
PLANNING & ZONING COMMISSION

March 16, 2009

Minutes

Members Present: Bruce Bixby
Ovelia Campos
Fred Famble
Gary Glenn
Tim McClarty
David Todd

Members Absent: Clint Rosenbaum

Staff Present: Jon James, Director of Planning and Development Services
Dan Santee, City Attorney
Ben Bryner, Planning Services Manager
Mo Parker, Senior Planner
Zack Rainbow, Planner I
JoAnn Sczech, Executive Secretary, Recording

Others Present: Dave Boyll
Dal Randel
Jewelee Suzanne Pehl
Tommy Carpenter
Don & Joyce O'Bar
Josephine Villanueno Pedrozo
James J. Sidel Grove
Bill Riggs
Tommy Steven
Melvin Faircloth
Jordan Cadle
Gerald S. Cadle
Paul L. Gutierrez, Jr.
Gilbert Gutierrez
Albert Pittman
Shaun Martin
Gordon Dempsey
Carl Zimmele
Glenda Burks
Mildred Fincher
Linda Fincher Patrick
Morgan D. Green
Clarence & Sarah Bell
James Kennedy
Tommy Abram
Clark Benson
Joe Pelton
E.B. Westmoreland
Gary & Linda Lawrence
Joe & Amelia Benivamondez
Sergio & Cathy Hernandez

Otila Vasquez
Rosemary Rivera
Jimmy Hays
Justin & Jessi Lamay
Duane Martin
A.R. Pittman
Billy Joe Mancha
Kandi Steven
G. Middleton
Maria Nuncio
Josephine Ibarra
Larry Chapman
Shawn Walker
John "Rob" Patton
L.D. Walker

Item One: Call to Order

Mr. Tim McClarty called the meeting to order at 5:30 p.m. and declared a quorum present.

Item Two: Invocation

Ms. Campos gave the Invocation.

Item Three: Plats

- a. FP-4208- A public hearing to consider a plat of Section 2, Pebble Beach Estates Addition, City of Abilene, Taylor County, Texas.
- b. MRP-5608- A public hearing to consider a plat of Lots 203 and 204, Replat of Lots 103, 104 and 105, Replat of Lot 22, Block A, Industrial Trade Center Addition to the City of Abilene, Taylor County, Texas.

Mr. Zack Rainbow presented information regarding the plats listed on the agenda. Mr. Rainbow stated that staff is recommending approval of the two (2) 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.

Ms. Campos moved to approve the plats as submitted. Mr. Bixby seconded the motion and the motion carried by a vote of six (6) in favor of MRP-5608, (Bixby, Campos, Famble, Glenn, McClarty and Todd); five (5) in favor of FP-4208 (Bixby, Campos, Famble, Glenn and McClarty) and one (1) abstention (Todd).

Item Five: Rezoning Requests

- a. Z-2009-04

Public hearing and possible vote to recommend approval or denial to the City Council to rezone property and apply the Pine Street Corridor Overlay District to properties fronting on Pine Street from North 6th Street to I-20.

Mr. Ben Bryner presented the staff report for this case. The case is to apply the Pine Street Corridor Overlay to specific properties.

In general, this district covers the area of properties fronting on Pine Street from North 6th Street to Interstate 20. The properties along this corridor are occupied with uses ranging from residential to industrial.

The zoning designations include CB (Central Business), GC (General Commercial), HC (Heavy Commercial), HI (Heavy Industrial), RM-3 (Multi-Family Residential), RS-6 (Single-Family Residential), MU (Medical Use), O (Office District), and CU (College/University).

Property along the Pine Street corridor has provided a variety of goods and services to the City's residents. Many different types of businesses have occupied this corridor, some for over 40 years. A large number of businesses are auto related, while others include retail shops, restaurants, financial institutions, medical facilities and educational institutions with a few residential properties intermixed. Rehabilitation of degraded properties has been ongoing for the last several years, spearheaded by Hendrick Medical Center, Development Corporation of Abilene and Hardin Simmons University.

