smoke Pit Addition, Abilene, Taylor County, Texas.

MRP-1808

A public hearing to consider a plat of Lot 101, T.O. Anderson's Subdivision, Replat of Lots 1, 2, 3, 4, 5, and 6, T.O. Anderson's Subdivision of the North Part of Lot 1, Block 208, Original Town of Abilene, Taylor County, Texas.

Mr. Zack Rainbow presented information regarding these plats. The plats are complete and are being submitted for consideration by the Commission. Mr. Rainbow stated that staff is recommending approval of these plats as they meet Subdivision Regulation requirements.

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

Mr. McClarty moved to approve MRP-1108 and MRP-1808. Dr. Long seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.

MRP-1508

A public hearing to consider a plat of Lot 101, a Replat of the East 90 feet of Lots 1 and 2, Block 23, College Heights Addition to the City of Abilene, Taylor County, Texas.

Mr. Rainbow stated that a request has been received from the proponent to table MRP-1508.

Mr. James stated that normally plats cannot be tabled because State law requires approval or denial of a plat within 30 days of the application. However, the City has a procedure in place whereby the applicant can waive the 30 day timeframe allowing additional time for review of the plat. In this case the applicant has waived his right to a 30-day decision and, therefore, this item may be tabled by the Commission.

Mr. McClarty moved to table MRP-1508 for 30 days. Dr. Long seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.

Item Five: Rezoning Requests

a. Z-2008-19 (TABLED)

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

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

Amend:

PART 8: Specific Modifications

REVISE: Section A. to read:

- A. Permitted Uses: One and two story patio homes, accessory swimming pools, accessory storage buildings, and carports shall be permitted within the district.

ADD: Paragraph under Section "B"

Carports shall not be allowed in the front yard, shall meet all the primary setbacks defined herein, except the rear setback along an alley shall be one (1) foot.

The PDD applies only to those homes fronting onto Winners Circle.

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 originally recommended denial of this request. However, since the May 5th Planning and Zoning Commission meeting, staff has received several comments from property owners in the area for approval of this request, therefore staff has changed its original recommendation of denial to approval.

Property owners within 200 feet of the rezoning request were notified. Thirty-two (32) comment forms were returned in favor of the request and two (2) comment forms were returned in opposition.

Mr. Bixby asked if the area had covenants and restrictions that parallel the carport issue.

Mr. Jones stated that there is a Homeowners Association in this area and the Association has met to discuss this issue following the Commission's last meeting.

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

Mr. Bixby stated that he has not seen the Homeowners Association's covenants and restrictions and is guessing that there is a process to change these covenants and/or restrictions.

Ms. Campos reopened the public hearing and asked if anyone present could address Mr. Bixby's concerns.

Mrs. Sara Goldsmith stated that there is a Homeowners Association and there is a process to change the bylaws. Ms. Goldsmith stated that the bylaws can be changed by an affirmative vote of a quorum of those present at the meeting.

Ms. Campos closed the public hearing.

Mr. McClarty moved to approve Z-2008-19. Dr. Long seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.

b. Z-2008-20

Public hearing and possible vote to recommend approval or denial to the City Council on a request from David Taylor, Horne Properties, to rezone property from AO (Agricultural Open Space) to PDD (Planned Development District) zoning, located at the northeast corner of Musgrave Boulevard and Scottish Road.

Mr. Matt Jones presented the staff report for this case. The request is rezone property from AO to PDD-120. The subject parcel totals approximately 3.21 acres and is currently zoned AO (Agricultural Open Space). The parcel is undeveloped. The adjacent properties have AO (Agricultural Open Space) zoning to the north, south, and east, with PDD (Planned Development District) zoning to the southwest, and HC (Heavy Commercial) to the west.

The area was annexed in 1980 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 area is being developed with commercial uses including a hotel on the southeast corner of Musgrave Boulevard and Scottish Road. The applicant wishes to use the property for a hotel with a smaller parcel for an ATM at the intersection. The request is to expand the existing PDD zoning on the property to the north to include this area. The applicant is proposing one change to the PDD text to eliminate the requirement for an off-street loading space associated with a hotel/motel use with no restaurant facility or off-site laundry service.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a commercial development off of I-20. There is currently a PDD in place that requires a higher quality

of aesthetic standards across Musgrave Boulevard from the subject property and to the southwest across Scottish Road. Expanding the PDD to include this property, as requested by the applicant, would ensure this same higher standard of development on this site.

Planning staff recommends approval of the PDD-120 amendment.

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. Bixby asked if this request applies to the entire PDD or just to the extended part of the PDD.

