
PLANNING & ZONING COMMISSION

May 4, 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
Ed McRoy, Assistant Director of Planning and Development Services
Kelly Messer, Assistant City Attorney
Ben Bryner, Planning Services Manager
Matt Jones, Planner I
Zack Rainbow, Planner I
JoAnn Sczech, Executive Secretary, Recording

Others Present: Dave Boyll
Matthew Muzechenko
Paul Johnson
Tim Ritter
Barbara Pointer

Item One: Call to Order

Mr. Tim McClarty called the meeting to order at 1:33 p.m. and declared a quorum present.

Item Two: Invocation

Mr. McClarty gave the Invocation.

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

Item Three: Approval of Minutes

Mr. Glenn moved to approve the minutes of the April 6, 2009, meeting. Mr. Bixby seconded the motion and the motion carried unanimously.

Ms. Campos moved to approve the minutes of the April 20, 2009, meeting. Mr. Glenn seconded the motion and the motion carried unanimously.

Item Four: Plats

- a. MP-5707- A public hearing to consider a plat of Lots 1 and 2, Block A, Lien Subdivision of 0.552 Acres of Land out of the A. Greenwall Survey No. 100, City of Abilene, Taylor County, Texas.
- b. MRP-5408- A public hearing to consider a plat of Lot 1, Block 1, Victory Baptist Church Subdivision, a Subdivision of 2.49 acres out of the Alexander Thompson Survey No. 20, Taylor County, Texas.
- c. MRP-0309- A public hearing to consider a plat of Lots 202, 203, & 204, Block D, a Replat of Lot 102, Block D, of a Replat of Lot 1, Block D, & the Remainder of Lot 1, Block D, Section 1, Sunlake Village Addition, out of the W.W. Sills Survey No. 24, Abilene, Taylor County, Texas.
- d. MRP-0509- A public hearing to consider a plat of Lot 101 & 201, Block 1, A Replat of Lots 1, 7& 8, Block 1, Button Willow Addition, Industrial Section, & Lot 109 & 110. Block 1, A Replat of Lots 9 & 10, Block 1, Button Willow Addition, As Shown on Plats Recorded in Plat Cabinet 2, Slide 17-A & Plat Cabinet 2, Slide 110-B, Plat Records, Taylor County, Texas.
- e. MRP-0709- A public hearing to consider a plat of Lot 106, Block 153, Original Town 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 five (5) 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.

The Commission voted on Item e. separately.

Mr. Famble moved to approve MRP-0709. Mr. Bixby seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Campos, Famble and Glenn); two (2) abstentions (Todd and McClarty); and, none (0) in opposition.

Ms. Campos moved to approve MP-5707, MRP-5408, MRP-0309 and MRP-0509. 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.

Item Five: Rezoning Requests

Z-2009-03

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Brian Delehanty, Agent: Paul Johnson & Associates, to rezone property from O (Office) to GC (General Commercial) zoning, located at 701 South Judge Ely Boulevard.

Mr. David Todd moved to remove this item from the table. Ms. Campos seconded the motion and the motion carried unanimously.

Mr. Matt Jones presented the staff report for this case. The original request was to rezone property from O (Office) to GC (General Commercial). The request has been amended to rezone property from O and AO to PDD.

The original request was for 701 S. Judge Ely Blvd., but looking at the surrounding properties Staff has recommended to include the entire 700 Block into the PDD to allow for improved development in the area; similar to the PDD to the north of the subject properties. Staff recommends approval of a PDD.

Property owners within 200 feet of the zoning request were notified. Three (3) comment forms were returned in favor of the request and two (2) in opposition.

Currently the property is zoned O (Office) and has not been developed. The properties to the east are developed with single-family homes, the properties to the north and south are also undeveloped, and Craig Middle School is directly across Judge Ely Boulevard to the west. The Judge Ely Bike Path runs along the west ROW line of the subject properties.

The Future Land Use section of the Comprehensive Plan designates this general area as part of a Local Community Center and an Enhancement Corridor. Commercial activity along Judge Ely Boulevard is compatible with the surrounding area. But given the close proximity to residential areas and a school, some commercial uses may not be appropriate. There is also a Bike Path along the east side of South Judge Ely Boulevard so access and traffic flow might be an issue for the subject property. The PDD zoning to the north allows for uses permitted within the SC zoning. In addition, that PDD zoning includes restrictions on building design, parking & ingress/egress, and signage. For these reasons, Staff does not feel that SC zoning is appropriate for this property and recommends a PDD zoning.