The Future Land Use section of the Comprehensive Plan designates this general area as part of an Enhancement Corridor. In general, development and redevelopment within this district should serve as a connection between the downtown to the south, the hospital/medical uses and university along the corridor, and on the Interstate Corridor on the north. Uses are intended to include retail, restaurants, services, medical, office, research, educational, and related uses. Development in the area should be of high-quality with well-designed buildings and attractive landscaping in a pedestrian-friendly setting. The City recently approved the overlay district regulations. This action will apply this new zoning classification to these properties.

Planning staff recommends approval of the request.

Property owners within 200 feet of the request were notified. Prior to the meeting, 16 response forms were returned in opposition of the request and 11 forms were returned in favor. Addition comment forms were received prior to the meeting and the current totals are 17 in opposition and 12 in favor of the request.

The purpose of this meeting is to establish the boundaries of the overlay district. Some of the regulations approved previously include:

- ⇒ Aesthetic issues
- ⇒ Land Use – the underlying zoning would remain as it is; all current uses in the district would be allowed to continue with one exception – all auto-related businesses would request a special exception from the Board of Adjustment
- ⇒ Building and architectural standards – restrictions for the façade of any building ~~facing~~ visible from Pine Street (eliminating concrete block or metal siding)
- ⇒ Articulation requirements for larger buildings

- ⇒ Front setback has been eliminated (as requested by the Planning and Zoning Commission); side setbacks would not change; however, the rear setback could be reduced to a “zero” setback if the building has no openings facing the rear of the building
- ⇒ Landscaping standards for the City must be met (with the option of selecting an “urban style” along Pine Street allowing landscaping and sidewalk within the right-of-way)
- ⇒ One monument sign with a maximum height of eight feet and maximum area of 100 square feet would be allowed; however, portable signs would be prohibited
- ⇒ Separation of 50 feet between driveways on different parcels; however, an exception is made for a shared drive (no separation required); 25 feet off the property line for a single drive; 75 feet from a major roadway and 50 feet from a local street

The overlay regulations only apply to new development requiring a **building permit**. If the use remains the same or the building remains the same, and the property is utilized for an appropriate use, these regulations would not apply.

Mr. McClarty reiterated that the zoning ordinance for Pine Street has been approved – today’s meeting is to discuss the boundary for this ordinance. Mr. McClarty stated that those who currently own property on Pine Street and have no plans for alterations to their structure or business will not be affected by this ordinance or the decision made at this meeting. If a property owner plans to develop property on Pine Street, this action must be in compliance with this ordinance. Mr. McClarty opened the public hearing.

Mr. Albert Pittman stated that he and his wife own 3.5 acres of land fronting on Pine Street and extending to Cedar Street. Mr. Pittman stated that he is concerned that he has lost his rights to his property. Mr. Pittman stated that his plan is to develop his property as an RV and automobile storage facility. What is holding him back right now is the chain link fence – he estimates 1000 feet of chain link fence will be required. Mr. Pittman stated that the driveway issue is another concern to him. Mr. Pittman stated that he does not understand what is trying to be accomplished and he would like to sit down with City staff and the Commission to discuss this ordinance. Mr. Pittman stated that he is adamantly against this because he feels as though he has lost his property rights and will continue to lose property rights.

Mr. Bixby stated that the Planning and Zoning Commission’s recommendation to the Council removed many of the requirements presented in the original ordinance. The Commission’s focus was aimed at improving the appearance of Pine Street (the street itself) without too many demands on the property owners.

Mr. James Kennedy stated that his understanding of this ordinance is that only the property from North 8th Street into the downtown area would be affected. Mr. Kennedy stated that he was not present at the meeting at which this ordinance was discussed and now he and many others are being affected by an ordinance already passed. Mr. Kennedy asked that it be placed in the record of this meeting that he is in opposition of the ordinance and this overlay zoning.

Mr. McClarty asked City staff if a list was available of those contacted regarding the ordinance.

Mr. Bryner stated that when staff was reviewing the Pine Street Corridor, letters were sent to all properties along Pine Street. Additionally, citizen group meetings and focus group meetings were held prior to adoption of the ordinance language.