Mr. Jones stated that in this case this expansion applies to the entire area of the PDD.

Ms Campos opened the public hearing.

Mr. David Taylor, Horne Properties, introduced the following representatives from Knoxville, Tennessee: Mr. John Baker, Director of Engineering and Construction; Mr. Leytron Hunt, Director of Leasing and Administration; and, Ms. Claudia Jones, Asset Manager for the Abilene Development. Mr. Taylor stated that the purpose of today's request concerns another hotel for this area of the city. The hotel will be an *extended stay* hotel. Signage on the front of the property includes Lowes (50 foot pole sign) and two other pole signs were approved for the remaining out lots (30 feet in height). Mr. Taylor stated that the only sign within the PDD (Section E-2) is a monument sign with a maximum height of six (6) feet. Mr. Taylor stated that it is not his intention or desire to have pole signs along Musgrave Boulevard and East Lake Road. Mr. Taylor stated that in addition to the hotel site, there is a smaller lot currently planned for an ATM site. The six (6) foot monument sign would suffice for the ATM site; however, for the hotel a 12 foot monument sign with 400 square feet is more in line with what is required for this site.

Other issues to be addressed include:

D-1, Loading Space – Mr. Taylor stated that he is in agreement that the loading space is not required; however, the language in the PDD does not clearly state this fact. Mr. Taylor stated that he would like to see this portion of the PDD be refined to reflect this (there will be a restaurant within the hotel; however, the facility will be for hotel guests only). Mr. Taylor stated that he does not want the issue of a loading dock to arise at a later time – he would rather the language be refined at this time to reflect this.

Mr. Taylor stated that comments regarding Scottish Road were somewhat alarming. Mr. Taylor stated that when the ATM site is developed, he recognizes that Scottish Road must be widened. Is he accurate in his understanding that he would be required to complete the road as completed by the Marriott Inn.

Mr. James stated that this is accurate. Mr. James stated that the site could not be developed in such a way as to block off access for this road to continue in the future.

Mr. Bixby asked if the 400 square foot sign typical for the Hilton Hotel in other communities.

Mr. Taylor responded that he did not know if there is a “typical” sign size. Mr. Taylor stated that as development occurs down the boulevard, he is hoping that the stage will be set for a group monument sign.

Ms. Campos stated that considering how far down the road the new hotel will be located; she does not feel it is unreasonable to request a 12 foot high, 400 square foot sign.

The consensus of the Commissioners was to avoid pole signs and was in favor of the monument signs.

Ms. Campos closed the public hearing.

Dr. Long asked for clarification as to Mr. Taylor’s requests:

1. Monument Sign - 12-foot, 400 square feet
2. Clarification of language in Item 2-D

Mr. James provided the following clarification regarding E-2 in the ordinance (freestanding sign), this should read one monument sign per site.

Mr. James provided the following information regarding concerns expressed by Traffic and Transportation. Mr. James stated when there are uses that do not have adequate on-site loading spaces, staff’s concern is writing the ordinance in such a way that large scale restaurants or other uses associated with a hotel that will require deliveries by 18-wheeler trucks will not require these trucks to park on Musgrave Boulevard for loading and unloading because a delivery site had not been provided.

Ms. Campos asked Mr. James if he this issue is not addressed in Section D of the ordinance.

Mr. James stated that it is his understanding that the proponent expressed concern with this language.

Mr. Taylor asked if the language could be modified to state, “without outside customers in the restaurant.”

Mr. Santee recommended the wording, “restaurant not open to non guests.”

Mr. Bixby moved to approve Z-2008-20 with the following conditions:

- ⇒ **Monument sign 12 feet in height and 400 square feet in area**
- ⇒ **Clarify the language in Section 2-D of the Ordinance to indicate that the loading dock will not be required**
- ⇒ **Non guests will not be permitted to utilize the Restaurant**

Dr. Long seconded the motion.

Mr. James asked for clarification regarding this motion, i.e., does the motion also include the change to the monument signs – one sign per site?

Mr. Bixby responded affirmatively. Therefore the conditions include:

- ⇒ **Monument sign 12 feet in height and 400 square feet in area**
- ⇒ **Clarify the language in Section 2-D of the Ordinance to indicate that the loading dock will not be required**
- ⇒ **Non guests will not be permitted to utilize the Restaurant**

⇒ **One monument sign per site.**

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

c. Z-2008-21

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Danny Stevens to rezone property from AO (Agricultural Open Space) to RS-12 (Single-Family Residential) zoning, located at 4226 Highway 36.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO to RS-12. The subject parcel totals approximately 1.1 acres and is currently zoned AO (Agricultural Open Space). The parcel currently has a single-family home on the site. 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 1969 and zoned AO (Agricultural Open Space). Since the property has been annexed it has remained as AO (Agricultural Open Space) and has been developed with a single family home.

