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**PLANNING & ZONING COMMISSION**

**August 18, 2008**

**Minutes**

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Members Present: Bruce Bixby  
Fred Famble  
Tim McClarty  
Clint Rosenbaum  
David Todd

Members Absent: Ovelia Campos  
Lydia M. Long

Staff Present: 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 Szech, Executive Secretary, Recording

Others Present: Bob & Juanita Rains  
Miller Talbot  
Blake Smith  
Raymond Brown, Jr.  
Juan Lopez  
Dave Boyll  
Paul Johnson  
Wade Clark  
Dora Alvarez  
Joey Kincaid  
Mike R. Choate  
Kenneth Musgrave  
Exia Walker  
Jennifer Ward  
Richard Cook  
Nicole Cook  
Brad Carter  
Susie Lozano

**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. Famble 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 July 7, 2008, Planning and Zoning Commission meetings. Mr. Famble seconded the motion and the motion carried unanimously.**

**Item Four: Plats**

Mr. Zack Rainbow presented information regarding plats a. - f. 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 all meet Subdivision Regulation requirements.

Mr. Todd requested that MRP-3508 be considered separately. The Commission members were in agreement and the following plats were considered: FP-1507; FP-1408; MRP-2508; FRP-3408; and, MRP-3608.

Mr. McClarty 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. Famble moved to approve FP-1507; FP-1408; MRP-2508; FRP-3408; MRP, 2808; and, MRP-3608. Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor (with Mr. Todd abstaining on FRP-3408) (Bixby, Famble, McClarty, Rosenbaum and Todd) to none (0) opposed.**

Mr. Todd requested the situation surrounding MRP-3508 be explained to the remainder of the Planning and Zoning Commissioners in order for the Commission to establish ground rules as to how such instances will be handled by this Commission in the future.

Mr. Rainbow stated that the area in question was originally one lot. In 1982 the previous landowners sold off a small section of the lot by metes and bounds to a billboard company. Creating this small substandard remainder lot caused the plat to become void. When the owner of the larger lot applied for a building permit, he was informed that a building permit could only be issued for a duly recorded lot of record (which is a plat). Since the ordinance does not allow for remainder lots on a plat, the substandard remainder lot had to be included in the replat.

Mr. Todd stated that he has had a number of clients question him about this, i.e., City and TxDOT right-of-way requests off rights-of-way recorded by metes and bounds. Mr. Todd stated that if these situations arise in the future, should the property owners be advised that the City and/or TxDOT should complete the platting process and all public improvements required by a plat due to a new ordinance. Mr. Todd stated that he is attempting to set the "ground rules" for requests from a state, city or federal agency for additional right-of-way off platted lots.

Mr. Ed McRoy stated that state law mandates that all division of property should be completed by a plat. It also allows individual communities, however, to identify instances where a plat is not required. The City of Abilene's ordinance does not identify this particular situation as one in which a plat would not be required. Right-of-way is not a fee transfer of property – it is in essence an easement and easements do not necessarily constitute a subdivision of the property; therefore, a plat is not necessarily required every time an easement is added to a property.

Mr. McClarty stated that this is an issue that appears can be corrected in the ordinance by allowing Planning staff, the Board of Adjustment or the Planning and Zoning Commission the authority to review these situations on a case by case basis.

Mr. McRoy stated that the issues and concerns expressed by the Planning Commissioners today will be addressed in the rewriting of the ordinance. The Commission will be given an opportunity to review this material prior to adoption and if all concerns have not been addressed, staff will take under advisement any input provided by this Commission.

Mr. McClarty asked if these rules regarding replats are only recently being enforced. Mr. McClarty stated that this situation has occurred a number of times with properties in which he has been involved and a replat was not required.

Mr. Rainbow stated that the ordinance has been in place all along but only recently has staff actively enforced this portion of the ordinance.

Mr. McClarty opened the public hearing regarding this plat.

Mr. Paul Johnson stated that he too is encountering ramifications from this change. This cost will be placed on the landowners if this situation is not corrected. Mr. Johnson stated that there has been a great deal of talk about making it easier to develop in Abilene and this situation certainly reflects that the ordinance should be reviewed.

Mr. McClarty closed the public hearing.

