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**PLANNING & ZONING COMMISSION**

**November 2, 2009**

**Minutes**

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**Members Present:**

Bruce Bixby  
Fred Famble  
Gary Glenn  
Tim McClarty

**Members Absent:**

Ovelia Campos  
Clint Rosenbaum  
David Todd

**Staff Present:**

Jon James, Director of Planning and Development Services  
Dan Santee, City Attorney  
Ed McRoy, Assistant Director of Planning and Development Services  
Ben Bryner, Planning Services Manager  
Robert Allen, MPO Director, Transportation Planner  
Molinda Parker, Historic Preservation Officer, Senior Planner  
Matt Jones, Planner I  
Zack Rainbow, Planner I  
JoAnn Sczech, Executive Secretary, Recording

**Others Present:**

Al Calloway  
Ross Bennett  
M.R. Newberry  
Whitney Root  
James Stone  
Wendy Chamberlain  
John Barbee  
Donnie Barbee  
Betty J. Thomsen  
Dave Boyll  
Scott Senter  
Randy Duncan  
Eddie Chase

**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**

Approval of the minutes from the September 21, 2009, October 5, 2009, and October 19, 2009, Planning and Zoning Commission meetings.

**Mr. Glenn moved to approve the minutes of the September 21, 2009, October 5, 2009, and October 19, 2009, Planning and Zoning Commission meetings. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

**Item Four: Plats**

- a. MRP-2609  
A public hearing to consider a plat of Lots 202, 203 & 204, Block 1, a Replat of Lot 102, Block 1, Crawford-Austin Co. Sub., a replat of part of Abilene Industrial Subdivision, No. 3, Abilene, Taylor County, Texas.
- b. MRP-2909  
A public hearing to consider a plat of Lots 123 & 124, Villages of Abilene, A Re-plat of lots 23 & 24 of Block B, Villages of Abilene Addition, City of Abilene, Taylor County, Texas.
- c. MRP-3109  
Public hearing to consider a plat of Lots 116-119, A Replat of Lots 2 and 3, Block A, Wildlife Trails Addition, To the City of Abilene, Taylor County, Texas.
- d. MP-3409  
A public hearing to consider a plat of Lot 1, Block A, Atlas Industrial Addition, Continuation 2, To the City of Abilene, Taylor County, Texas.

**Mr. Bixby moved to remove MRP-2909, MRP-3109 and MP-3409 from the table. Mr. Glenn seconded the motion and the motion carried unanimously.**

Mr. Rainbow presented the staff report for these plats. Staff is recommending approval of MRP-2609, MRP-2909 and MP-3409 as these meet the requirements of the Subdivision Regulations. Staff is recommending that plat MRP-3109 be tabled as this plat is incomplete at this time.

**Mr. Famble moved to table MRP-3109 to the December 7, 2009, Planning and Zoning Commission meeting. Mr. Bixby seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

**Mr. Bixby moved to approve plats MRP-2609, MRP-2909 and MP-3409. Mr. Glenn seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

**Item Five: Rezoning Requests**

a. Z-2009-15 (Tabled Item)

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Donald A. Callaway to rezone property from AO/COR (Agricultural Open Space with Corridor Overlay) to LC/COR (Limited Commercial with Corridor Overlay) zoning, located at 4801 Buffalo Gap Road.

**Mr. Glenn moved to removed Z-2009-15 from the table. Mr. Famble seconded the motion and the motion carried unanimously.**

Mr. Matt Jones provided the staff report for this item. The request is to rezone property from AO to LC. The subject parcel totals approximately two (2) acres and is currently zoned AO (Agricultural Open Space). The parcel has been developed with a single family home and is used as such. The surrounding properties are zoned for single family residential to the east and west, O (Office) to the north, and AO to the south. The area was annexed in 1959 and was designated as AO zoning after it had been annexed.

Currently the property is zoned AO and has been developed as a single family use. The properties to the east, south, and west across Buffalo Gap Road have been developed as single family residences. The property adjacent to the north has recently been developed as an eye care office.

The Future land Use Map and the Comprehensive Plan designates this general area as low-density residential. The Buffalo Gap Road Corridor Study (BGRCS), adopted in June of 1994, encourages low density residential or office zoning along the Buffalo Gap Road frontage at mid-block locations, minimizing commercial uses adjacent to residential uses. The BGRCS goes on to say that commercial activity should only be encouraged at major intersections along Buffalo Gap Road. For these reasons the requested LC zoning would not be considered compatible with this plan.

