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## PLANNING & ZONING COMMISSION

July 6, 2009

### Minutes

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Members Present: Ovelia Campos  
Fred Famble  
Gary Glenn  
Tim McClarty  
Clint Rosenbaum  
David Todd

Members Absent: Bruce Bixby

Staff Present: Jon James, Director of Planning and Development Services  
Dan Santee, City Attorney  
Ed McRoy, Assistant Director of Planning and Development Services  
Kelley Messer, Assistant City Attorney  
Ben Bryner, Planning Services Manager  
Matt Jones, Planner I  
Zack Rainbow, Planner I  
JoAnn Sczech, Executive Secretary, Recording

Others Present: David & Judith Roberts  
Blanca Gonzalez  
Tommy Stevens  
Albert Pittman  
Scott Senter  
Gary & Linda Lawrence  
Roger Huber  
Anne Wilson  
Elizabeth Fitzpatrick  
Desa L. Lee-Laird.  
H. D. Burton  
Sharon Walker  
Edward Walker  
Jerry Reed  
Geraldine Parker  
Weezie Fitzhugh  
Jim Fitzhugh  
Cindy Haley  
Jim Tredennick  
Shaun Martin  
Tim Ritter  
Susan Payne  
Barbara Pointer  
Dave Boyll  
James & Anna Richards  
Johnny Black  
Lupe Martinez  
David Martinez

Stan Reddville  
Milton & Karen Evans  
Vicki Copeland  
Jean Lang  
Shawna Abernathy  
Brian Slaughter  
Larry D. Robertson  
Jewelee Suzanne Peal  
Jess Horton  
Tommy Anderson  
Irene Hooper  
Ken Hooper  
Tony Delgato  
Chuck Wilson  
Robert & Stephanie Balderas  
Gordon Dempsey  
Carrie Blaschke  
Russell Blaschke  
Ron Harmon  
Tommie Atwood  
Jean Atwood  
Sam Chase  
David McMeekin  
Irene H. Chen

**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.

**Item Three: Approval of Minutes**

Approval of the minutes of the May 4, 2009, and June 1, 2009, Planning and Zoning Commission meetings and a correction to the minutes of the April 6, 2009, Planning and Zoning Commission meeting.

**Mr. Famble moved to approve the minutes of the May 4, 2009, meeting. Mr. Todd seconded the motion and the motion carried unanimously.**

**Mr. David Todd moved to approve the minutes of the June 1, 2009, meeting. Mr. Rosenbaum seconded the motion and the motion carried unanimously.**

**Mr. Gary Glenn moved to correct the minutes of the April 6, 2009, meeting as follows:**

**Item Five, Street Name Change: The vote should read “Four (4) in favor (Bixby, Campos, Famble and Rosenbaum) and one (1) abstention (Todd).**

**Mr. Famble seconded the motion and the motion carried unanimously.**

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

**Item Four:                      Plats**

- a.      FP-1309- A public hearing to consider a plat of Lot 1, Block A, Bartee Subdivision, 4.684 Acres Out of SW/4 Section 39, Blind Asylum Land, Abstract No. 663, City of Abilene, Taylor County, Texas. Located at 2149 East Highway 80.
- b.      MRP-0909- A public hearing to consider a plat of Lots 101 and 102 Being a Replat of the West 60' of Lots 7, 8, and 9, and the West 65' of Lots 10, 11, and 12, Save and Except the North 10' of Lot 9 and the South 10' of Lot 10, Block 9, Original Town, Abilene, Taylor County, Texas.
- c.      MRP-1209- A public hearing to consider a plat of Lot 212, Being a Replat of Lots 111 and 112 of the Replat of Lots 10, 11, and 12, Block D, Cont. 1, Section 1, Bella Vista Addition, Abilene, Taylor County, Texas. Located at 8317 Linda Vista.
- d.      FP-1509- A public hearing to consider a plat of Lake Fort Phantom Addition, Section 1, a Subdivision of 52.41 acres out of the Z.B. Buckoltz Survey No. 16, the R. Champion Survey No. 15 and Section 46, Block 16, T & P RR Company Surveys, Jones County, Texas.

Mr. Zack Rainbow presented information regarding the plats listed on the agenda. Mr. Rainbow stated that staff is recommending approval of the four (4) 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.