In an effort to streamline this meeting, Mr. McClarty asked for a show of hand of those present who did not know anything about the passage of the ordinance until notice of today's meeting was received. The showing of hands indicated that no one in the room saw or knew anything about the ordinance.

Mr. Joe Pelton, local attorney, stated that he could speak for many present. Mr. Pelton stated that he is not only speaking for himself but for many of his clients who own property on Pine Street. Mr. Pelton stated that he and his clients are opposed to the ordinance and corridor overlay. Mr. Pelton stated that Pine Street has always been the entryway to the City for individuals living to the north. Mr. Pelton stated that the beautification of Pine Street should extend to the City limits.

Mr. Bixby asked Mr. Pelton if he could provide names of his clients and specific circumstances of these clients in order for him to understand how this case affects them.

Mr. Pelton stated that he would not reveal the names of his clients.

Mr. Bixby stated that Mr. Pelton's response would not provide the information he (Mr. Bixby) requires.

Mr. Todd asked Mr. Pelton if he owned property on Pine Street and if he was stating that he did not receive notification of the hearings in 2008.

Mr. Pelton stated that his family (mother and brother own property on Pine Street) did not receive notice in 2008 and the first notice that he or any member of his family received concerned tonight's meeting (to define boundaries).

Mr. Dal Randel, Manager of the Short Line Railway which runs along the eastern boundary of the proposed overlay district – Loudon Street to I-20, stated that his company purchased 22 acres in this area with the intention of developing this property for industrial-based rail customers. Mr. Randel stated that his company's concern is the impact of this overlay on the future development of their property.

Ms. Rosemary Rivera stated that she owns property on Simmons Street. Her concern is that she recently expended a great deal of money restoring a garage apartment as a rental property. Ms. Rivera stated that her future plans are to demolish the main structure on the property and construct apartments units. Ms. Rivera stated that she did not receive a notice from the City regarding the overlay ordinance. Ms. Rivera stated that she is opposed to the overlay zoning.

Mr. McClarty stated that prior to proceeding with the public hearing, if it is the case that those in attendance have not reviewed the ordinance and have no idea of the content, then, they should have an opportunity to review this information and ask questions of City staff to ensure everyone is comfortable with this ordinance before proceeding. Mr. McClarty stated that it would not be proper for the Commission to consider boundaries for this overlay zone when there are so many questions and so much opposition. Mr. McClarty stated that his recommendation at this time would be to table this item until another public forum has been held with property owners in the area.

Mr. Famble stated that if Mr. McClarty recommendation to table is a motion he would second this motion.

Mr. Santee stated that the public hearing has not yet been closed and there are others present who wish to address this issue.

Mr. McClarty closed the public hearing in order for City staff to address issues raised at this meeting.

Mr. Jon James stated that the first notification to consider the overlay corridor ordinance was sent only to property owners on Pine Street. As required by state law for this meeting, staff notified not only those along Pine Street but also everyone within 200 feet. Staff received many calls and questions from those not affected by this overlay zoning – those within 200 feet of the Pine Street Corridor.

Mr. McClarty reopened the public hearing and asked for a show of hands of those who have property directly on Pine Street. Mr. McClarty asked for a show of hands of those within the 200 foot notification area but do not own property on Pine Street. Mr. McClarty stated that the answers to these questions were about half and half. Mr. McClarty informed those present who do not own property or operate a business on Pine Street that they would **NOT** be affected by the outcome of this meeting.

Mr. Tommy Stevens, owner of National Body Works, stated that his main concern is widening of the street thus removing parking in front of his building for his customers.

Ms. Jewelée Suzanne Pehl stated that she is the owner of four (4) parcels on the west side of Pine Street. Ms. Pehl presented the Commission with a petition containing the signatures of 234 individuals owning property or businesses on Pine Street who do not want the property rezoned.

Ms. Tommie Abram stated that she is the owner of five (5) investment properties within the corridor. Ms. Abram stated that she does not own property on Pine Street; however, she did receive five (5) letters regarding the corridor overlay.