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 keep using the property as a single-family dwelling. The minimum lot area for AO property is five (5) acres. In order for the property to be platted and receive Water/Sewer services, a change of zoning to an appropriate residential district is required. The applicant is trying to be served by City Water/Sewer and the request for rezoning is one of the steps in the process to allow him to receive these services.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a low-density residential neighborhood. The requested RS-12 (Single-Family Residential) would be compatible with the Future Land Use Map. However, given the size of the property and the proximity of this property to the Abilene City Limits, RR-1 (Rural Residential) zoning would be more compatible with the surrounding area while still serving the purpose of the original request of the applicant. The minimum lot area for RR-1 is one (1) acre.

Planning staff recommends approval of RR-1 (Rural Residential) zoning.

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.

Dr. Long asked what triggered the replatting of this property.

Mr. Jones stated that replatting was required in order to receive water service to the property. Mr. Jones stated that existing service is not required prior to a plat being submitted; however, prior to approval of a plat a plan must be submitted indicating by what means water service will be provided.

Mr. James stated that in order to plat this property, adequate public facilities must serve the land (roads, water, sewer, etc). This may be accomplished either by means of a plan (accompanied by a

financial guarantee that these services will be provided). The other option is to actually construct all services prior to the final plat.

Mr. Bixby asked if the RR-1 zoning proposed by staff creates any hardship for the property owner.

Mr. Jones stated that the RR-1 zoning will not create any hardship for the property owner.

Mr. James stated that the property owner contacted staff and asked what type of zoning would be required to do what he wants to do. Mr. James stated that staff originally recommended residential zoning (RS-12). As staff processed the application and reviewed the case in depth, it was decided that the RR-1 zoning would be more appropriate. The applicant wants water service and to have the property platted – in order to do this, rezoning of the property is required. The applicant can complete this process with either RS or RR zoning.

Mr. Todd asked if a 6-inch line will be required to serve this one residence.

Mr. James stated that the proponent will be required to meet the City's requirements; however, this may differ if the service is being provided by the Potosi Water Supply Corporation.

Ms. Campos opened the public hearing.

Mr. Danny Stevens, applicant for this zone change request, stated that for the past 14 years he has been purchasing old homes in the city and renovating these structures. The current owner of this home has deeded the house to the nursing home where he currently resides. Mr. Stevens stated that he has a contract with the nursing home facility to purchase this structure contingent upon meeting all City requirements. Mr. Stevens stated that he has met with the Potosi Water Supply Corporation and they have agreed to supply water to this structure with a two-inch line capable of supporting one additional water meter. The City of Abilene informed Mr. Stevens in order to extend the water line the property must be platted. Mr. Jim Williams of Williams Surveying provided a plat of the property. After platting the property, Mr. Stevens was informed that the property would require rezoning, paving of the street, sidewalks, and curb and gutter. Mr. Stevens stated that he has met with Mr. Sam Chase and Mr. Gilley regarding this matter.

Mr. David Todd asked Mr. James if it would be acceptable to the City of Abilene if the Potosi Water Supply Corporation supplied water to this structure.

Mr. James stated that that a private service line from the Potosi WSC would be acceptable. For clarification purposes, Mr. James added that as he understands the situation from the City's Water Utility Department, for the City to allow service from another entity (in this case Potosi) there must be a written agreement between the City of Abilene's Water Department and the Potosi WSC. This agreement must be approved by the TCEQ in Austin.

Ms. Campos stated that the charge of the Planning and Zoning Commission is to consider the rezoning request. Mr. Stevens has been provided with good information at this meeting regarding issues that

may be encountered in the future; however, this Commission can only consider the rezoning request at this meeting.

Mr. Mike Landers asked if the rezoning or platting process will affect the tax structure on the surrounding properties.

Ms. Campos stated that she did not believe that it would – the Commission is discussion only this one parcel of land.

Mr. Landers stated that if Mr. Stevens obtains a water line, he would like a meter next to it.

Ms. Campos closed the public hearing.

Mr. James asked to clarify some of the issues mentioned:

- ⇒ Sidewalks – there is a variance and/or deferral process for the installation of sidewalks
- ⇒ Road construction – a financial guarantee may be provided in lieu of construction
- ⇒ If platting is allowed to proceed without making any of the improvements mentioned or guaranteeing to provide the improvements at some point in the future, the City has lost the ability to have the property owner make any improvements. If improvements are done in the future without this guarantee from the property owner, the City taxpayers will be burdened with the improvements.