Mr. Roger Huber stated that he is in favor of the plans for the lake (FP-1509). Mr. Huber stated that it is realized that there may be problems with individual lots at the lake; however, staff has done a great job undertaking this project.

Mr. McClarty closed the public hearing.

**Ms. Campos moved to approve FP-1309, MRP-0909, MRP-1209 and FP-1509. Mr. Glenn seconded the motion and the motion carried by a vote of six (6) in favor (Campos, Famble, Glenn, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**Item Five:                      Zone Changes**

Mr. McClarty informed those present that Item Z-2009-09 has been pulled from the agenda at the request of the proponent.

**a.      Z-2009-04 (Tabled from 3-16-2009)**

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 6<sup>th</sup> Street to I-20.

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

Mr. Jon James presented the staff report for this item. Mr. James stated that when this item was presented to the Planning and Zoning Commission in March, the Commission tabled the item and requested staff to conduct a town hall meeting with the property owners affected along Pine Street by the Overlay. This town hall meeting was held with good attendance – many of whom are present at this meeting. Mr. James stated that the Pine Street Corridor Standards were approved by the City Council in January of this year. At this time, a boundary is being established for the Corridor in which these standards will apply. The standards are not open to discussion or amendment at this meeting. If, after the public hearing today, the Commission feels the standards should be modified, this item would be required to be placed on the Commission's agenda for consideration at a future meeting. The item before the Commission today is only establishing the boundary for the Corridor Overlay.

Mr. James provided background information regarding the Pine Street Corridor. Staff's proposal for the corridor boundary includes all properties fronting onto Pine Street. Staff is required by State law to notify everyone within 200 feet of a rezoning request; therefore, individuals not within the affected area (fronting onto Pine Street) also received notification of this Corridor Overlay.

The Overlay Standards apply over the existing zoning and do not change any of the underlying zoning. Businesses operating along Pine Street currently would be allowed to continue (grandfathered); however, if a business closes for six months or more than any new business at the site would be required to comply with the standards. The exception to this is that if the business is an auto-related use, a Special Exception would be required from the Board of Adjustment.

Mr. McClarty opened the public hearing.

Mr. Albert Pittman stated that the highest and best use of his property (zoned HC currently) is RV Park, RV Storage and any use automobile related. Mr. Pittman suggested that the Pine Street Corridor be divided into segments:

North 18<sup>th</sup> Street and Pine Street to North 16<sup>th</sup> Street and Pine Street – Medical Uses

North 16<sup>th</sup> Street and Pine Street south – “Mom and Pop Businesses”

Mr. Pittman stated that the majority of the traffic coming into the City from the north diverts at Treadaway and Pine. The majority of the traffic is on Treadaway. Mr. Pittman stated that his main concern is regarding the building standards (materials and screening). Mr. Pittman requested the Commission take a strong look at this and allow Pine Street to remain as it is. Mr. Pittman suggested allowing the large institutions in the area to expand and allows those individuals on Pine Street to continue business as they are currently (the large institutions will eventually continue to move down Pine Street).

Mr. Tommy Stevens stated that the standards do not allow concrete blocks as building materials; however the building being constructed on North 13<sup>th</sup> and Pine Streets (by the City) is constructed of concrete blocks on the sides and asked for an explanation.

Mr. James stated that this ordinance does not prohibit the use of these materials – it prohibits these materials from being the visible exterior of the structure. There will be a façade covering the concrete and metal structure (being constructed by the DCOA) for that portion of the building facing Pine Street.

Ms. Sharon Walker stated that she is the owner of four parcels of property on Pine Street. Ms. Walker stated that she felt she and her property should be left alone. Pine Street is a “working/business” street. Ms. Walker stated that her objection today has to do with the passing of these standards without notification to the property owners who will be affected. Ms. Walker stated that she realizes that her comments today will not help; however, her objection is “on the record” that she feels as though they (Pine Street business owners) have been duped and that the City is interested in future generations, which is wonderful, but this is not helping her.

Ms. Jewelee Suzanne Peal stated that her concern is that if she leaves her Pawn Shop business to her son, will he be required to make the improvements stated in the “standards.”

