
PLANNING & ZONING COMMISSION

December 1, 2008

Minutes

Members Present: Bruce Bixby
Ovelia Campos
Fred Famble
Lydia M. Long
Tim McClarty
Clint Rosenbaum

Members Absent: David Todd

Staff Present: T. Daniel Santee, City Attorney
Jon James, Director of Planning and Development Services
Paul Knippel, Director of Public Works
Edward S. McRoy, Assistant Director of Planning and Development Services
Ben Bryner, Planning Services Manager
Matt Jones, Planner I
Zack Rainbow, Planner I
JoAnn Sczech, Executive Secretary, Recording

Others Present: Mack Moye
Dr. Fred Adams
Harold Preston
Tanya Johnson
David McMeekan
Jack Chamberlain
Jack Harkins
Erin Johnson

Item One: Call to Order

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

Item Two: Invocation

Mr. McClarty gave the Invocation.

Item Three: Approval of Minutes

Mr. Bixby moved to approve the minutes of the November 3, 2008, Planning and Zoning Commission meeting. Mr. Rosenbaum seconded the motion and the motion carried unanimously.

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

Item Four: Plats

Mr. Zack Rainbow presented information regarding the plats listed on the agenda. The following plats; FP-4608, MRP-5208, and MRP-5308 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. 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 the three plats as submitted. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty, and Rosenbaum) to none (0) opposed

Item Five: Rezoning Requests

a. Z-2008-36

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Adams and Starks Funeral Home to rezone property from RS-6 (Single-Family Residential) to LC (Limited Commercial) zoning, located at 725 North 12th Street.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from RS-6 to LC. The subject parcel totals approximately 0.32 acres and is currently zoned RS-6 (Single-Family Residential). The parcel is has been developed and was most recently used for a church. The adjacent properties also have RS-6 zoning. The area was annexed in 1895 and zoned RS-6 sometime after it was annexed.

Currently the property is zoned RS-6 and has been developed with a single building of around 2000sf. The property was most recently occupied by a church and they used the building for their church meeting facility. The property is surrounded on all sides by RS-6 zoning. The properties to the north and east are developed with single-family homes, while the properties to the south and west are undeveloped. There is commercially zoned property in the area along Pine Street, Walnut Street and Treadaway Boulevard., but these properties are on collector or arterial streets, whereas the subject property is located at the corner of two local streets.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential, which is a general designation. However, there is also an adopted Carver Neighborhood Plan for this area that makes more specific recommendations for future land uses in the neighborhood which shows this property as single-family residential. A Church on this property is both compatible with the existing single-family residential zoning and consistent with the Neighborhood Plan recommendations. However, a change to allowed commercial uses on this property is not consistent with the recommendations of the adopted Neighborhood Plan.

Planning staff recommends denial based on the recommendations of the adopted Carver Neighborhood Plan.

Property owners within 200 feet of the rezoning request were notified. Three (3) comment forms were returned in favor and none (0) in opposition of the request.

Dr. Long asked if staff had notified representatives of the Carver Neighborhood.

Mr. Jones responded affirmatively; however, no response was received by the City staff.

Mr. McClarty opened the public hearing.

Ms. Tanya Johnson stated that she is representing her mother at this hearing. Ms. Johnson's mother lives across the street from the proposed zone change. Ms. Johnson stated that she and her mother appeared before this Commission in 2006 regarding a rezoning request to Heavy Commercial (HC) zoning. Ms. Johnson stated that this is a residential neighborhood and should remain residential. Ms. Johnson stated that a comment form was not returned in opposition of this request because they wanted to appear in person to state their opposition to the request.

Mr. Bixby stated that the Commission is dealing with the issue of revitalization of neighborhoods and asked Ms. Johnson if she had any ideas regarding the future of this area.