Some of the highlights of the PDD are as follows:

I. PERMITTED USES:

A. Uses permitted in the Shopping Center district except the following uses:

1. Grocery Store (Convenience Type)
2. A drive-in use or any use with a drive-thru
3. Tobacco Products

II. SITE DEVELOPMENT

A. Minimum Building Setbacks:

- 1) Setbacks shall comply with the Shopping Center district. A setback of 15 feet shall be permitted along streets with only landscaping between buildings and street.

2) B. Maximum Structure Height:

- 1) The maximum height shall be 40 feet and no more than 2 stories, excluding architectural details.

C. Building Materials & Design:

- 1) Any building over 25,000 square feet shall include both horizontal and vertical articulation in the building design.
- 2) A minimum of 10% of the exterior face of any building visible from publicly accessible areas, such as streets, driveways, parking lots, and walkways (loading areas are not included) shall be composed of brick, stone, decorative block, or similar materials except as modified in item 4 below.
- 3) The remaining area of building facades shall be limited to glass, EIFS, stucco, stucco-like finishes, or other similar materials except as modified in item 4 below.
- 4) Elevation plans shall be submitted with the Site Plan for review and approval by the Planning Director prior to site plan approval. Any variation in design or materials will be subject to

review for consistency with the City's aesthetic goals, and may be permissible at the discretion of the Planning Director.

D. Parking and ingress/ egress:

- 1) All parking areas shall comply with the provisions specified in the Zoning Ordinance.
- 2) Three (3) drives shall be allowed onto S. Judge Ely Boulevard, however no drive shall be allowed between Friars Street and the school crosswalk. One (1) drive shall be allowed onto Friars Street. Two (2) drives shall be allowed onto Clarks Drive. Common access easements shall be utilized to provide connectivity to all properties within the PDD boundary.
- 3) All drives shall have a minimum separation from a street intersection of 100 feet and each drive shall be spaced a minimum of 175 feet from other drives. Spacing between drives shall be measured from the drive centerline to centerline and separation from and intersection shall be measured from the driveway centerline to the intersecting Street ROW line.
- 4) Additional signage and traffic control measures, including but not limited to painted stop bars, warning signs, rumble strips, increased visibility triangles or other measures, may be required by City staff at the time of site plan review for any drive accessing Judge Ely Boulevard to ensure compatibility of this site and the operation of the Hike and Bike Trail located along this thoroughfare.

E. Signage:

- 1) Signage within the PDD must comply with the requirements of the City's Sign Ordinance, except as modified by the following:
 - a. Freestanding signs:
 - i. One (1) pole sign per 600' of street frontage along Judge Ely Blvd shall be permitted within the PDD with a maximum height of 20' and a maximum area of 100 square feet per sign. Size limits may be increased to 25' in height and 200 square feet in area for a multi-tenant group sign, but in no case shall an individual tenant exceed 100 square feet of signage. Such a multi-tenant group sign may be a monument-style sign instead of a pole sign subject to the same size limits.
 - ii. One (1) monument sign per building shall be permitted with a maximum height of 8' and a maximum area of 96 square feet. Size limits may be increased to 10' in height and 150 square feet in area for a multi-tenant group sign.
 - b. Wall signs:
 - i. Wall signage may not exceed 10% of the area of any wall on which the signs are located. Articulation of a building façade as required in Section II, C, 1, shall not be applied to reduce this sign area.
 - ii. Wall signage may only be attached to a principal structure.
 - c. Banners: Banners shall only be located flat against the face of a building and shall count toward the maximum allowable wall signage.
 - d. Electronic Message signs: Any size electronic message sign shall comply with the provisions specified in the Sign Ordinance for on-premise signs over 75 square feet in area or any off-premise sign during School Zone times.
 - e. Prohibited signs:
 - i. Portable signs
 - ii. Offsite signage except for allowed group signs that advertise businesses or entities within the PDD.
 - iii. Streamers, pennants, balloons, and similar devices
 - iv. Temporary signs and freestanding banners, except for real estate signs, including a

“Coming Soon” sign, and a “grand opening” event within 30 days of the issuance of a Certificate Occupancy.