Dr. Long moved to approve Z-2008-21, rezoning to RR-1 as recommended by staff. Mr. Famble seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.

Item Six: Thoroughfare Closure

TC-2008-06

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Danny Stevens, to abandon an unnamed right-of-way located north of 4226 Highway 36 beginning at the west right-of-way line of Highway 36 going approximately 1440 feet to the west.

Mr. Matt Jones presented the staff report for this case. The request is to abandon an Unnamed ROW, north of 4226 Highway 36, beginning at the west ROW line of Highway 36, extending to the west approximately 1440 feet. There is a 30 foot platted right-of-way that is unnamed, and there have been no improvements made to the right-of-way. The applicant owns one of the properties adjacent to the right-of-way.

The zoning for the surrounding area is AO (Agricultural Open Space) and PDD (Planned Development District). The PDD that the right-of-way dead ends into is the Abilene Regional Airport. The majority of the surrounding property is undeveloped and used for agricultural purposes. The applicant owns a lot adjacent to the right-of-way that has a single family home. All of the lots that front on this right-of-way also have frontage along Highway 36.

The Plat Review Committee recommends approval as requested.

Planning Staff recommends approval as requested.

Property owners within 200 feet of the request were notified. No comment forms were returned in favor of the request and one (1) comment form was returned in opposition.

Mr. Bixby asked the nature of the opposition. Mr. Jones responded, "Check contracts with landowners when land was taken with Airport condemnation."

Ms. Campos opened the public hearing.

Mr. Danny Stevens stated that he checked with the city regarding the paving of this thoroughfare. The response from the City was that Mr. Stevens could request a thoroughfare abandonment to avoid paving the street and the sidewalk requirement. Mr. Stevens stated that what he does not want is for this abandonment to adversely affect anyone in the area.

Mr. Bixby asked Mr. James if a variance from paving an option for Mr. Stevens from the City Council.

Mr. James responded that the only option he is aware of is a proportionality appeal. This appeal basically states that the cost of the improvements to the road is disproportionate to the development on the site. Mr. James stated that in this case, staff would recommend that the result of the appeal not be a complete waiver of the responsibility of paving, but a deferral of this responsibility to some point in the future. Currently, the land in this area is utilized for agriculture; however, it is the responsibility of the Planning staff to consider the site 10 to 15 years in the future.

Ms. Campos asked that the public hearing proceed.

Mr. Mike Landers stated that at one time this thoroughfare was the main road from Potosi Road and across Industrial Boulevard for over 80 years. This thoroughfare was in place prior to Highway 36 being constructed. There are many utilities located along this thoroughfare and a part of the agreement between the landowners and the City (prepared by Bob Surovic) was to keep the roads open going to the West, which includes this thoroughfare. This thoroughfare provides ingress and egress to the north end of this property.

Mr. Bixby asked Mr. Landers if he would prefer to own the road privately or would he prefer that this road remain a public road.

Mr. Landers responded that he certainly wants the road to remain a public road. Mr. Landers stated that if the thoroughfare is abandoned and Mr. Stevens receives a water meter on his property, then Mr. Landers also requested a water meter.

Mr. Todd asked Mr. James if the Alternative Design Standards contained within the Subdivision Regulations could be utilized in such a way as to mean no paving at all on the thoroughfare in question.

Mr. James responded that it could be; however, if some time in the future the surrounding properties are developed and a larger road is required, the City has lost the ability to have the property owner pay

a share of construction. The property to the north and south, currently zoned agricultural, could be developed into rural large lot subdivisions. TxDOT will not allow individual access onto the highway – a street that comes off the highway will be required to serve these properties as developed.

Mr. McClarty stated that the Commission just completed the Airport Master Planning Process where it was discussed that development in this area would not be encouraged.

Mr. James stated that the Airport Zoning Ordinance will limit the type of development that takes place on that site. Mr. James stated that if the Commission wishes, this case could be tabled until staff has had an opportunity to determine uses for the property in question.

Mr. James stated that due to the recommendation of RR-1 for the case prior to this case, it is his belief that a rural standard road would be a possibility rather than City requirements (no curb and gutter and reduced standards).

Ms. Campos closed the public hearing in order to provide a five-minute break for the Commissioners.

Ms. Campos reopened the public hearing.