Property owners within 200 feet of the rezoning request were notified. Three (3) comment forms were returned in favor of the request and four (4) in opposition.

Planning staff recommends denial based on the Future Land Use Map and the Buffalo Gap Road Corridor Study.

Mr. McClarty opened the public hearing.

Mr. Newt Newberry, representing Mr. Don Calloway, requested that this item be tabled until the Commission's January 4, 2010, meeting.

Mr. McClarty closed the public hearing.

**Mr. Bixby moved to table Z-2009-15 until the January 4, 2010, Planning and Zoning Commission meeting. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

b. Z-2009-16

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the Landmarks Commission, to rezone property from RM-3 (Multi Family Residential) to RM-3/H (Multi Family Residential with Historic Overlay) zoning, located at 702 Meander Street.

Mr. Ben Bryner presented the staff report for this case. The request is to add Historic Overlay Zoning to existing RM-3 Zoning. The subject parcel, Lots 1 & 2, Block 4 in the Alta Vista Subdivision contains approximately 0.32 acres and is currently zoned RM3 (Residential Multi-Family). The parcel has been developed with a single family home and will continue to be used as such. The surrounding properties are zoned single and multi-family residential to the east, west, north, and south.

This property, in the Alta Vista Subdivision, was designated as part of the Sayles Boulevard Historic District January 28, 1992, by the Texas Historical Commission. The property is described below: Josie and J. Monroe Dunagin House, 702 Meander, Site 4217, Contributing (1), c. 1905/c. 1925, Other: vernacular/ Bungalow. Description: one-story frame residence with an asymmetrical plan and a hipped roof with secondary hipped roofs over wings that extend from the core of the house; inset 2-bay porch with tapered box supports; aluminum sash windows; additions to south elevation.

Currently the property is under condemnation by the City of Abilene. It was purchased August 3, 2009, by Scott & Nellie Tillman who are working to restore the house and property with the intention to make it their permanent residence. A building permit request by the Tillman's triggered the review for protection by the Landmarks Commission and allowed the Commission to intercede on behalf of preservation. On August 25, 2009, the Landmarks Commissions elected to be the applicant for Historic Overlay Zoning for the property located at 702 Meander based upon the information presented.

The Future land Use Map and the Comprehensive Plan designates this general area as low-density residential.

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

The Landmarks Committee recommended approval as requested.

Planning staff recommends approval as requested

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

**Mr. Bixby moved to approve Z-2009-16. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

c. Z-2009-17

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 adjacent to the west side of Indian Wells Subdivision and south of Dakota Springs Section 1.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from AO to RS-6. The subject parcel totals approximately 12.4 acres and is currently zoned AO (Agricultural Open Space). The parcel has never been developed. The adjacent properties have RS-6 zoning to the north and east, AO zoning to the west, and Hardison Lane is the City Limit to the south. The area was annexed in 1980 and was zoned AO when it was incorporated into the City of Abilene.

Currently the property is zoned AO and is undeveloped. There is an existing single family subdivision to the northeast of the subject property and the request would be extending the single family development to the south.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The requested RS-6 zoning is compatible with the Future Land Use Map. The properties to the northeast have been developed with single family residences and there are future plans for single family development adjacent to the property to the north and east, therefore the request is compatible with the surrounding areas.

Planning staff recommends approval as requested.

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.

Mr. McClarty opened the public hearing.

Mr. Tal Fillingim, agent for Mr. Waldrop, stated that this rezoning request is to support a continuation (Section 2) of a single family subdivision. The homes and lots will be similar to Section 1 and RS-6 zoning is an appropriate zoning for this location.

Mr. McClarty closed the public hearing.

**Mr. Famble moved to approve the rezoning request for Z-2009-17. Mr. Bixby seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

d. Z-2009-18

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Charles Barbee to rezone property from RS-6 (Single Family Residential) to MH (Mobile Home) zoning, located at 6009 Pueblo Drive and 933 Baker Street.