Mr. Bixby stated that at the Commission’s last meeting staff agreed that there were some uses that would not be proper in this location if zoned Shopping Center. Mr. Bixby stated that staff indicated that these uses are the reason for preferring Office zoning. As presented by staff today, many of these uses are still in place. Mr. Bixby stated that it appears as though the focus is more on the design than permitted uses with the PDD presented. Mr. Bixby asked why staff was opposed to some of these uses last month and not this month.

Mr. James stated that in general staff did not receive a strong impression from the Commission as to permitted uses. Staff fashioned this PDD after the PDD to the north which does allow most Shopping Center Uses. Staff has concerns regarding some of the uses permitted in a Shopping Center district and staff would not be opposed to modifying SC uses. Mr. James stated that of greater concern were the design features.

Mr. Bixby stated that both issues – use and design – should be reviewed.

Mr. Glenn expressed concern regarding three (3) driveways off Judge Ely Boulevard. Mr. Glenn asked if ingress and egress could be off Friars and Clarks and leave Judge Ely curbed across the front of the property.

Mr. Jones stated that staff has been working with the applicant regarding driveways. The Commission has the discretion to determine the number and location of driveways.

Mr. McClarty stated that marketability of the entire area must be reviewed with regard to driveways.

Mr. McClarty opened the public hearing.

Mr. Matthew Muzechenko, with Paul Johnson and Associates, stated that he will be address the property addressed as 701 Judge Ely Boulevard. Mr. Muzechenko stated that the reason for requesting SC zoning is the possibility of a 15,000 square foot building that could possibly be two lots on this site (701 and 709 Judge Ely Boulevard). Mr. Muzechenko stated that one, possibly two curb cuts would be desirable for the development of this land.

Mr. Muzechenko state that some of the SC permitted uses that could be eliminated include:

- Pool and Billiard Halls
- Bowling Lanes
- Skating Rink
- Theatres and Playhouse
- Farm Products (open air)
- Gifts, Novelties, Souvenirs
- Liquor Store (on-remise consumption)
- Liquor Store (off-premise consumption)
- Liquor Store (off-premise consumption – beer and wine)
- Tobacco Products

Mr. Muzenhenko stated that it would be their preference to allow drive-through uses on the property south of 701 South Judge Ely Boulevard.

Mr. Bixby stated that in the information he received from Matt Jones, 11 SC uses were listed that staff felt would not be appropriate for this site. One of the uses not mentioned was "Bait Shop." Mr. Bixby stated that this type of use would not be required at this location. Mr. Bixby asked if there would be a problem with excluding the following four (4) uses:

- Temporary Amusement Facility
- Veterinary Service
- Gasoline Sales
- Gasoline Sales with Automobile Services

Mr. Muzenhenko stated the Mr. Paul Johnson will address Mr. Bixby's questions regarding the above-mentioned uses.

Mr. Paul Johnson addressed the uses permitted in a Shopping Center District that could be eliminated in this PDD. These uses include:

- Temporary Amusement Facility
- Gasoline
- Gasoline (with and including automobile service)

Mr. Paul Johnson stated that there is not need to include the Temporary Amusement Facility use. Mr. Johnson stated that he will be addressing curb cuts and drive-through uses.

- ⇒ Mr. Johnson stated that if all curb cuts were eliminated off Judge Ely Boulevard, there would be no access to 717 South Judge Ely Boulevard. Staff's proposal of three (3) curb cuts would work fine for the development of this property.
- ⇒ In regard to drive-through uses, Mr. Johnson stated that he could envision a coffee shop within this PDD. Mr. Johnson stated that by working with City staff, the queue lines for drive-through uses could be designed so that traffic would not be backed out into Judge Ely Boulevard. Mr. Johnson stated that he felt it very important to not eliminate the drive-through use.
- ⇒ Mr. Johnson stated that the Bait Shop use has been eliminated.
- ⇒ Mr. Johnson stated that at this time he is ambivalent regarding Veterinary Services.
- ⇒ Regarding Gasoline Sales and Gasoline Sales with Automobile Services, Mr. Johnson stated that if it is the consensus of the Commission that these uses should not be allowed within this PDD, he and his client would not be in opposition to removing these uses.

Mr. McClarty closed the public hearing.