Ms. Laverne Landers stated that this property was originally owned by her parents. Ms. Landers stated that the thoroughfare being discussed today is not a problem for anyone; it is only traveled by the property owners on each side of the road to pick up the harvested crops; and, it is a good gravel road. Ms. Landers stated that the solution to this situation would be to allow Mr. Stevens to obtain his water service from Potosi; allow the road to remain open; and, not require Mr. Stevens to complete the improvement required within the City.

Ms. Campos closed the public hearing.

Mr. James provided information as to permitted uses in this area (in conjunction with the decibel levels in proximity to the Airport, as provided in the Airport Zoning Ordinance). The Comprehensive Plan for this area recommends commercial and industrial uses, given the proximity to the Airport. Abandoning the thoroughfare at this time does place staff at a disadvantage if future development occurs. City staff met with TxDOT on Friday prior to this meeting and they have concerns about abandoning the thoroughfare. TxDOT has recommended leaving the thoroughfare open or maintaining a public access easement.

Dr. Long asked if this situation was similar to the situation on Business 80 where “disproportionate costs” would come into effect.

Mr. James stated that a proportionality appeal would be one option – basically arguing that the requirement to construct the road places a disproportionate burden on the property owner. This appeal is heard by the Abilene City Council.

One of the concerns for both the City and TxDOT is if this thoroughfare is abandoned, the potential for multiple accesses onto these properties (based on TxDOT’s driveway and road spacing limitations) that over the long term, as this area develops, that would actually increase the potential for these

conflicts. Leaving this thoroughfare in place would reduce the number of access locations on to and off of Highway 36.

Mr. Bixby stated that this road may be needed at some point in the future; however, the reason he is not “on the fence” on this issue is the opposition by a property owner. Mr. Bixby stated that this property owner owns a large amount of property which fronts on this road and to him it is a reasonable expectation that this property owner would expect this road to continue.

Ms. Campos stated that she is in agreement with Mr. Bixby – there is someone who needs access via this road and it is her belief that the road should remain open.

Mr. Bixby moved to deny TC-2008-06. Mr. Famble seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.

Item Seven: Ordinance Amendment

Discussion and possible action on an Ordinance amending the City of Abilene Sign Regulations regarding Electronic Message Signs.

Mr. Jon James presented the staff report for this ordinance amendment. This is a revision to the Sign Regulations regarding electronic message signs. Potential concerns raised by this type of sign include:

- ⇒ Driver distraction
- ⇒ City’s liability
- ⇒ Public perception and aesthetics

This ordinance amendment is an attempt to balance advertising without creating distractions. Some of the questions to be addressed today are:

- Should electronic message signs be allowed in the City of Abilene & ETJ?
- If so, what limits should be in place to ensure traffic safety and community aesthetics?

Staff recommendations include:

- Signs allowed with no flashing, animation, video, etc.
 - Minimum display time of 8 seconds
 - Maximum transition time of 2 seconds
 - These are both consistent with new TxDOT rules for digital signs
- Limits on maximum brightness
 - 5,000 nits (candelas per square meter) daytime
 - 500 nits at night
 - Public Works Director may order brightness reduced if deemed a traffic hazard
 - Requires proof of limits from manufacturer and dimmer control
- If within 100 feet of residential → sign must not face residential OR must be reduced to 250 nits brightness at night

Mr. Bixby questioned the appropriateness of TxDOT rules for digital signs within the City of Abilene, i.e., TxDOT usually deals with traffic at a much faster speed than in-town traffic.

Mr. James stated that he believes the proposed restrictions are reasonable. The benefit of this type of regulation (by allowing signs) is if the operational requirements for the signs are changed in the future that can also be applied to existing signs. The regulations, if adopted, would apply to existing signs.

After the ordinance is passed by the City Council, signs would have to come into the “static image” compliance.

Mr. McClarty asked about the scrolling signs – will these signs be grandfathered.

Mr. James stated that there is a specific exemption in the ordinance which addresses this type of sign. The proposed ordinance amendment would exempt any current sign with a single line of scrolling text. As currently written, the ordinance amendment would not allow new versions of this type of sign

Ms. Campos opened the public hearing.

Mr. Robert Kern, Acme Sign Company, stated that the electronic message centers are a technological advance over the “reader boards” with plastic letters. Mr. Kern stated that he has not investigated regulations of other Texas cities; however, consideration should be given to the reader board signs as the owners have expended a great deal of money for these signs and utilize these signs to help grow there businesses. Mr. Kern stated that at this point he is not completely opposed to a time limit on the messages; however, he would like to have the opportunity to investigate this issue further.