Mr. Bixby stated that this issue should be reviewed separately from the entire ordinance due to the time factor. Mr. Bixby requested that staff begin the ordinance revision now.

**Mr. Bixby moved to approve MRP-3508. Mr. Todd seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, McClarty, Rosenbaum and Todd) to none (0) opposed.**

Mr. McClarty requested that staff present the revisions recommended by Mr. Bixby at the October meeting of the Planning and Zoning Commission.

**Item Five: Rezoning Requests**

a. Z-2008-28

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Paul Johnson to rezone property from O (Office) to PDD (Planned Development District) zoning, located at 501, 601, 609, 617, 625, 633, and 641 South Judge Ely Boulevard.

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

Mr. Ben Bryner provided the staff report for this case. The request is to rezone property from O to PDD. The subject parcel totals approximately 3.21 acres and is currently zoned O (Office). The parcels are undeveloped. The adjacent properties have RS-6 (Single-Family Residential) and RM-2

(Multi-Family Residential) to the east, RS-6 and O to the south and west, and LC (Limited Commercial) and LI (Light Industrial) to the north. The area was annexed in 1957 and zoned AO (Agricultural Open Space). Sometime later the property was zoned O.

Currently the properties are zoned Office and are undeveloped. The surrounding area is developed with a mix of single-family and multi-family dwellings to the east and west with LC and LI to the north. Craig Middle School is located to the southwest of the subject properties. The City's Bike Path runs along the west ROW line of the subject properties.

Property owners within 200 feet of the rezoning request were notified. Four (4) comment forms were returned in favor and four (4) returned in opposition.

Planning staff recommends approval of the PDD rezoning request.

Mr. Bryner noted some of the main points of the Planned Development District:

- Setback modifications: If development includes self storage and alley is maintained – a zero foot setback would be allowed for this type of units (this would be contingent upon additional material and standards)

  - Building materials – minimum of 10% masonry type materials

  - For self-storage units adjacent to residential areas masonry materials would be required as well as potentially requiring a masonry wall

  - All access to the self-storage units must be directed away from residential properties

  - Driveway accesses will be limited on Judge Ely Boulevard (maximum of three); a single drive would be allowed on Yeoman's and one on Friars

  - Common access easements would be required throughout the entire development

  - No outside storage for recreational vehicles, boats, campers, etc.

  - Restricted to one (1) pole sign per 600 linear feet along Judge Ely; the maximum height and square footage would be limited; one (1) monument sign would be permitted per building; and, wall signage would be restricted to 10% of any wall

  - Language is included regarding landscaping and buffers – this PDD would require a few shrubs and/or bushes per linear foot and interior landscaping is required

  - Screening, fencing, sidewalks, outside storage and display and lighting is maintained within this PDD

The proponent provided an exhibit illustrating potential development of the property.

Mr. Bixby asked if the storage units will be required to be only on the east side of the property or can these units be placed anywhere on the tract?

Mr. Bryner stated that based on discussion with the applicant, the intent is to place the storage units on the east side of the property. The PDD ordinance, however, does not restrict placement.

Mr. Bixby stated that since the PDD does not restrict the placement of storage units, the tract could ultimately be 100% storage units.

Mr. Bryner stated that the tract could potentially be developed as all storage units.

Mr. McClarty opened the public hearing.

Mr. Paul Johnson stated that Mr. Bryner has adequately covered the plans for this tract of land. In response to Mr. Bixby's comment regarding storage units, Mr. Johnson stated that he has recommended to the developer that self-storage be placed along the east side as it sets up a good buffer between this tract and the residential area to the east. Regarding curb cuts along Yeoman's and/or Friars, the City may request further discussions depending on fire department requirements (ingress/egress). Mr. Johnson stated that this property has been vacant for many years – mainly due to the Office zoning and it makes sense to place retail businesses in this area.

Mr. Bixby asked Mr. Johnson about the development of the tract – what would be more likely to develop first – shopping center uses versus self-storage use.

Mr. Johnson stated that it is his belief that development (retail/self storage) is balanced at this time.

Mr. McClarty closed the public hearing.