Mr. James stated that the property (use and zoning), not the property owner, is grandfathered.

Ms. Peal stated that the first letter that she received regarding this issue was in March of 2008. She was also notified of a town hall meeting in October of 2008 – this has been an ongoing issue for some time and it has been very distracting. Ms. Peal stated she attended the Council meeting in January but thought this would be the first vote. Ms. Peal discovered at the meeting that this was the final vote on this item. Ms. Peal stated that she does not know what the protocol is regarding this but feels as though someone “dropped the ball” in this instance.

Mr. McClarty asked if letters were mailed regarding this item or did someone “drop the ball” in this case.

Mr. James stated the ball was not dropped – there were meetings and notifications prior to this item being considered by the Planning and Zoning Commission and the City Council, but not with this specific ordinance amendment. Neither the City Code nor State law requires notification of an ordinance amendment.

Mr. Pittman stated that the easiest solution to solve this situation would be for the Planning and Zoning Commission to table this item and not forward it to the City Council. Pine Street is being redeveloped slowly by the larger institutions that are purchasing property along Pine Street. Mr. Pittman stated that this should be allowed to continue at its own pace and this Commission has the power to table this item now and asked the Commission to do that (table the item). Mr. Pittman asked why City staff’s thoughts and ideas are superior to the desires of the property owners on Pine Street.

Mr. McClarty stated that Abilene is in the process of completing a Comprehensive Plan that has taken many years. Goals of this Plan include improving the quality of life in Abilene and the appearance of the City. Mr. McClarty stated that the Commission understands that there are businesses along Pine Street and the Commission’s goal is not to affect these businesses; however, it is also a goal to improve the attractiveness of the City. Since Pine Street is a corridor traveled by many people entering and exiting Abilene. Mr. McClarty stated that the Commission has heard from citizens today who do not want Pine Street to change; however, there are many, many people in Abilene (on the planning committee for the Pine Street Corridor) who have expressed the desire to improve the appearance of the City. Mr. McClarty stated that whether the Commission votes to approve or deny this request, the item will be forwarded to the City Council for final approval. Mr. McClarty stated that the Commission will do their very best to do what is best for the City of Abilene.

Mr. McClarty closed the public hearing.

An attendee had an additional questions and the public hearing was reopened.

Mr. Tommy Stevens asked about street paving – will the street be paved from curb to curb.

Mr. McClarty stated that street paving is not being addressed at this meeting. The Standards that have been adopted state that new development must meet the standards criteria adopted for the Pine Street Corridor.

Mr. James stated that currently the city has no plan in place for the widening of Pine Street. Mr. James stated that there is a current street reconstruction project for Pine Street (curb to curb).

Mr. McClarty closed the public hearing.

Mr. Rosenbaum asked about the Special Exception: This request would be processed by staff and forwarded to the Board of Adjustment. Mr. Rosenbaum asked if the BA was a recommending body like the Planning and Zoning Commission.

Mr. James responded that the Board of Adjustment makes the final determination on a case. Appeals to decisions made by the BA are made to the district court.

**Prior to making a motion, Ms. Campos wanted to make sure that everyone currently residing on Pine Street or owning a business on Pine Street realizes that the decision of this Commission will not affect these individuals. If a business is left to an heir and business is conducted as usual (without closing the business for a six-month period) the business will not be affected. Ms. Campos stated that she attend the Town Hall meeting, along with many of the individuals in attendance at this meeting, and many questions were answered by Mr. James. Ms. Campos stated that she did not feel that any underhanded actions are being aimed at the Pine Street residents/businesses.**

**Ms. Campos moved to approve Z-2009-04. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Campos, Famble, Glenn, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**Mr. McClarty reiterated that Item Z-2009-09 has been pulled from the agenda.**

**b. Z-2009-10**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Susan Hill Payne, DDS, Agent: Tandem Realtors, to rezone property from RS-8 (Single Family Residential) to O (Office) zoning, located at 3201 Buffalo Gap Road.

Mr. Matt Jones presented the staff report for this case. The request is to rezone from residential single-family zoning of office.

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was received in favor of the request and none (0) in opposition (two additional comment forms were received just prior to the meeting in opposition of the request).