Mr. Tim Ritter with Lamar Outdoor Billboard Company provided information to the Commission via a DVD produced by the Outdoor Advertising Association of America that addresses digital billboards.

Mr. Ritter expressed the following concerns regarding this amendment:

- ⇒ Writing an ordinance that covers both on premise and off premise signs as a combined ordinance has inherent issues. These are completely different types of structures and have unique differences.
- ⇒ Primary concerns about the effect on off-premise signs. More distinction needs to be made between on premise and off premise signs
- ⇒ All electrical connections for these signs must be underground – this is a problem for billboards (off premise) signs. The electrical line may be on the other side of a street or highway and running power to a billboard under a street or highway would be cost prohibitive.

At this point a DVD regarding digital billboards was played for the Commissioners.

Mr. Ritter stated that he would like to have an opportunity for his company and other sign companies to work with City staff in clarifying the proposed ordinance amendment in order to develop more of a separation or distinction between on premise vs. off premise signs (there are some overlapping issues that need to be addressed).

Dr. Long asked Mr. Ritter if her understanding is correct – Mr. Ritter is requesting that this item be tabled until next month.

Mr. Ritter responded affirmatively.

Mr. James stated that staff has had copies of most of the studies provided by Lamar. And the one provide this morning has been reviewed. All of the studies mentioned by Mr. Ritter, in terms of traffic distraction and safety, all were under the supposition that a time limit was in place (8 second transition time) and none of the studies are inconsistent with the information provided by staff on animation and video. When Mr. Ritter suggested that the studies have shown that these (signs) do not provide for a distraction or cause an increase in traffic accidents - that is assuming static images that change every so many seconds – this does not apply to animation, video, and or flashing signs.

Ms. Campos closed the public hearing.

Regarding the potential change referring to “brightness” and depending on the Commission’s consensus regarding underground electrical lines, Mr. James stated that he would be agreeable to removing this section and address under the electrical section of the Sign Ordinance (when the Commission reaches that point) or if the consensus of the Commission is to leave this language in the ordinance, the Commission could decide not to make this applicable to off premise signage. Mr. James stated that it is his belief that staff and the sign companies are on the same page regarding the ordinance amendments and did not feel this item should be tabled for another month. If the Commission approves this amendment, it will be forwarded to the City Council for a final decision. Staff could work with the sign companies prior to this issue being considered by the City Council.

Following discussion, it was the consensus of the Commission was to remove Section E from the ordinance.

Mr. Bixby stated that at this point he is in agreement with the transition time of two (2) seconds; however, at this time feels the minimum display time should be greater (minimum of 20 seconds). If this timeframe is not agreeable with the Commission, perhaps the display time could be 10 seconds (rather than the industry recommendation of eight (8) seconds).

Mr. James asked the Commission for direction as to the specific issues or areas that should be revised.

Mr. McClarty moved to approve the Ordinance Amendment and forward to the City Council with the following recommendations:

- ⇒ **City staff meet with representatives of local sign companies to discuss this amendment further**
- ⇒ **Ten (10) second messages with a .3 second time transition**
- ⇒ **7,000 nits for daytime and 1,000 nits at night**
- ⇒ **Remove Section E from this Ordinance Amendment**

Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor (Famble, Long, McClarty, Rosenbaum and Todd) to two (2) opposed (Bixby and Campos).

Item Eight: Thoroughfare Plan Amendment

Public Hearing and possible vote to recommend approval or denial to the City Council to consider an amendment to the Thoroughfare Plan in an area generally described as being between Southwest Drive and Catclaw Drive.

Dr. Long moved to remove this item from the table. Mr. Bixby seconded the motion and the motion carried unanimously.

Mr. Ed McRoy presented the staff report for this case. The Planning and Zoning Commission considered this proposal for the first time on April 7, 2008. At that time, the proposal was limited to a potential new collector street connecting Southwest Drive and US Highway 277. During this meeting, the P&Z directed staff to evaluate the potential for extending the proposal by adding an additional connection east of Southwest Drive. The P&Z then tabled the item to the June meeting in order to provide staff adequate time to prepare such a plan.

The area along US Highway 277 near Bassetti Elementary School recently saw the approval of a multi-use PDD with Commercial, Office and Residential uses. After the establishment of the PDD, the developers of the PDD property approached City Staff suggesting that a new connection between US Highway 277 and Southwest Dive might be worthy of consideration.