Mr. Bixby stated that, in his opinion, the storage units that have the highest demand at this time are most likely to be constructed first. Mr. Bixby also pointed out that the PDD, as written, would allow the entire tract to be developed with storage units. If the tract does develop entirely as storage units, the PDD might need to address visibility from Judge Ely Boulevard (potentially vehicles could be loading and unloading from a unit facing Judge Ely Boulevard and the site does not have to be developed in this manner). Mr. Bixby stated that he is somewhat skeptical about storage units in this area but believed he could approve such units with assurances that the project would be aesthetically pleasing and at this time the PDD does not address this scenario.

Mr. Rosenbaum stated that this item was tabled at last month's meeting because the rezoning seemed premature since development of the site has not been finalized. Information provided at today's meeting has only reinforced the issue that the rezoning is premature.

Mr. McClarty reopened the public hearing in order to address some of the concerns expressed by Commission members.

Mr. Johnson stated that he believed the developer would not have any problem with the changes suggested at this meeting. Mr. Johnson stated that it is known that retail uses will be the first part of the development as they have some commitments for this use. Mr. Johnson stated that if self-storage units are constructed, this will follow the construction of structures for retail uses. Mr. Johnson stated that he has completed many projects of self-storage units and this can be completed in an attractive manner.

Mr. McClarty closed the public hearing.

**Mr. Bixby moved to approve Z-2008-28 with direction to staff to revise the PDD Ordinance regarding the following issues and present the PDD to the City Council:**

- ⇒ Concern regarding the doors (bay doors of the storage units) facing Judge Ely Boulevard
- ⇒ Concern regarding the totality of the property developing as self-storage

- ⇒ Appropriate screening provided if development occurs on front of property (South Judge Ely Boulevard)
- ⇒ Architectural materials for wall – does not have to be totally masonry but a combination of masonry and iron
- ⇒ If self-storage units are developed along Judge Ely Boulevard, entrances should be off the side streets (Yeoman's and Friars)
- ⇒ If storage bay doors face Judge Ely Boulevard, an opaque fence should be constructed
- ⇒ The Commissioners preference for the storage units would be that the doors face the interior of the tract with a drive lane between the buildings (facing away from Judge Ely Boulevard)

**Mr. Famble seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, McClarty, Rosenbaum and Todd) to none (0) opposed.**

b. Z-2008-29

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Kenneth Musgrave; Agent: Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RM-3 (Multi-Family Residential) zoning, located east of Liberty Boulevard on the north side of Independence Boulevard.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO to RM-3. The subject parcel totals approximately 3.35 acres and is currently zoned AO (Agricultural Open Space). The parcels are undeveloped. The adjacent properties have RS-6 (Single-Family Residential) to the west, RM-3 (Residential Multi-Family) to the south, and AO to the north and east.

The area was annexed in 1982 and zoned AO (Agricultural Open Space). The property has been undeveloped since being annexed and remains AO.

Currently the properties are zoned AO and are undeveloped. The surrounding area is developed with a mix of single-family and multi-family dwellings to the south & west with undeveloped property to the north and east. There is also some PH (Patio Home Overlay) zoning to the south of the subject property.

The Future Land Use section of the Comprehensive Plan designates this general area as Low Density Residential. The surrounding area is completely developed for residential uses, incorporating multi-family, single-family, and patio home uses. The requested RM-3 zoning is compatible with the surrounding zoning and land uses.

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was returned in favor and one (1) in opposition of the request.

Planning staff recommends approval of the requested rezoning.

Mr. McClarty opened the public hearing.

Mr. Tal Fillingim, agent for Kenneth Musgrave, stated that this rezoning request is to continue the existing development in the Heritage Park area. This intent of this request is to continue the multi-family development on the north side of Independence Boulevard.

Mr. McClarty closed the public hearing.

**Mr. Todd moved to approve Z-2008-29. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, McClarty and Rosenbaum); one (1) abstention (Bixby); and, none (0) opposed.**

c. Z-2008-30

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Miller Talbot to rezone property from LI (Light Industrial) to HC (Heavy Commercial) zoning, located at 1549 and 1609 Cottonwood.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from LI to RM-3. Originally the request was for the rezoning of 1549 and 1609 Cottonwood Street to HC and City Staff has initiated the rezoning of a larger area to RM-3.

The subject parcels total approximately 23.75 acres and is currently zoned LI (Light Industrial). The parcels are mostly developed for residential uses. The adjacent properties have RS-6 (Single-Family Residential) to the south, LI to the north, east, and west, and HC (Heavy Commercial) to the west. The area was annexed in 1911 and zoned AO (Agricultural Open Space). Sometime later the property was zoned LI.