Mr. Matt Jones presented the staff report for this case. The request is to rezone property from RS-6 to MH. The subject parcel totals approximately 8.4 acres and is currently zoned RS-6 (Single Family Residential). The parcel has been developed with a single family residence. The adjacent properties have RS-6 zoning to the south and east, RM-2 and RS-6 zoning to the west, and MH and RM-3 zoning to the north. The area was annexed in 1959 and was zoned RS-6 sometime after it was annexed.

Currently the property is zoned RS-6 and has a single family residence on the property. There is an existing mobile home subdivision to the northwest of the subject property. There is a mix of single family and multi family developments in the immediate area of the property.

The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The requested MH zoning is compatible with the Future Land Use Map. The property to the northeast, across Pueblo Drive has been developed as a mobile home park. There have been MH zoning requests in the area approved as recent as 1999. The applicant intends to use the property for a single mobile home and has no intentions to subdivide or use the property for a mobile home park, although that would be an allowable use with this zoning.

Property owners within 200 feet of the rezoning request were notified. One (1) comment form was returned in favor of the request and one (1) in opposition.

Planning staff recommends approval as requested.

Mr. McClarty opened the public hearing.

Mr. Donnie Barbee stated that he is representing his father who is the property owner of this parcel. Mr. Barbee stated that they are not requesting rezoning of 6009 Pueblo from residential zoning. Their request is to rezone approximately 1 acre to 1-1/2 acres of the 6.8 acre tract to mobile home zoning in order to place a double wide mobile home on the property. The Barbees have no intention of selling the property or renting the mobile home.

Mr. John Barbee stated that a square acre (220 feet by 220 feet) has been selected for the placement of the mobile home in the southeast corner of the property (to be addressed off Richmond Street). Mr. Barbee stated that one reason for the selection of this site is availability to the sewer system. However, if the neighbor is in opposition, the site can be moved. Mr. Barbee stated that his alternative preference for placement of this mobile home is the southwest corner of the property (Richmond and Baker Streets).

Ms. Wendy Chamberlain stated that they returned the comment form in opposition of the request. After hearing the Barbees plan for this area, Ms. Chamberlain stated that they would probably not be in opposition if the mobile home is placed on the north corner of the property with entrance off Pueblo Drive. Ms. Chamberlain stated that she would not want the acre on Richmond Street zoned for a mobile home.

Ms. Betty J. Thomsen stated that she lives across the street from the property in questions and stated that she would have no problem with the Commission approving the placement of the mobile home anywhere on the property.

Mr. Barbee pointed out that other mobile homes are located in this area: Richmond and Veterans Drive, Benbrook and Redbird Land, Fairmont and Hartford Streets. Mr. Barbee stated that he would be willing to locate the mobile home on the southwest corner of the property.

Ms. Chamberlain stated that she would be opposed to a mobile home being located anywhere along the southern portion of this property.

Mr. McClarty asked the Barbees if they would have a problem with zoning a northern portion of the property mobile home.

Mr. Barbee stated that they would rather not move the location to the north. The southwest corner would be fine with access to the property off Baker Street.

Mr. Bixby asked Mr. Barbee if a tract of land 200 feet wide by 250 feet deep with a 75-foot setback from Richmond would create a hardship with regard to the sewer line.

Mr. Barbee stated that he did not believe this would create a hardship.

Mr. McClarty closed the public hearing.

**Mr. Bixby moved to approve Z-2009-18 with the following condition:**

⇒ **The site would be on the southwest corner and would be 200 feet wide; 250 feet deep and a setback of 75 feet (from Richmond Street)**

**Mr. Famble seconded the motion and the motion failed for lack of a majority by a vote of three (3) in favor (Bixby, Famble and McClarty) to one (1) in opposition (Glenn).**

Mr. Glenn stated that he understands the opposition to this location. Mr. Glenn recommended that the mobile home be placed farther north with access off Baker Street. In this way the mobile home would be located on a different street from the individual in opposition and still provide access to utilities.

Mr. James stated that this item could be tabled until staff could obtain a map that indicates the placement of utilities.

Mr. McClarty reopened the public hearing. The motion to locate the mobile home on the southwest corner has failed; however, the proponent has a number of options:

- ⇒ The proponent may request that the item be tabled
- ⇒ Allow the Commissions to discuss placement of the mobile homes to the north

Mr. Barbee stated that the preferred area is to the south but if consideration was given to placement of the mobile home half way down on the Baker Street side that would be fine with them. Also, power lines are located in this area so location should be a little to the south.