Planning staff recommends denial based on previous zoning requests (for the east side of Buffalo Gap Road) that have been denied in the area for similar zoning changes.

Mr. Rosenbaum asked if the Comprehensive Plan for the City of Abilene addresses Buffalo Gap Road, particularly this section of the highway.

Mr. James responded that the Comprehensive Plan does not specifically address this area. However, the Plan does address Buffalo Gap Road in a general sense and recommends against the strip commercial rezoning that would permit the entire corridor to become commercial, particularly in areas such as this one where there is a neighborhood presence.

Mr. James stated that if the Commission approves this request, staff is hopeful that the Commission will look at this as a “node” at this location and not open the entire corridor to commercial or office zoning.

Mr. McClarty opened the public hearing.

Dr. Susan Payne, proponent for this zoning change, stated that she currently leases space for her dental practice and would like to purchase space so that she could own the site on which her practice is located. Dr. Payne stated that her proposal is for a 1600 square foot office and had no plan for any other structures or uses in this area.

Ms. Shawna Abernathy, Realtor representing Dr. Payne for this purchase, stated that this project will enhance the corridor and this section of Buffalo Gap Road. Ms. Abernathy requested that the Commissioners favorably consider this request.

Mr. Milton Evans stated that he owns the lot to the south of the lot being considered today. Mr. Evans was concerned about access to the back of his lot. He stated that there has been an agreement in existence for over 60 years regarding access to his property and if there is a way this can continue he has no problem with the rezoning of this property.

Mr. McClarty closed the public hearing.

**Mr. Rosenbaum moved to approve Z-2009-10. Mr. Glenn seconded the motion and the motion carried by a vote of six (6) in favor (Campos, Famble, Glenn, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**c. Z-2009-11**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Aaron Waldrop, Agent: Tal Fillingim, to rezone property from AO (Agricultural Open Space) to RS-6 (Single Family Residential) zoning, located approximately 1400 feet west of Oldham Lane and 950 feet north of Hardison Lane.

Mr. Matt Jones presented the staff report for this case. The request is rezone from Agricultural Open Space the Residential Single Family.

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was returned in favor of the request and none (0) in opposition.

Planning staff recommends approval of the request.

Mr. McClarty opened the public hearing.

Mr. Tal Fillingim, agent for Mr. Waldrop, stated that this request is to support a proposed residential development. The intent of the development is to be of similar lot size and home size as the adjacent developments. The RS-6 zoning is compatible with zoning in this area and the Commission's approval is requested.

Mr. McClarty closed the public hearing.

**Mr. Todd moved to approve Z-2009-11. Ms. Campos seconded the motion and the motion carried by a vote of six (6) in favor (Campos, Famble, Glenn, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**e. Z-2009-12**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Texas Ave.-86, Agent: Scott Senter, to rezone property from O (Office) to GC (General Commercial) zoning, located at 5201 Texas Avenue.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from Office to General Commercial, located on Texas Avenue

Property owners within 200 feet of the rezoning request were notified. Five (5) comment forms were received in favor of the request and two (2) in opposition.

Planning staff recommends denial. Staff has discussed the possibility of College/University zoning with the applicant (rather than the GC zoning) to maintain a buffer between the single family and general commercial uses.

Mr. McClarty asked if the discussions with the potential purchaser of this property were favorable toward CU zoning.

Mr. Jones responded affirmatively; however, not all of the property will be utilized for CU zoning and the proponent is still in favor of GC zoning for that portion not utilized for the college and staff is opposed to GC zoning abutting single family residential zoning.

Mr. McClarty asked if the Commission could recommend the CU zoning or would this request have to be submitted and considered at a later time.

Mr. Jones stated that the Commission could consider this zoning today as it is a less intensive zoning use.

Mr. McClarty opened the public hearing.

Mr. Scott Senter, agent for this rezoning request, provided statistics regarding the traffic count for Texas Avenue, the dimensions of the street and similar uses along similar streets. Mr. Senter stated that this is a commercial location and office zoning has proven not to be needed. Mr. Senter stated that the portion for



the college could be zoned college-university (the area by the church), but the balance of the area should be zoned general commercial.