Currently the properties are zoned LI and are mostly developed for residential uses except a few properties that remain undeveloped. The surrounding area is developed with industrial and heavy commercial uses both across Cottonwood Street on the properties along North Treadaway Boulevard. to the west and the properties to the east across the railroad right-of-way.

The Future Land Use section of the Comprehensive Plan designates this general area as Low-Density Residential and adjacent to an Enhancement Corridor. Given the subject parcels location and proximity to a railroad ROW the property was zoned for industrial uses. Since then the properties have been developed for residential uses. The properties directly to the south have also been zoned for residential uses. The depth of the lots as well as the larger railroad ROW provides a nice buffer to the residential uses. Given these circumstances, RM-3 (Multi-Family Residential) would be compatible with the surrounding area.

Planning staff recommends approval of RM-3 zoning as recommended.

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was returned in favor and four (4) in opposition of the request.

Mr. McClarty opened the public hearing.

Mr. Joey Kincade stated that he owns property at 1538 Cottonwood and his family owns land at 1905 Cottonwood. These properties are adjacent to the area being considered for rezoning. Mr. Kincade stated that he is attending this meeting in order to receive additional information as to what is planned for this area. Mr. Kincade stated that after hearing the plans for the area and viewing the map provided by staff, he is in opposition to this request. Mr. Kincade stated that he and his family would like to see

the LI area continue to grow industrially. Rezoning to residential may hinder future development of the area as an industrial site.

Mr. Miller Talbot stated that it is not his intent to create a hardship for his neighbors but to rezone his property in order to obtain a financial gain and to do something positive with a piece of property that has been neglected.

Mr. Bixby asked Mr. Talbot if his original request was for his property only and City staff expanded the request.

Mr. Talbot responded affirmatively.

Mr. McClarty closed the public hearing.

Mr. Bixby asked staff about the two opposition letters received from property owners within the rezoning area; i.e., are there businesses at these locations, are the properties being utilized, etc.

Mr. Jones stated that in viewing this property prior to today's meeting, to his recollection there are no businesses fronting onto Cottonwood – this site is developed as residential.

Mr. Bixby asked if staff's recommendation was based on the property's current use.

Mr. Jones stated that this is correct.

**Mr. Bixby moved to approve Z-2008-30 as proposed by staff. Mr. Rosenbaum seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, McClarty, Rosenbaum and Todd) to none (0) opposed.**

d. Z-2008-31

Public hearing and possible vote to recommend approval or denial to the City Council on a request from David Taylor, Horne Properties; Agent: Tal Fillingim to rezone property from AO (Agricultural Open Space) and HC (Heavy Commercial) to PDD-113 (Planned Development District) zoning, located on the north side of Musgrave Boulevard across from Scottish Road.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO and HC to PDD-113. The subject parcel totals approximately 1.04 acres and is currently zoned AO (Agricultural Open Space) and HC (Heavy Commercial). The parcels are undeveloped. The adjacent properties have PDD (Planned Development District) to the east and west, with HC to the north, and AO to the north and south as well.

The area was partly annexed in 1964 and the remainder of the property was annexed in 1980 and zoned AO (Agricultural Open Space). In 1994 a portion of the property was rezoned to HC.

Currently the property is zoned AO and HC and is undeveloped. The surrounding area has seen a lot of development in recent years. The surrounding PDD-113 was adopted in 2006 while PDD-120, to the east across Musgrave Boulevard, was passed in 2007.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Major Commercial and Business center. Commercial activity along Musgrave Boulevard is compatible with the surrounding area.

When PDD-113 was written it was written in a way to allow for future expansion of property along Musgrave Boulevard and East Lake Road to be incorporated into the PDD, including language to address signage, access, landscaping, and other issues pertaining to the future development of these properties. A PDD is appropriate to ensure that the objectives of the Comprehensive Plan are addressed for this major commercial center.

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

Staff recommends approval of amending PDD-113 to include the subject property as originally requested without modifying monument sign standards.

Mr. McClarty opened the public hearing.

