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**PLANNING & ZONING COMMISSION**

**October 6, 2008**

**Minutes**

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Members Present: Bruce Bixby  
Ovelia Campos  
Lydia M. Long  
Tim McClarty  
Clint Rosenbaum  
David Todd

Members Absent: Fred Famble

Staff Present: T. Daniel Santee, City Attorney  
Jon James, Director of Planning and Development Services  
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: Justin Bush  
Kenny Smith  
Ronnie Smith  
Wilson Medina  
Tim Cook  
Riley Griffith  
J. Kent  
Gary Grubbs  
Robert C. Kern  
Rev. Sharon Westly

**Item One: Call to Order**

Mr. Tim Rice McClarty called the meeting to order at 1:32 p.m. and declared a quorum present.

**Item Two: Invocation**

Mr. McClarty gave the Invocation.

**Item Three: Approval of Minutes**

**Mr. Rosenbaum moved to approve the minutes of the September 2, 2008, Planning and Zoning Commission meetings. Dr. Long seconded the motion and the motion carried unanimously.**

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

Mr. McClarty informed everyone that Item 7 b., Discussion and possible action on an Ordinance amending the City of Abilene Zoning Ordinance, Sections 23-306 and 23-363, regarding Homeless Shelters and Social Service Facilities, has been pulled from the agenda and will not be considered at this meeting.

**Item Four: Plats**

Mr. Zack Rainbow presented information regarding the five plats listed on the agenda. The following plats; FP-1608, MP-1908, MRP-3808, and FP-3908 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. Staff recommends approval of MRP-3208 conditional upon the receipt of a financial guarantee for the required public improvements within one week from the applicant and that this guarantee is accepted by the City Engineer.

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.

**Dr. Long moved to approve FP-1608, MP-1908, MRP-3808, and FP-3908, as submitted, and MRP 3208 conditional upon receiving the financial guarantee for the required public improvements. Ms Campos seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, Long, McClarty and Rosenbaum); one abstention on plats FP-1608 and MRP-3208 (Todd) and none (0) opposed.**

**Item Five: Rezoning Requests**

a. Z-2008-33

Public hearing and possible vote to recommend approval or denial to the City Council on a request from CKWSM (Ronnie Smith Transmission) to rezone property from LC (Limited Commercial) to GC (General Commercial) zoning, located at 4201 Bob-O-Link Drive.

Mr. Matt Jones presented the staff report for this case. Rezone property from LC to GC. The subject parcel totals approximately 0.16 acres and is currently zoned LC (Limited Commercial). The parcel is undeveloped. The adjacent properties have GC (General Commercial) to the east and north, PDD (Planned Development District) to the south, and RS-6 (Single-Family Residential) to the north and west.

The area was annexed in 1959 and zoned AO (Agricultural Open Space). The property was later zoned RM-3 (Multi-Family Residential) before it was zoned LC (Limited Commercial) in 2004.

Currently the property is zoned LC and is undeveloped. There is a large single-family subdivision to the north and west of the property. The properties directly to the north are being developed for hotel uses, the property to the south is developed with a Wal-Mart, and to the east is an automotive repair business.

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential. Although there is the presence of commercial activity in the immediate area, this rezoning would allow GC zoning to directly abut RS-6 zoning, which is not deemed to be compatible. The current LC zoning serves as a buffer to the single-family zoning from some of the more intensive GC zoning uses that would not be appropriate adjacent to single-family zoning.

Planning staff recommends denial of the request.

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

Mr. McClarty asked the reason for the City's recommendation for denial of the request. Mr. McClarty stated that the site is vacant and has been vacant for many years, the possibility of a residence being constructed on this site is slim, the proponent has cleared and maintains the property, and, the property is abutted on three sides by commercial uses and asked why staff has recommended denial.

Mr. Jones stated that staff has discussed alternatives with the proponent. One recommendation is to abandon the alley right-of-way; relocate the alley to the west (adjacent to the residential use); then, replat the area into a single lot. The alley and landscaping would provide a buffer between the commercial and residential property.

Mr. Bixby asked for a brief description of the landscaping/buffering requirements between the general commercial and residential areas.

Mr. Jones stated that the landscaping/buffering requirements must total 25 points (five foot buffer distance, and points totaling 25 which could include a masonry wall, opaque fence, additional buffer distance, and landscaping options).

Mr. McClarty opened the public hearing.