Mr. James explained that state law requires staff to notify property owners within 200 feet of the request and Ms. Abram's property falls within this 200 feet. Again, only the property fronting onto Pine Street will be affected by this zoning.

Mr. Roger Hilley asked how this action would affect his taxes.

Mr. McClarty stated that this action would not affect his property since his property is not on Pine Street. As for property taxes, this is determined by the Central Appraisal District – not by this Commission.

Mr. Clark Robinson, operator of Master Cleaners on Pine Street, stated that his business has been through a couple of changes such as this and it has been devastating to his business. Mr. Robinson stated that in the past he received a letter from the City stating that his property would be taken and another building constructed on the site. Mr. Robinson stated that he is opposed to this corridor overlay.

Mr. Gordon Dempsey, owner of a mechanic shop on Pine Street, asked if it is correct that if the property is rezoned and he sells the property, then, the business could not be operated as a mechanic shop.

Mr. James stated that this use would not be allowed under this zoning only if the use ceases to exist for six (6) months.

Mr. Bryner stated that the use of the property is grandfathered – not the owner.

Mr. Antonio Acosta stated that he is representing the property owners of the northeast lot on North 15th and Cedar. Mr. Acosta stated that this area is included within the boundaries proposed at this meeting and asked if this would affect this property.

The response was that this property would not be affected – only property fronting onto Pine Street is affected.

Mr. Larry Chapman stated that his mother operates a business on 1117 Pine Street. Mr. Chapman stated that they did receive a letter regarding the Pine Street Overlay Corridor and attended a meeting at City Hall regarding this issue. Mr. Chapman stated that his recollection is that the City was only considering this action. Mr. Chapman stated that his mother never received information regarding passage of the rezoning.

Mr. Albert Pittman stated that he was also at the first meeting and it is his recollection that the purpose of the meeting was to discuss the issue and it was in the planning stages. Mr. Pittman stated that he has not receive any other notification regarding this issue.

Ms. Mildred Fincher stated that her property is included within the boundaries of the red line on the map although she resides on Walnut Street. Ms. Fincher asked that it be included in the record of this meeting that she is opposed to this corridor overlay.

Mr. McClarty stated that Ms. Fincher would not be affected by this corridor overlay

Mr. Tommy Steven asked if they would be give ten (10) days to appeal any decisions make regarding this issue.

Mr. McClarty stated that no decision has yet been made on this issue.

Mr. McClarty closed the public hearing.

Mr. McClarty reiterated that it is his opinion that there is too much confusion regarding this issue and he does not feel comfortable voting on this issue until those within the 200 foot radius have been contacted and have the opportunity to review the ordinance. As mentioned earlier, Mr. McClarty stated that it would not be proper for the Commission to consider boundaries for this overlay zone when there are so many questions and so much opposition.

Mr. McClarty stated that his motion at this time would be to table this item until another public forum has been held with property owners in the area.

Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Bixby, Campos, Famble, Glenn, McClarty and Todd) to none (0) opposed.

Mr. McClarty stated that this item has been tabled; everyone within the 200 foot radius will be notified; a town hall meeting will be held (Mr. McClarty encouraged everyone present to inform their neighbors of this meeting) so that the entire ordinance can be presented and explained.

Ms. Campos requested that the Planning and Zoning Commissioners be mailed a list of those who will be receiving these letters and the date of when the “town hall” meeting will be held so that the Commissioner can be present.

Item Six: Director’s Report

a. Report on recent developments regarding the 2009 Capital Improvements Program (CIP).

Jon James stated that staff intended to discuss the CIP program tonight; however, when preparing this information, Planning staff received additional information from the Finance Department regarding available funds.

Funding has been significantly reduced; therefore, the Department Directors must review the CIP to determine which projects/programs will be recommended for elimination or reduced funding. When the CIP information is presented to the Planning and Zoning Commission, a representative from the Finance Department will be present to explain the funding reductions.

Mr. Bixby requested that this information be provided to the Commissioners prior to the meeting to consider the CIP.

Item Seven: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at 6:37 p.m.

Approved: _____, Chairman