Mr. Tony Delgato, Director of American Commercial College, stated that the college has been at its current location on Butternut Street for over 30 years. Mr. Delgato stated that they have outgrown the Butternut location. The college would like to build a larger (13,000 square feet), more attractive structure for their students. Addition space will allow the college to provide new programs for their students. At this time, the building will not allow for more than 200 students.

Mr. McClarty asked Mr. Delgato where the building will be placed on the property.

Mr. Delgato stated that the building will be constructed between 5325 and 5201 Texas Avenue.

Mr. McClarty asked what type of buffer would be provided for the residential areas.

Mr. Senter stated that there is a heavy tree line between this property and the residential property. Also fencing will be provided between the residential and general commercial areas.

Mr. Ron Harmon, representing American Commercial College, stated that rezoning this property to allow American Commercial College to construct a facility on this site would give the area new life and enhance the neighborhood.

Mr. James Richards stated that his main concerns are that there are many elderly individuals in this area and increased traffic would cause concern for these individuals to exit their property, concern regarding increase in the amount of trash and debris in the area, and the location of a college across from his home.

Ms. Judith Roberts stated that this property has been brought before this Commission once before – the request was for commercial zoning. This request did not pass. Ms. Roberts stated that the traffic is bad on this highway and constructing a college will only increase the traffic. In addition, Ms. Roberts stated that this rezoning and construction of the college will lower the appraisal of their home. Ms. Roberts stated that they are highly opposed to this rezoning.

Ms. Anna Richards stated that her main concern is for the safety of her grandchildren due to the increased traffic that will result if the rezoning is approved. Ms. Richards stated that she is very much opposed to this rezoning.

Mr. Glenn asked Mr. Delgato what the student population was per semester.

Mr. Delgato stated that they have new students starting college every five (5) weeks. Student population is very flexible and can range from 175 to 200 students on campus at peak times. Many students are enrolled, however, not on campus – these students intern at various offices to complete program work. Mr. Delgato stated that he did not believe the traffic would be increased significantly; particularly since many of the students utilize public transportation (which is another issue which the college must address).

Mr. David Roberts stated that it is his understanding that the college will be constructed across from his home on three or four lots. The zone change is also requesting that the remainder of the area be zoned commercial. The area currently is zoned office and Mr. Roberts asked why the property could not remain office. Mr. Roberts also asked about bus service in this area to provide transportation for the students.

Mr. Senter provided the following items for clarification:

- ⇒ CU zoning was proposed by City staff – they were surprised to learn that the college would not be placed in Office zoning
- ⇒ Since a zone change was required for the college, it made sense to upgrade the zoning on the remainder of the property to provide double access – off Texas Avenue and Highway 277 – to create an efficient traffic flow for a commercial development.
- ⇒ GC on all the land would be the simple solution so that the project could proceed
- ⇒ If CU is required to accommodate American Commercial College, Mr. Senter asked the Commission to favorably consider this request
- ⇒ Mr. Senter requested that GC zoning be placed on the back of the property to provide a full block of GC zoning

Mr. McClarty closed the public hearing.

**Ms. Campos moved to approve Z-2009-12 as follows:**

- ⇒ **Zone the site for the Commercial College as College/University**
- ⇒ **Leave the Office zoning along Texas Avenue as it is**
- ⇒ **Zone Remainder of property behind the College General Commercial**

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

**Item Six: Thoroughfare Closure**

**a. TC-2009-02**

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Desa L. Lee-Laird to close the 10' alley between Sayles Boulevard and Highland Avenue from South 11<sup>th</sup> Street to South 10<sup>th</sup> Street.

Mr. Matt Jones presented the staff report for this case. The request is to abandon an alley.

Property owners within 200 feet of the request were notified. Five (5) comment forms were returned in favor of the request and two (2) in opposition.

The Plat Review Committee recommends approval of this request with conditions:

- ⇒ All property within the alley right-of-way to be replatted within 24 months
- ⇒ An open drainage and utility easement to be retained along the entire alley

Mr. McClarty stated that there are several different property owners abutting this alley and asked who would be paying for the replat?

Mr. Jones stated that the applicant would be responsible for the replat and charges associated with the replat.

Planning staff also recommends approval of the request.

Mr. McClarty opened the public hearing.