Ms. Johnson stated that what they would like is for this area to return a residential neighborhood. Ms. Johnson stated that one entity that would help with revitalization of the area is Friendship House. There are grants available for the Carver Neighborhood to access as this neighborhood is set up as a "nonprofit."

Dr. Fred Adams, representing Adams and Starks Funeral Home, stated that had he known of the concerns expressed at this meeting he would have provided pictures of the facility located in San Angelo. The San Angelo facility is in the middle of a residential area. Dr. Adams stated that he would also be opposed to any type of Heavy Commercial zoning in this area. Dr. Adams stated that this proposed facility is an opportunity to revitalize the area. Dr. Adams stated that they would do everything possible to enhance the area and encourage other businesses to do the same.

Dr. Long asked Dr. Adams if he owned the property. Dr. Adams stated that he has an affidavit signed by Pastor Moye, the current owner of the property, authorizing him to request this zone change. Dr. Adams stated that the property will be purchased by his company.

Mr. Jack Chamberlain stated that he recently purchased the three (3) properties immediately east of this property. Mr. Chamberlain stated that he is aware that the Carver Plan calls for this area to be developed as a residential area; however, he did not believe it will be developed in this manner. New development in the area, such as the facility proposed by Dr. Adams, might enhance and improve the area and encourage further development.

Mr. David McMeekan stated that he owns property in the 1200 block of Mesquite Street and is in favor of this request. Mr. McMeekan stated that his business has been located in this area for about 30 years and requested rezoning of his property a couple of years ago and the request was denied. Mr. McMeekan stated that he is in favor of this request and has not seen any development in the area.

Mr. Mack Moye stated that he owns the property on which the church is located, one lot behind the church, a lot across the street from the church and three additional lots around the corner from the church. Mr. Moye stated that he is favor of the Limited Commercial zoning but would not be in favor of Heavy Commercial.

Ms. Anna Valentine stated that she owns the property across the street from the church and is the only resident in this block. Ms. Valentine stated that she would like for this area to remain residential and would not want a funeral home across the street from her residence.

Mr. McClarty closed the public hearing.

Ms. Campos stated that the staff report reads that staff recommends denial based on recommendations in the adopted Carver Neighborhood Plan. Ms. Campos asked what these recommendations include.

Mr. Matt Jones stated that the Plan call for residential zoning (RS-6) in this area.

Mr. Famble asked if the front of the building could be re-oriented so that it does not face Ms. Valentine's property.

Mr. McClarty reopened the public hearing.

Mr. McClarty asked Dr. Adams if their plan is to purchase only the one property or other property in this area.

Dr. Adams stated that all property owned by the church will be a part of the purchase. Dr. Adams stated that he has worked in Abilene with Curtis-Starks Funeral Home and assured the resident that there would not be a great deal of traffic associated with this funeral home. Dr. Adams stated that he and his company are very serious about maintaining the integrity of the neighborhood in which they purchase property. Dr. Adams stated that all activity (arrival of merchandise and parking of vehicles) will take place in the rear of the building.

Ms. Tanya Johnson expressed concern regarding the additional lots that will be purchased in addition to the one on which the funeral home will be located (zoning) and visitors parking on the street.

Dr. Adams stated that currently there are only interested at the property at 725 North 12th Street. Dr. Adams stated that he would have no objection to residences being constructed at 1125 or 1134 and would even donate the property, if necessary, to the Carver Neighborhood for this purpose. Dr. Adams stated that the lead car, the hearse, and possibly other vehicles would be visible to Ms. Valentine on the day of a funeral.

Mr. McClarty closed the public hearing.

Mr. Bixby moved to approve Z-2008-36. Ms. Campos seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Campos, Famble and Rosenbaum) to two (2) opposed (McClarty and Long).

b. Z-1008-37

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Hardin-Simmons University to rezone property from RS-6 (Single-Family Residential) to CU (College University) zoning, located at 2602 Hickory Street.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from RS-6 to CU. The subject parcel totals approximately 0.7 acres and is currently zoned RS-6 (Single-Family

Residential). The parcel has been developed with a single-family dwelling unit. The adjacent properties have CU (College University) zoning to the north and south, and RS-6 zoning to the east and west. The area was annexed in 1950 and zoned RS-6 sometime after annexation.