Mr. Kenny Smith, one of the owners of Ronnie Smith Transmission, stated that there were be a great expense involved in moving the alley. Mr. Smith stated that their main objective is to provide additional parking for their customers.

Mr. McClarty asked Mr. Smith if he was aware of the fact that if the zoning is changed to General Commercial additional landscaping/buffers would be required.

Mr. Smith responded that he is aware of this fact. Mr. Smith stated that there is sufficient space on this lot for the buffer and to furnish the parking needed for this business. Mr. Smith stated that rezoning the property to General Commercial would require only minimum funds.

Mr. McClarty closed the public hearing.

Dr. Long stated that she has concerns because the property being rezoned to General Commercial abuts residential property

Mr. James stated that at this meeting the Commission could not approve this request "only if the alley is moved." Also, the buffer would only be triggered by the submittal of a site plan - utilizing this area for parking would not require a site plan.

Mr. Bixby stated that he has a couple of thoughts regarding this case:

1. If this request was granted, buffering would have to become a condition and part of the rezoning request.

2. The current location of the alley is not a good design for what is trying to be accomplished by the proponent. The alley should be located between the residence and this lot (adjacent to the existing property).

Dr. Long asked if the platting process for relocating the alley would trigger the buffering requirement.

Mr. James responded the platting does not trigger the landscaping, buffering or screening requirements.

Mr. Bixby asked if the Commission could require the buffering requirement if the property was paved.

Mr. James stated that under the current ordinance, buffering could not be required. This is an item being reviewed in the new Land Development Code.

Mr. McClarty stated that he has concerns regarding the costs associated with the relocation of the alley and replatting of the property. Mr. McClarty stated the he also agrees that a buffer should be in place. Mr. McClarty stated that staff has stated that the Commission cannot make this a requirement; however, the proponent has stated that he will be install a buffer between this property and the residential area.

Mr. Todd stated that he concurs with Mr. McClarty regarding the expenses he mentioned.

Mr. McClarty reopened the public hearing.

Mr. Kenny Smith stated that he received a letter from the owner of the house next to the vacant lot stating that he was in favor of the proponent's request.

Mr. McClarty stated that if the Commission approves the General Commercial zoning request, the proponent would not be required to install a landscaping buffer; however, Mr. McClarty stated that Mr. Smith has stated that he wants to do this and this is his plan. Mr. McClarty asked Mr. Smith to state, in this public forum, that if the request is approved Mr. Smith will work with the City to install the buffer that will protect the residential neighborhood and make his property contiguous.

Mr. Smith responded that he guarantees that if the rezoning is approved and they can proceed with the parking area due to the money that will be saved by not having to plat, etc., there will be no problem with installing a buffer. Mr. Smith discussed the "points" system regarding landscaping/buffering with Mr. McRoy. Mr. Smith stated that he would need to know exactly what is included in this "points" system and what would be required.

Mr. McClarty stated that, based on the comments provided by Mr. Smith, his concerns have been satisfied.

Mr. McClarty closed the public hearing.

There was discussion among Commissioners regarding the moving of the alley. Mr. Todd stated that this could be dedicated as an easement and any utilities currently located in the alley would remain. Mr. James stated that in this case he did not believe paving would be required.

Mr. McClarty stated that the cost to complete this request would be approximately \$17,000 (platting, curb cut, base material, landscaping/buffering, etc.).

Mr. James stated that if the Commission's decision is dependent upon some of the costs mentioned earlier, the item could be tabled to allow staff to come back with firm requirements and cost figures.

Dr. Long stated that she appreciates Mr. Smith's giving his word that landscaping/buffering would be completed; however, if this is approved by this Commission, there is nothing stopping Mr. Smith from selling the lot without completing any of the items mentioned previously. Dr. Long stated that as Planners and Commissioners, they should be looking at the "worse case scenario" and that is this Commission has no further control for future development of this piece of property that has been zoned General Commercial. Dr. Long stated that good planning dictates that General Commercial zoning is not placed adjacent to residential zoning – some type of buffering should be in place.

**Mr. Todd moved to approve Z-2008-33 basically because there is GC zoning down to Brentwood on the north and based on the fact that the property owner of the house adjacent to this lot is in favor of the rezoning request. Ms. Campos seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, McClarty, Rosenbaum and Todd) to one (1) opposed (Long).**

b. Z-2008-34

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Lana Trigg to rezone property from AO (Agricultural Open Space) to RR-1 (Rural Residential) zoning located at 6149 Hartford Street.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO to RR-1. The subject parcel totals approximately 2.7 acres and is currently zoned AO (Agricultural Open Space). The parcel is undeveloped. The adjacent properties have AO to the south and east, with PDD (Planned Development District) to the north and west, with RS-6 (Single-Family Residential) to the north. The area was annexed in 1959 and zoned AO (Agricultural Open Space). The property has been undeveloped since being annexed and remains AO.