Ms. Ann Wilson stated that she and her husband are in favor of this request. Ms. Wilson stated that she did not return the comment form in favor or in opposition of the request and wanted to go on record that they are in favor of the request to close the alley.

Mr. Larry Robertson mentioned many of the neighbors who are either in favor or in opposition to the request. Mr. Robertson stated that he is asking to be permitted to purchase the alley behind his residence.

Ms. Elsa Baines stated that she has alley access parking for a garage apartment in the rear of her property. Ms. Baines stated that her granddaughter lives in the garage apartment and in the last 14 months her car has been broken into and they have had a prowler on their property. For these reasons, Ms. Baines stated that she is in favor of closing the alley. Ms. Baines stated that she is not happy about the possibility of a bed and breakfast next door to her and would like to at least have some control over the alley access as a safety issue.

Mr. Jim Fitzhugh stated that he is opposed at this time because it is his understanding that if this thoroughfare closure is approved subject to a replat of the area than each landowner could purchase the land to the midpoint of the alley. Some will choose to do this and some will not. Mr. Fitzhugh stated that his concern is that any of the seven property owners could make use of their half of the alley which in affect blocks the entire alley for him.

Mr. John Iman stated that he is in favor of the closing of this alley. Mr. Iman also mentioned the possibility of one of the properties becoming a bed and breakfast. Mr. Iman stated that they have "corporate living" in their neighborhood for which hotel/motel taxes are collected. Mr. Iman stated that they are against commercialization of their neighborhood.

Mr. McClarty asked if a "bed and breakfast" establishment could go into a residential neighborhood.

Mr. James stated that a bed and breakfast cannot be located at a residential property. However, the Sayles Ranch does not meet the City's definition of a bed and breakfast and the current property use (such as the Sayles Ranch) has been determined to be allowable by both City staff and the Board of Adjustment under single family zoning.

Mr. Steve Majors stated that his carport is in the rear of his property; however, there is a two-foot dropoff from the alley into the carport. Mr. Majors stated that he is in favor of the alley closure.

Ms. Desa Lee-Laird provided pictures of an alley off Amarillo Street where speed limit signs are posted. Ms. Laird stated that this is not wanted in their alley. Property owners who live in this area and need access to their property should have access but they do not want speed limit signs posted.

Mr. Terry Browder stated that he owns the property at 1033 Highland. Mr. Browder stated that he has not nor has he ever proposed to have a bed and breakfast because such an enterprise would require a variance from the Board of Adjustment and obviously this would not be possible. Mr. Browder stated that this is a rental property and they have been through extensive processes to ensure that what they are doing is consistent, legal and conforms to single family rental property. Mr. Browder stated that every time,

without exception, the Board of Adjustment has voted unanimously that Mr. James is correct in his determination that Mr. Browder's use of the property is single family rental property.

Mr. McClarty asked Mr. Browder why he was opposed to the alley being closed.

Mr. Browder stated that the alley provides access to his property, his water meter is located in the alley and if water or sewer lines are rerouted, it is much easier to complete this task in the back of the property. Mr. Browder respectfully requested that the Planning and Zoning Commission deny this request as it provides no benefit to the public to close the alley.

Mr. Todd asked Mr. Robertson that since utilities are located in the alley, there is an open drainage agreement, and two property owners are opposed to closing this alley could an agreement be reached that would make this a private access easement for this block.

Mr. Robertson state that he felt they could reach such an agreement with one property owner and could not with another property owner (and that property owner does not live in this block).

Ms. Cindy Haley stated that she is concerned that if this alley is closed will her alley be next. Ms. Haley stated that she appreciates individuals such as the Browder's who have purchased homes and improved the appearance of the neighborhood.

Mr. McClarty closed the public hearing.

Mr. Glenn stated that he is concerned about the utilities in the alley – what happens to these utilities and how are these utilities accessed.

Mr. James stated that as recommended by the Plat Review Committee and Staff, in order for this alley to be abandoned drainage and utility easement would have to be retained. This would allow the utility companies access to improve or upgrade their equipment. Under the City's current ordinance, this does not preclude someone from constructing a fence and denying access. If a utility company requires access to its equipment, the fence can be removed without the obligation of the utility company to rebuild or replace the fence.