In evaluating modifications to the Thoroughfare Plan, staff considers a variety of concerns. These include; the need to provide an adequate, efficient, and logical transportation system, the need for consistent application of regulations and policies, the benefits and costs of connectivity, the need to balance private property rights with the public good, the need to prevent traffic congestion, and the ability to improve safety though road design. Proposed roadway locations on the Thoroughfare Plan are generally intended to indicate approximate locations or corridors that become more specific as development occurs.

This specific action to revise the Thoroughfare Plan would add two new collector streets not currently shown on the Thoroughfare Plan and eliminate a looped collector. The new collector streets would provide cross connections between several radial thoroughfares in the area.

Western Section – US Highway 277 to Southwest Drive

The first section (discussed by P&Z on 04/07/08) connects US Highway 277 and Southwest Drive. A shallow tributary of Elm Creek passes through the area. Historically, the City has tended to refrain from forcing developers to cross such features with roads where they might present a significant additional cost or engineering challenge. In this case, the change in elevation appears to be less than 10 feet reducing the engineering issues for this feature.

Improved traffic flow from this collector will promote the commercially zoned properties along US Highway 277 and it will provide more convenient and direct access for future residential lots expected to be developed in the area. This additional connection will reduce trip lengths, congestion and will enhance safety.

Eastern Section - Southwest Drive to Catclaw Drive.

The second section would connect Southwest Dive through Sharon Road to Catclaw Drive. There are a number of potential options available for extending a collector street through this area.

The main channels for both Elm Creek and Catclaw Creek pass through this region. The attached map represents staff's conclusion as to the most feasible location for a street that would traverse these creeks. Bridges and culverts are more costly and therefore they tend to complicate the ability of developers to recover costs. In some cases, a public subsidy may be necessary to facilitate the provision of such facilities. The City Public Works Department preliminary estimate indicates that a bridge crossing Elm Creek would cost approximately \$1.7 million. A Box Culvert/Low-Water Crossing for Catclaw Creek would cost approximately \$1.2 million.

In addition to the water features and floodplain challenges, this area has electric transmission lines, an underground pipeline and existing development features that affect the viability of various alternative alignments. The shown alignment for the eastern section is off-set from the western section. This has been included to mitigate against the likelihood that traffic patterns could emerge that would be inappropriate for a collector street.

Staff anticipates a new street classification system will be incorporated into the Thoroughfare Plan at some point in the future. Sharon Road is likely to be designated as a "minor arterial" at that time. If the P&Z and City Council deem it feasible to cross the creeks in this area and add this eastern section of roadway, the looped collector currently shown east of Sharon Road will no longer be necessary.

Planning staff recommends **approval** of the western section as shown. Staff recommends **approval** of the eastern section as the best alternative alignment to the extent the P&Z and City Council finds value in making such a connection.

Property owners within this proposed thoroughfare plan amendment were notified. One (1) comment form was received in favor of the request and one (1) in opposition (Mr. McRoy read the opposition letter:

"Dear Mr. McRoy,

Please be advised that DLJ Catclaw Campus, LLC, will not be able to be present at the public hearing by the Planning and Zoning Commission that will consider the proposed thoroughfare plan change between US Highway 83/84 and Rebecca Lane. However, as provided in the notice of public hearing dated May 28, 2008, we are asking that our opposition to the proposed change be admitted into the record of the public hearing and properly recorded to ensure our full rights as a property owner remain in full force and effect. Our objection to the proposed changes are as a result of improper notification of the hearing and not being provided adequate information to assess the impact of the proposed thoroughfare would have on our properties.

Sincerely,
Louis Domenico"

Mr. McRoy stated that an amendment to the thoroughfare plan does not require a formal notification process or publication within the newspaper. Staff notified property owners in the area in order to receive input regarding this amendment.

Mr. Bixby agreed with the western section of the plan. Mr. Bixby stated that it is his opinion that the thoroughfare continue:

⇒ directly along Southwest Drive

- ⇒ continue along the “B” route
- ⇒ continue on the “2” route
- ⇒ come down to the extension of Sharon and connecting with Rebecca Lane

Mr. Bixby stated that in utilizing this route about 95% of the route would be on high and dry land (out of both the flood plain and floodway). Mr. Bixby stated that this proposal would provide a tremendous development opportunity in this area.

Mr. James stated that the issue of interconnectivity is a greater reason for the proposed routes rather than developability of the land.

There was a great deal of discussion between staff and the Commissioners regarding the placement of thoroughfares in this area and the connecting of current thoroughfares with proposed thoroughfares.

Ms. Campos opened the public hearing.