Ms. Campos stated that after listening to Mr. Johnson and picturing how some drive-throughs can be an advantage, Ms. Campos stated that certain drive-through uses (such as a cleaners, etc.) could be a convenience to the neighborhood. Ms. Campos stated that she would prefer if this use was allowed within the PDD.

Mr. McClarty agreed with Ms. Campos in that certain drive-through uses should be allowed.

Mr. Glenn stated that a Veterinary Office that kenneled animals could create a noise problem and he would object to this due to the noise pollution. Mr. Glenn stated that he does have an issue with Gasoline Sales due to the fact that generally individuals stopping for gasoline are usually in a hurry and this could cause a problem due to the close proximity to Craig Middle School.

Mr. Famble asked for clarification regarding curb cuts. Mr. Todd explained that some areas would be excluded from a curb cut (701) but there would be three curb cuts south of 701 Judge Ely Boulevard.

Ms. Campos moved to approve Z-2009-03 with the exception of the following uses:

- Bowling Alley**
- Temporary Amusement Facility**
- Pool or Ballard Halls**
- Skating Rinks**
- Theaters and Playhouses**
- Bait and Live Bait Sales**
- Farm Products (open-air)**
- Gifts, Novelties, Souvenirs**
- Liquor Store On-Premise Consumption**
- Liquor Store Off-Premise Consumption (unrestricted)**
- Liquor Store Off-Premise Consumption (beer/wine)**
- Tobacco Products**
- Gasoline Sales**
- Gasoline Sales (with and including automobile service)**
- Veterinary Services;**

And, allow Drive-Through Uses on all parcels EXCEPT at 701 South Judge Ely Boulevard.

Mr. Santee stated that manner in which the issue (drive-through) has been handled in the past is to specify a certain amount of footage from intersections. The reason for this is that if the four (4) parcels being considered today are combined, the four (4) separate addresses would be eliminated.

Mr. James stated that this has been determined by the number of feet or defining tracts and a tract map will be created for the exhibit for City Council. Mr. James stated that the recommendation could be based upon the current configuration of lots with the addresses of 741 and 717. By doing so, staff could utilize this boundary to create an exhibit map for City Council so that when the rezoning is approved by Council, a physical boundary has been established.

Mr. Famble seconded the motion.

Prior to the roll call vote, Mr. Santee provided clarification on behalf of Mr. Bixby. Until this PDD was reconfigured to encompass the entire block, Mr. Bixby was not within the notification area. Mr. Santee stated that because this item has been tabled twice, he did not want there to be any confusion that it was not until this meeting that Mr. Bixby's property was within the notification area. In previous months the PDD did not include the entire block and Mr. Bixby's property was not within the notification area.

The motion carried by a vote of five (5) in favor (Campos, Famble, Glenn, McClarty and Todd); one (1) abstention (Bixby); and, none (0) in opposition.

Item Six: Director's Report

Mr. James stated that the City Council had no rezoning recommendations from the Planning & Zoning Commission at their last meeting.

Mr. James stated that a draft of the Land Development Code has been received from the consultant and this information will be distributed to the Committee within the next day or two. The first meeting of the Land Development Review Committee will be on May 11, 2009. This group will meet approximately every week through the end of June. Staff is anticipating that the Land Development Code will be presented to the Planning and Zoning Commission at a special workshop on August 17, 2009. The Commission will consider the ordinance revision of this code on September 7, 2009.

Mr. McClarty recommended that a copy of the draft of the Land Development Code also be sent to the Planning Commissioners.

Also mentioned was the South Downtown Plan. The consultants for this project are currently in town. A "Visioning Session" will be held at the Elks Building on May 5th beginning at 7:00 p.m. This process will be ongoing but ultimately will be reviewed by this Commission for a recommendation to the City Council.

Mr. McClarty asked staff for clarification regarding the signing of plats. Both Mr. McClarty and Mr. Todd abstained from voting on MRP-0709. Since the Chairman (Mr. McClarty) cannot sign the plat and the secretary is absent (Mr. Rosenbaum), Mr. Santee stated that the Commission can elect a Commissioner to sign plats.

Mr. McClarty moved that Ms. Campos be elected to sign the plats for this meeting. Mr. Famble seconded the motion and the motion carried unanimously.

Item Seven: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at 2:25 p.m.

Approved: _____, Chairman