Currently the property is zoned AO and is undeveloped. The surrounding area primarily consists of single-family housing that sit on larger RS-6 lots as well as agricultural lots with single-family development on them. The PDD to the west is intended for commercial development, but has higher aesthetic requirements to soften the effect on the surrounding residential uses.

The Future Land Use section of the Comprehensive Plan designates this general area for low-density residential. The subject property is in the process of being replatted. The current zoning of AO requires a minimum lot size of 5 acres which the subject property does not meet. RR-1 (Rural Residential) zoning would allow this property to be platted and would not create any non-conforming issues on the property. Rural residential zoning is also compatible with the surrounding zoning.

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

Planning staff recommends approval of the rezoning as requested.

Mr. McClarty opened the public hearing. No one came forward and the public hearing was closed.

**Mr. Bixby moved to approve Z-2008-34. Mr. McClarty seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**Item Six: Thoroughfare Closure**

a. TC-2008-08

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the City of Abilene to abandon a partial alley right-of-way directly south of 6141 Hartford Street.

Mr. Matt Jones presented the staff report for this case. The City initiated this thoroughfare closure and the request is to abandon a partial alley right-of-way directly south of 6141 Hartford Street. The partial alley right-of-way was dedicated as a part of a plat that dedicated half of the right-of-way needed for a full alley right-of-way width. The intent was to get future dedication of right-of-way to create an alley as future properties were developed.

The zoning for the surrounding area is AO (Agricultural Open Space). There are no plans and no need for future dedication of additional alley right-of-way. There are currently no utilities located in the right-of-way and per the Plat Review Committee no future plans to run any utilities down the right-of-way.

Property owners within 200 feet of the request were notified. No (0) response forms were received either in favor or in opposition of the request.

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

Planning staff recommends approval of the request.

Mr. McClarty opened the public hearing. No one came forward and the public hearing was closed.

**Mr. Todd moved to approve TC-2008-08. Dr. Long seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Long, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**Item Seven: Ordinance Amendment:**

a. 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: At the June 3, 2008, meeting, the Planning and Zoning Commission recommended a revision to the Sign Ordinance regarding Electronic Message Signs. As part of the motion, the Commission directed staff to hold meetings with sign companies and interested businesses to gather additional input. This has been completed and the information being presented today is based on the information resulting from these meetings.

Mr. James stated that although initially there was a recommendation to drop this issue altogether and not implement any additional regulations on these signs, the feedback received indicates general support for the following elements of the proposed ordinance:

- ⇒ Restrictions on signs near residential areas
- ⇒ Prohibition of “flashing” (but not all animation)
- ⇒ Agree that full-motion video and signs not act as TVs”
- ⇒ Brightness restrictions that are consistent with industry standards

Areas of concern (where meeting attendees were not in agreement with the draft ordinance) include:

- ⇒ Complete prohibition on animation and motion
- ⇒ No differentiation of on-premise vs. off-premise signs
- ⇒ Minimum display time for static images is too long (current proposal-10 seconds)
- ⇒ Wasted investment for those who already have these signs that will be significantly restricted

Mr. James stated that the Commission has choices:

- ⇒ Keep the ordinance as recommend by this Commission
- ⇒ Recommend changes based on feedback from the meetings, i.e., reduce the minimum display time from 10 seconds; allow motion or animation for signs smaller than a certain size; and/or allow for the continued use of existing electronic message signs already in place either until the sign is replaced OR for an amortization period of a specific number of years.

The Commissioners were provided with a summary of peer cities regulations of electronic message signs.

Mr. Bixby expressed concern regarding the statement “Prohibition of ‘flashing’ but not all animation.”

Mr. James stated that this is an area of concern for staff also. If the Commission’s decision is to distinguish between flashing and animation, staff must carefully craft the definition for these terms.

Mr. McClarty asked Mr. James the status of the adoption of a completely new Sign Ordinance.

Mr. James stated that a new Sign Ordinance is in the works; however, staff has been directed to complete a number of other issues and these have taken precedence over completion of the Sign Ordinance. Mr. James stated that if the Sign Ordinance cannot be completed within the next few months, then, it will be included in the Land Development Code that should be adopted in 2009.