Mr. Bill Bradshaw stated that he is representing the firm of DLJ Catclaw Campus, LLC, who own the property at the end of Cedar Run Road and runs north and south between the creek and Catclaw Drive. Mr. Bradshaw stated that one problem with this item is that his clients received the letter dated May 28th on Saturday morning (May 31st) in Denver. Mr. Bradshaw stated that when dealing with property and property rights, when a plan is adopted, even if a thoroughfare is only proposed, property rights are affected. Mr. Bradshaw stated that this proposition also poses the problem of devaluation of this property. Mr. Bradshaw stated that he does not see a problem with the current traffic design and traffic delays in this area (with exception of the construction being undertaken on Southwest Drive). Mr. Bradshaw concurred with Mr. Bixby that this plan takes land subject to development that would be hindered by a roadway crossing through the center of the parcel.

Mr. Bixby asked Mr. Bradshaw if he would be in agreement with the amendment if the thoroughfare did not transect his client’s property.

Mr. Bradshaw responded affirmatively.

Mr. Andrew Dunigan stated that he is a principle in the entity that owns approximately 350 acres in this area. Mr. Dunigan stated that while they are supportive of the concept of a collector road through the property, there are many details to be finalized, i.e., performance guarantees for construction of the road, maintenance, utilities, and, ultimately, who will pay for the road. Mr. Dunigan stated that he lives in Dallas and received his notice late Friday afternoon. Mr. Dunigan stated that this issue was important enough for him to attend this meeting to state their position and willingness to work with the City on this plan. Mr. Dunigan stated that they do not want to agree to a plan that just does not make sense. Mr. Dunigan stated that until such time as a compromise is reached regarding this thoroughfare plan amendment and receive more clarity as to what is being proposed (even on the western portion), they must stand in opposition regarding this issue.

Mr. Robert Allen, Staff Director for the Metropolitan Planning Organization, stated that he worked closely with City planning staff in determining the various possible alignments between Southwest

Drive and Catclaw Drive. In analyzing this thoroughfare plan amendment, at the request of the Planning and Zoning Commission, it was determined that there were many possible connections.

Mr. McClarty stated that the individuals who own land in this area need to be involved in the planning discussions.

Ms. Campos stated that that the Commission cannot provide staff with input because at this point they do not believe they have enough information.

Mr. Glen Galle stated that he and other family members own property in this area. Mr. Galle stated that they did not receive notification regarding the last meet of the Planning and Zoning Commission and received notice of this meeting on Friday evening. Mr. Galle stated that there are many unanswered questions regarding this issue and would like to have these questions answered before they comment on this thoroughfare plan amendment.

Ms. Campos closed the public hearing.

Mr. Bixby stated that it is his belief that staff and the Commission have arrived at a consensus regarding the “B-2” and “South Sharon Road” general idea for a collector street. Mr. Bixby stated that this is a “general” idea and the Commission should direct staff to work with Mr. Dunigan and other property owners in the area to “fine tune” this proposal. If the City staff wishes to present a proposal connecting to Catclaw, the Commission would also review this proposal.

Dr. Long asked if there is a legal requirement for notification of thoroughfare plan amendments.

Mr. James stated that there is no legal requirement for notification – this has been completed as a courtesy to these property owners.

Mr. Bixby stated that his direction to staff would be Alternative B-2 and south to Rebecca Lane and staff would submit other recommendations with this general design. Mr. Bixby also requested that the property owners be included in the planning of the thoroughfare plan amendment.

Mr. McRoy asked the Commission members for clarification as to whether the staff should move forward with the drawing proposed by Mr. Bixby as the focus point for the next set of drawings. Staff will begin with the proposal and determine if this could be applied in this area. If not, other options will be provided.

Ms. Campos responded affirmatively – the Commission is not committing to any amendment at this time – only proposals.

Mr. Famble moved to table this Thoroughfare Plan Amendment until the Commission’s September meeting. Staff will review the changes proposed by the Commission at this meeting and submit any additional proposals to the Thoroughfare Plan. Mr. McClarty seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.

Item Nine: Director's Report

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

Mr. James provided the Commission with a memorandum regarding actions taken by the City Council on items considered by the Planning and Zoning Commission

Item Ten: Election of Officers

Nominations received from the Commission members were as follows:

- Chairman: Tim McClarty
- Vice Chairman: Fred Famable
- Secretary: Clint Rosenbaum
- Sergeant at Arms: Lydia Long

Mr. Bixby moved that the nominations be accepted by acclamation. Dr. Long seconded the motion and the motion carried by a vote of seven (7) in favor (Bixby, Campos, Famble, Long, McClarty, Rosenbaum) to none (0) opposed

Item Eleven: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at 5:25 p.m.

Approved: _____, Chairman