Mr. Tal Fillingim, agent for Horne Properties, stated that this request is to expand an existing PDD. Mr. Fillingim stated that he worked with staff on the original PDD. Within this original PDD signage was addressed to some extent and remains somewhat vague. At the time the original PDD was prepared, their intention was that as the PDD was extended that portion of the PDD regarding signage would be addressed. The owner/applicant, Horne Properties, is requesting that language regarding monument signage be added to increase monument signs to 12 feet in height and 200 square feet. This monument signage request would apply to the entire strip of land highlighted in Exhibit B.

Mr. McClarty closed the public hearing.

Mr. Jones stated that the two lots across the street but still a part of the PDD do not have frontage on the access road. For this reason, staff felt comfortable with allowing larger signs. This PDD does allow for some group monument and group pole signs along the access road. For this reason staff is more comfortable with an eight foot high/100 square feet monument sign.

Mr. McRoy stated that due to the location of the sign and the speed of traffic, a 12 foot sign is excessive and believes that the monument sign issue is clear in the PDD and is the language derived from the Sign Regulations.

Mr. Rosenbaum asked for the section in the current Sign Regulations where monument signs are addressed.

Mr. Jones referred the Commissioners to Section 23-161 of the Sign Regulations, #5, which states, "Free standing monument signs shall not exceed a height of 42 inches."

Mr. Bixby stated that the Sign Ordinance (Regulations) should be addressed as soon as possible.

**Mr. Bixby moved to approve Z-2008-31 with the inclusion of the 12-foot high and 200 square foot monument sign (this would only apply to the current PDD being addressed at this meeting).**

**Mr. Famble seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**Item Six: Thoroughfare Closure**

TC-2008-07

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Stripes, LLC to abandon Inwood Lane, per the C.B. Allen Subdivision.

Mr. Matt Jones presented the staff report for this case. The request is to abandon Inwood Lane, per the C.B. Allen Subdivision.

The applicant currently owns the parcel of land to the northwest of the subject right-of-way. Inwood Lane does not have sufficient ROW dedication and there have never been any improvements made.

The zoning for the surrounding area is PDD (Planned Development District) and AO (Agricultural Open Space). Dyess Air Force Base is located to the west across Dub Wright Blvd. There are no plans for future dedication on the proposed Thoroughfare Plan. There are currently no utilities located in the ROW and per the Plat Review Committee no future plans to run any utilities down the ROW.

The Plat Review Committee recommends approval as the request meets all criteria for abandonment.

Planning staff recommends approval of the request.

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.

Mr. McClarty opened the public hearing.

Mr. Michael Choate, representing Stripes LLC, stated that their intent is to develop the lot at the southeast corner. Mr. Choate stated that this is about one of five properties that they will be developing in Abilene.

Mr. McClarty closed the public hearing.

**Mr. Famble moved to approve TC-2008-07. Mr. Todd seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, McClarty, Rosenbaum, and Todd) to none (0) opposed.**

Prior to the Director's report, Mr. McClarty asked for the status of staff's review of the access management issue. Mr. McClarty stated that this Commission provided direction to staff to discuss this issue with the City Council. Mr. McClarty stated that he recalls that Council asked staff to investigate the steps necessary to obtain access management from the State in order for the City to prepare an ordinance that would address the state highways that bisect the City.

Mr. McRoy stated that there have been internal discussions with staff and the MPO regarding the creation of an access management program. Mr. McRoy stated that he believes staff has made significant progress in this regard; however, certain areas of complexity remain to be considered. Staff

is not prepared to go forward with this issue at the present time but it is anticipated that this issue will be formalized and submitted to this Commission by the end of 2008.

**Item Six: Director's Report**

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

Commissioners were provided a memorandum regarding recent City Council actions. At the last Council meeting, all items were approved as per the Planning and Zoning Commission's recommendation with one exception:

The rezoning request (to Office zoning) for property located on Sayles Boulevard near South 14<sup>th</sup> Street was denied by this Commission (due to a three (3) to three (3) tie vote) but was approved by the City Council.

Mr. McRoy stated that staff has received information from the City Secretary for the City of Abilene regarding Board/Commission training. The State mandates that Board and Commission members must complete the Open Meetings/Public Information training. There are some Commissioners who have not completed this training and staff would like to have this completed as soon as possible.

**Item Seven: Adjourn**

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

Approved: _____, Chairman
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