Mr. James reiterated that staff's recommendation is that this area be replatted in full – this presumes that all property owners would be in agreement at some point as all would be required to sign the plat document. If this replatting does not occur within 24 months, this area would remain a public alley.

**Mr. Rosenbaum moved to deny TC-2009-02. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Campos, Famble, Glenn, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**Item Seven: Ordinance Amendments**

Mr. McClarty asked for a show of hands of those present for the item regarding the tow truck issue (parking of commercial vehicles). Due to the number of individuals present for this item, agenda items a. and b. were reversed.

b. Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 23-315 of the City of Abilene Zoning Ordinance regarding parking of commercial vehicles.

Mr. Ben Bryner presented the staff report for this item. This is an ordinance amendment to Section 23-315 of the Zoning Ordinance dealing with the parking of commercial vehicles. Staff had been asked to review the ordinance as it pertains to the parking of commercial vehicles in residentially zoned areas (particularly to evaluate options for tow trucks and emergency response vehicles parked in residential areas). Currently the ordinance allows commercial vehicles not in excess of 1-1/2 tons in residential areas. Staff reviewed the ordinances of peer cities and has arrived at the following options:

- ⇒ The first option is to eliminate the manufactured capacity limitation altogether and only prohibit truck tractors, road tractors and special mobile equipment as defined by the Texas Motor Vehicle Laws Uniform Act.
- ⇒ The second option is to increase the manufactured capacity limitation to two and one-half (2 ½) tons. This would allow most tow trucks and wreckers to be parked in residential districts, as well as many other commercial vehicles.
- ⇒ The third option is to keep the manufactured capacity language and add an exception to allow one vehicle of up to two and one-half (2-1/2) tons manufactured capacity, parked on a paved surface off the street, providing 24-hour emergency towing response.

In all three of these options, staff is greatly concerned about the size and weight of the vehicles travelling on residential streets and parking on residential properties. Residential streets are narrower than commercial streets and do not have the same construction standards to withstand the extra weight of these types of vehicles. Additionally, these vehicles will create added traffic obstacles and take away from the expected look and feel of residential neighborhoods. However, the safety factors involved with response time to accidents and potential secondary accidents are of legitimate concern. Allowing the emergency response vehicles in residential areas will keep response times low, will clear accidents quicker, and allow for greater overall safety.

Staff recommends **denial** of the first two options. Although the third option still causes concern, of these three options, staff prefers this option.

Mr. McClarty opened the public hearing

Mr. Jess Horton, Executive Director for Southwest Tool Operators, stated that he represents over 900 towing companies across the State of Texas. Mr. Horton stated that in the United States over \$230 billion is lost every year resulting from property damage from accidents. The secondary accident rate is 30% (accidents occurring after the primary accident) which results in a great deal of money. Secondary accidents also result in a high fatality rate and usually result as a result of a prolonged traffic incident (the longer the incident is on the roadway and must be cleared, the higher the rate for a secondary accident). Mr. Horton stated that in not allowing an

emergency towing vehicle to be able to respond quickly to an incident creates a greater opportunity for a secondary accident to occur. When a emergency response vehicle operator is required to leave his home to go to another location for a towing unit, the response time is prolonged by 15-30 minutes.

Mr. McClarty stated that he agrees with Mr. Horton but asked the size of response vehicles. Mr. McClarty stated that the Commission is looking for guidance regarding the tonnage of a response vehicle.

Mr. Horton responded that the standard tow truck (including the flatbed truck which is the most popular these days) is 2-1/2 tons. With the technology of the auto industry these days, the flatbed truck is becoming the standard as automobiles must be transported rather than towed. Mr. Horton stated that the third option proposed by staff would be the most reasonable and he would concur with this proposal.

Mr. Johnny Black stated that he has a truck and it has been parked in front of his home for the past 30 years and this seems to bring a measure of security to the neighborhood because his departures and arrivals are unknown and this seems to provide a “neighborhood watch” for this area.

Ms. Irene Cooper stated that she is a dispatcher for O’Bar Wrecker Service and their company is in the business of serving the citizens of Abilene and it is important to have the fastest response time possible.

Mr. Danny Murillo with Sudden Impact Wrecker Service stated that it is crucial for a wrecker service to have the fastest response time possible. Also, if employees are not allowed to park tow trucks at their residence, time will be lost when the driver must travel to another location to reach a tow truck.