Currently the property is zoned RS-6 and has been developed with a single-family dwelling. Hardin-Simmons University is located directly south of the subject property and the university also owns most of the property surrounding the subject property. There are also single-family residences across Hickory St. and to the north of the subject property.

The Future Land Use section of the Comprehensive Plan designates this general area as a low density residential as well as College University. The plan also designates this area as a Special Activities Center. Hardin-Simmons owns a lot of property in this general area and has plans to extend their existing facilities to the surrounding area. This expansion of the campus is compatible with the Comprehensive Plan.

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.

Planning staff recommends approval of the request.

Mr. McClarty opened the public hearing.

Mr. Jack Harkins, Tittle-Luther Partnership, stated that he is present to answer questions the Commissioners might have regarding this rezoning request. Mr. Harold Preston, Financial Officer, for HSU is also present to answer questions.

Commissioners had questions as to ownership of specific lots.

Mr. Harold Preston stated that the following properties are owned by HSU: 2601, 2613 and 2641 Hickory Street, 2641 Simmons and the lot east of this address, and 1317 Lowden. The maintenance facility for HSU will be located at 2602 Hickory Street.

Mr. McClarty closed the public hearing.

Ms. Campos moved to approve Z-2008-37. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty, and Rosenbaum) to none (0) opposed.

Item Six: Ordinance Amendment

a. Discussion and possible action on an Ordinance amending the City of Abilene Zoning Ordinance, Section 23-306 regarding Liquor Stores.

Mr. Ben Bryner presented the staff report for this case. The Taylor County Expo Center board recently voted unanimously to allow beer sales at a limited number of publicly ticketed events. However, upon review of the City's regulations, it was determined that the existing zoning for the expo center does not allow for the sale of alcohol.

The zoning on the Taylor County Expo Center property is AO (Agricultural Open Space). The use, “liquor store on-premise consumption,” is not a permitted use within the AO zoning district.

Staff is proposing an amendment to Section 23-306 in the Zoning Ordinance to allow the use of “liquor store on-premise consumption” within the AO zoning district with the condition that the sale of alcohol be accessory to the following uses: Drag Strip or Commercial Racing; Fair-grounds; Motorcycle Track; Rodeo Grounds; and Stadium.

Planning staff recommends approval of the proposed amendment.

Dr. Long asked what defines property as AO (Agriculture Open Space).

Mr. Bryner responded that AO requires a minimum area of five (5) acres and in the Permitted Use Chart of the Zoning Ordinance there are several uses permitted within the AO zoning category – some non-residential such as the five uses listed above. However, there is no provision allowing “Liquor Store, On-Premise Consumption” in an AO zoning district.

Several Commissioners expressed concern over the inclusion of “Stadium.”

Mr. James stated that the sale of liquor is a separate use. If a special exception was obtained for a stadium, the sale of alcohol would require the structure to meet the conditions placed on the sale of alcohol.

Mr. Bryner stated that much of what staff was considering concerned an accessory use to a larger event.

Mr. McClarty opened the public hearing. No one came forward to speak regarding this item and the public hearing was closed.

Mr. Rosenbaum moved to approve an Ordinance amendment to the City of Abilene Zoning Ordinance, Section 23-306, with the inclusion of an additional use, Amusement Facility, Temporary. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Long, McClarty and Rosenbaum) to none (0) opposed.

b. Discussion and possible Ordinance amending the City of Abilene Zoning Ordinance, Section 23-346 regarding the Pine Street Corridor Overlay.