Mr. McClarty opened the public hearing.

Mr. Robert Kern with Acme Sign Company expressed appreciation to the Commission for allowing them and their customers to voice concerns regarding this ordinance.

1. On-premise vs. off-premise sign seems to be causing some confusion.
2. The 10-second display may not be realistic for smaller signs

Mr. Tim Cook with Day Sign Company stated that the main area of concern, beside the on-premise and off-premise issue, is the square footage maximum size for an animated sign. Mr. Cook stated that increasing this size by 25 square feet, all signs in town would be encompassed and there would be no need for a “grandfather clause.” Mr. Cook stated that defining a flashing sign vs. a smooth transition of

animation would not be difficult. Mr. Cook also recommended a one to two second hold time for message transition. Mr. Cook stated that on larger billboards, movement would not be required as the entire message could be displayed at one time (on one frame).

Mr. Gary Grubbs with Advertising Media stated that he is not a sign owner; however, he occasionally places advertising on some of these signs, as well as representing owners of on-premise signs. Mr. Grubbs stated that he would be in agreement with the inclusion of a grandfather clause in the ordinance. Mr. Grubbs stated that currently there are only three large signs that would be capable of animation to the degree that it could become a distraction. Mr. Grubbs stated that if the display was set at 1-2 seconds, this would provide the small signs with an opportunity to transition the message so that passing motorists could read the message.

Mr. McClarty closed the public hearing.

Mr. Bixby stated the following:

- ⇒ He would be in favor of easing the existing requirements, somewhat
- ⇒ For on-premise signs – up to 75 square feet would be proper with a minimum display of 2 seconds
- ⇒ No flashing signs
- ⇒ Smooth animation
- ⇒ Off-premise signs – 8 second rather than current 10 second display time
- ⇒ Existing brightness requirements are agreeable with everyone
- ⇒ Residential protection requirements (for brightness) are OK
- ⇒ It seems that everyone is in agreement that there be no TV or video on the signs
- ⇒ Not in favor of the grandfather condition

Mr. Rosenbaum asked if off premise and on premise signs are clearly defined.

Mr. James stated that the ordinance is clear – basically, if the sign only advertises for the business at the same location as the sign it is an on-premise sign. If the sign advertises for anything off the site on which the sign is located, then, it is an off-premise sign. For electronic message signs, there is no differentiation between off-premise and on-premise.

Mr. Rosenbaum asked if rewording would be required in the Sign Ordinance if the Commission's decision was to limit on-premise signs to 75 or 100 square feet and to a scrolling or one or two second message.

Mr. James stated that this is correct but could be easily accomplished.

Mr. Rosenbaum stated that he is in favor of reducing the transition time for off-premise signs, perhaps to six seconds.

Mr. James stated that staff would prefer that the transition time remain at eight seconds in order to be consistent with TxDOT's requirement.

**Mr. Bixby moved to amend the Sign Regulations regarding Electronic Message signs as follows:**

- ⇒ **On premise signs- 2 second transition time with a maximum sign size of 75 square feet**



**Allowing no flashing signs, only allow smooth animation or scrolling message**

- ⇒ **Off premise signs – minimum of 8 second display time with a maximum of two second transition time**
- ⇒ **Existing brightness requirements remain as currently written**
- ⇒ **Existing protections for residential areas remain as currently written**
- ⇒ **No television or video**
- ⇒ **No grandfather clause included in the ordinance**

Mr. James asked for clarification regarding signs larger than 75 square feet for on-premise signs

**Mr. Bixby stated that for on-premise signs larger than 75 square feet the display time would be eight (8) seconds with a two (2) second transition time**

Prior to the vote, Mr. McClarty re-emphasized that it is his contention that billboards are off-premise signs and should be located on the interstate and not within the City of Abilene.

Mr. James stated that staff will re-draft the ordinance and submit the information to the City Council without bringing it back before this Commission. Commissioners will be sent a copy of the recommendation prior to being submitted to the City Council.

**Dr. Long seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, Long, Rosenbaum and Todd) to one (1) in opposition (McClarty).**

**Item Eight: Director's Report**

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

Commissioners were provided a memorandum regarding recent Council decisions.

**Item Nine: Adjourn**

There being no further business, the Planning and Zoning Commission meeting was adjourned at 2:57 p.m.

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