Mr. Billy Enriquez stated that this amendment is very much past due. Mr. Enriquez stated that he has owned a tow service in the past and these companies need the leeway provided by allowing a tow truck at a residence in order to serve the public.

Mr. Stan Redding, with AA Towing Service, stated that two of his wreckers are already legal (within the allowable tonnage) and asked how this ordinance amendment will affect him.

Mr. McClarty stated that trucks of 2-1/2 tons or smaller are legal but only one vehicle per property.

Ms. Carrie Blaschke stated that she is a member of the Town West Neighborhood Association. Ms. Blaschke stated that her concern is the parking of the trucks in the yard or in the street. Ms. Blaschke state that 18-wheelers are parked in her neighborhood; however, the drivers park the vehicle after 5:00 p.m. and leave by 6:00 a.m. Mr. Blaschke asked if these vehicles will be allowed to be parked on the street – if so, this is a safety issue and a hazard.

Mr. James stated that it is not legal for these vehicles to be parked on the street, nor could they be parked in the yard.

Ms. Blaschke encouraged Code Enforcement to inspect her neighborhood after 5:00 p.m. to view the large trucks parked on the street.

Mr. McClarty closed the public hearing.

Mr. Rosenbaum asked the definition of a “paved surface.”

Mr. James stated that an improved surface would be asphalt or concrete. Mr. James stated that caliche is not allowed except for a residential driveway. However, this is not defined as a paved surface.

Mr. Glenn stated that he questions this because if a wrecker driver parks his vehicle on a caliche driveway, then, he would be in violation of this amendment.

Mr. Rosenbaum stated that perhaps the wording should be “improved surface” rather than “paved surface.”

Mr. James stated that it would not be unreasonable to require the parking of the larger vehicles on a paved surface.

**Mr. Glenn moved to approve Option Three of the ordinance amendment (7b.) with the rewording that paved surface be changed to improved surface. Mr. Famble seconded the motion and the motion carried by a vote of six (6) in favor (Campos, Famble, Glenn, McClarty, Rosenbaum and Todd) to none (0) opposed.**

a. Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 23-306 of the City of Abilene Zoning Ordinance regarding childcare centers.

Mr. Ben Bryner provided the staff report for this item. This proposed text amendment is to Section 23-306, Child Care Centers. Staff has received a request a review the ordinance pertaining to child care centers in residential zoning. Childcare centers differ from a home-based daycare by providing services to more than 6 children. Currently, childcare centers are not allowed in single-family residential (RS) districts. Childcare centers are conditionally allowed in multi-family residential (RM) districts with one condition being that the use is located on or within two hundred (200) feet of a collector or arterial street.

Upon review, staff is proposing two options for amending Section 23-306 in the Zoning Ordinance. The first option is to allow childcare centers in single-family residential (RS) districts only on approval of a Special Exception by the Board of Adjustment. This would provide an opportunity for review to determine compatibility with the surrounding properties based on specific criteria, i.e. number of children, traffic, ingress/egress, and improvements to the building or site.

The second option is to require approval of a Special Exception by the Board of Adjustment to allow childcare centers to be located at a distance greater than 200 feet of a collector or arterial

street in multi-family residential (RM) districts. This would provide an opportunity for review to determine compatibility with the surrounding properties.

In all cases, a childcare center must comply with applicable building codes.

Planning staff recommends **denial** of the first option and **approval** of the second option.

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

Mr. Rosenbaum stated that he can understand the need for good quality child care. However, it appears to him that there is a good ordinance in place and he does not see a reason to change the current ordinance.

**Mr. Famble moved to deny the ordinance amendment (7a.). Mr. Glenn seconded the motion and the motion carried by a vote of six (6) in favor (Campos, Famble, Glenn, McClarty, Rosenbaum and Todd) to none (0) opposed.**

**Item Eight: Director's Report**

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

Mr. Jon James mentioned one item of note:

1. The Weatherbee rezoning request from PDD to AO was at Loop 322 and Oldham Lane was denied by the City Council.

**Item Nine: Adjourn**

There being no further business, the Planning and Zoning Commission meeting was adjourned at 4:35 p.m.

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