Mr. Ben Bryner stated that the Pine Street Corridor Overlay information was presented at the last meeting of the Planning and Zoning Commission. Staff is bringing this item before the Commission today to allow for any guidance or changes requested by the Commissioners. Staff will be asking for a recommendation to forward this item to City Council.

Mr. Bixby asked Mr. Bryner to reiterate the changes made by the Commission at the November 17, 2008, meeting.

Mr. Bryner stated that no specific changes were recommended; however, some of the issues discussed were:

⇒ Elimination of signage requirements

⇒ Concerns regarding landscaping requirements

Mr. Bixby stated that the discussion items he recalls include:

⇒ Focus on streetscaping

⇒ Not try to deal with setbacks in this overlay zone

⇒ Architectural standards are acceptable

⇒ Enhance streetscape requirements – not to include parking lots away from the street

Mr. Bryner stated that additional setbacks were not being proposed – the intent was to provide an option to property owners (allow building to the front property line).

Mr. Bixby stated that he believed his comment referred to sidewalks – the width of the sidewalk should be greater than five (5) feet if only a five (5) foot setback is required.

Mr. McClarty stated that it appears to him that the most attractive option would include trees, green space and a sidewalk. Mr. McClarty stated that a ten-foot setback would be sufficient to address these three items.

Mr. James stated that the one item that a 10 foot setback would not allow is for someone to place a building on the property line. Currently, the standard layout is for the sidewalk to be placed in the right-of-way. There are buildings in the area that are currently on the property line and expansion of the building would not be allowed if the building is closer than 10 feet to the curb. The language utilized by staff does not dictate a five-foot setback – the maximum is five feet – they can be as close as zero and back from the property line as far as five feet. What cannot happen is a building 10 or 15 feet from the curb.

Mr. McClarty stated that he would be in agreement with a 0 lot line setback for the entire corridor – this would provide for the landscape buffer and the sidewalk. Mr. McClarty stated that it would make no difference to him if the parking lot or the building began at the 0 lot line. Therefore, Mr. McClarty stated that there is not reason to distinguish between “urban” and “suburban” development.

Mr. Bryner stated that if this is the case, one condition that should be added is that plantings would be allowed within the right-of-way.

Mr. Bixby agreed with Mr. McClarty’s recommendation and stated that the Commission should not try to design setbacks and parking lots behind the streetscape. Mr. Bixby stated that the streetscaping should be the Commission’s focus. Mr. Bixby voiced his displeasure that a Sign Ordinance is not in place, but the sign requirements stated in the Corridor Overlay are needed.

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

Mr. McClarty moved to recommend forwarding the Pine Street Corridor Overlay to City Council with the recommendation of a zero lot line setback (Mr. Rosenbaum asked about Options 1 and 2 regarding Urban and Suburban Development. Mr. James stated that these options will be combined into one statement citing the zero foot setback. Mr. Rosenbaum stated that the wording in the Landscaping section must be changed also. And, section B is eliminated.) Dr. Long seconded

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

c. Discussion and possible action on an Ordinance amending the City of Abilene Zoning Ordinance, Section 23-306 and 23-363 regarding Homeless Shelters and Social Service Facilities.

Mr. Ben Bryner presented the staff report for this item. An ordinance amendment was recently approved to allow the Social Service Organization Facility use within the RM (Multi-Family Residential) zoning district classification with approval of a Special Exception by the Board of Adjustment. As part of the approval of this zoning amendment, both the Planning & Zoning Commission (P&Z) and City Council asked staff to set up a committee to discuss the issue further and to develop recommendations that can be used to further define these facilities and where they should be located.

The committee is recommending adding eight new definitions (Accessory Shelter, Disaster Shelter, Halfway House, Homeless Shelter, Protective Shelter, Social Service Organization Facility, Special Education and Rehabilitation Center, and Transitional Housing Shelter), adding conditions for four new uses (Transitional Housing Shelter, Accessory Shelter, Disaster Shelter, and Protective Shelter), and modifying conditions for two existing uses (Social Service Organization Facility, and Special Education and Rehabilitation Center).

Currently, the Zoning Ordinance is vague and does not adequately identify the different types of homeless shelter and related facilities. The proposed changes will greater define where homeless shelters and other similar uses would be allowed within the City of Abilene.

Staff recommends approval of the proposed amendments.

Mr. Bryner stated that the Transitional Housing Shelter is a new use that would be allowed “Conditionally” and with a “Special Exception” by the Board of Adjustment in Multi-Family Residential zoning districts. Accessory shelters would be permitted anywhere that a religious, fraternal, civic, social, institutional or governmental agency would be allowed; accessory to a primary building in use; no more than 15 individuals at any one time; and, can operate no more than two days/nights per week.

Homeless, Disaster and Protective Shelters have been grouped together and would be “Conditionally” allowed in Single Family and Multi-Family Residential districts if the area has a Mixed Use Overlay. These uses would be permitted as a right of use in Central Business, General Commercial, Heavy Commercial and potentially a Planned Development zoning district.

One change would be to convert the Social Service Organization facility back to “Conditional” only. The Special Education and Rehabilitation Center have been included in the Office zoning district to allow for consistency with other uses and districts.

The only change being proposed to the existing “Conditional” use would be to eliminate the statement: “Maximum number of clients and staff shall be 20.” A square footage stipulation exists and addresses this issue.

Mr. Bixby expressed concern that this item is being forwarded without some type of statement to the Board of Adjustment that it is the Commission consensus is that some of these uses are not generally

acceptable in any type of residential zoning districts. Also, that the Commission endorses the use of overlay zoning (Mixed Use) to promote homeless or protective shelters in residential zoning.

Mr. Bryner stated that the Mixed Use Overlay is specific as to when these uses would be appropriate within the overlay district.

Commissioners had questions regarding restrictions for Disaster Shelters, i.e., where such shelters are allowed and where they are not allowed.

Mr. James stated that staff could add such districts as AO, CU or industrial districts.

Mr. Santee stated that many churches are in residential districts and because churches usually have kitchens and/or family life centers these facilities are generally the first resource utilized in times of disaster. Mr. Santee suggested wording this section so that churches in residential areas are not required to have Mixed Use overlay.

Mr. McClarty stated that the Commission can discuss each of the zoning categories and determine if an “X” (allowable use) should be placed under this category.

Mr. Bixby stated that his main concern is in the residential zoning districts. Mr. Bixby stated that his recommendation would be to allow churches in residential areas to house disaster victims for a limited period of time (and that time limit should be specified in number of days).

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

Mr. Rosenbaum stated that he would agree with leaving Disaster Shelter in the ordinance and adding a Special Exception that addresses churches for a specific number of days (90).

Mr. Santee asked Mr. Rosenbaum for clarification regarding the Special Exception – is this a Special Exception through the Board of Adjustment or a written exception within the ordinance.

Mr. Rosenbaum stated that this would be a special exception within the ordinance.

The proposed changes include:

<u>Zoning</u>	<u>Use</u>
CU	X
MH	C
AO	X
RS	SE – Not to Board of Adjustment
MF	SE – Not to Board of Adjustment

Mr. Rosenbaum stated that adding a sentence to Section 23-306.5 D. 11 – “With the exception that Churches shall be allowed 90 days” should cover all concerns.

Mr. McClarty moved to amend the Zoning Ordinance regarding Homeless Shelter and Social Service Facilities as follows:

Section 23-306.5 D. 11 – Special Exception for churches in residential areas allowing 90 days for use as a disaster shelter (RS-RM-MH)

Add AO, CU and SC with an “X” (allowable use)

Add MH with a C (Conditional Use)

Mr. Bixby seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Campos, Famble, McClarty and Rosenbaum) to one (1) opposed (Long).

Item Seven: 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 Eight: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at 3:30 p.m.

Approved: _____, Chairman