Mr. McClarty closed the public hearing.

**Mr. Bixby moved to table Z-2009-18 until a later time during this meeting. Mr. Glenn seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none opposed.**

**Item Six: Thoroughfare Closure**

TC-2009-03

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the City of Abilene to abandon Rose Street beginning at the north right of way line of South 3<sup>rd</sup> Street and extending approximately 328 feet to the north.

Mr. Matt Jones presented the staff report for this case. The request is to Abandon Rose Street beginning at the north right of way line of South 3<sup>rd</sup> Street and extending approximately 328 feet to the north. Improvements to this right-of-way have never been completed. The right-of-way was dedicated for public use as part of the Original Town Abilene Plat. The right-of-way width varies from 70 feet to 38 feet. There are existing platted lots only have access off of Rose Street.

The applicant intends to close this alley to provide better security to the surrounding property owners. Since there are existing platted lots that have their only frontage along Rose Street, a replat must be done to ensure that there are no lots left without street frontage if the right-of-way is abandoned.

**Plat Review Committee:** Approval, with the conditions that the applicant replats within 12 months to ensure there are no lots without street frontage, maintains an open drainage easement on the entire ROW, and establishes that all ROW in the area have been closed.

**Staff Recommendation:** Approval of the requested abandonment, with the conditions suggested by the Plat Review Committee.

Property owners within 200 feet of the thoroughfare closure were notified. No comment forms were returned in favor or in opposition of the request.

Mr. James stated that the condition specified by this Commission could be worded that either the plat be vacated and a new plat created or a replat of the area could be done. This would allow accomplishment of this condition through either of these means.

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

**Mr. Bixby moved to approve TC-2009-03 with the conditions recommended by the Plat Review Committee. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

**Item Seven: Thoroughfare Plan Amendment**

Public hearing and possible vote to recommend approval or denial to the City Council to consider an amendment to the Thoroughfare Plan in an area generally described as being east of Potosi Road, north of Buckskin Road, and south of Old Elmdale Road at Highway 36.

Mr. Matt Jones presented the staff report for this case. The City of Abilene received a request to amend the Thoroughfare Plan in the general area mentioned above. The proponent purchased a piece of property with future plans to subdivide and develop the property as a low density residential subdivision. During the development process, the proponent submitted a Preliminary Development Plan (PDP) for review to the City of Abilene. During the review of the PDP, the City made the applicant aware that there was a future expressway shown on the Thoroughfare Plan that ran through his proposed subdivision.



The proposed amendment would shift the alignment of the future expressway to the south of their property, to allow the proponent to develop the property as they had intended. The proposed alignment would also shift the right-of-way of the expressway onto properties to the east and south that currently have no such obligation. The location of the future expressway on the Thoroughfare Plan is a general location for where the right-of-way should be located. The shift of the expressway to the south would not affect the overall plan.

Staff recommends **approval** of the proposed amendment, if the affected property owners are in favor of the amendment.

Property owners who may be affected by this Thoroughfare Plan Amendment were notified of the proposal and of this hearing.

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

**Mr. Bixby moved to approve the Thorough Fare Plan amendment as follows:**

- ⇒ **begin the radius at the southeast corner of the subject property and extend the thoroughfare plan adjacent to the property line (keeping the thoroughfare and right of way on the north and on the proponent's side of the property line)**
- ⇒ **begin the curve of the thoroughfare back toward the north**
- ⇒ **retain the conditions proposed by the Plat Review Committee**

**Mr. Glenn seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty to none (0) opposed.**

**Return to Item Five: Rezoning Request**

d. Z-2009-18

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Charles Barbee to rezone property from RS-6 (Single Family Residential) to MH (Mobile Home) zoning, located at 6009 Pueblo Drive and 933 Baker Street.

**Mr. Famble moved to remove Z-2009-18 from the table. Mr. Glenn seconded the motion and the motion carried unanimously.**

Mr. Bryner provided additional information regarding this case:

- ⇒ location of the water line
- ⇒ measurement of the property: 750 feet from north to south and 400 feet from west to east
- ⇒ closure of Potomac Road is approximately 385 feet from the south property line
- ⇒ a 200 foot by 200 foot lot would be approximately 185 feet north of Richmond

Mr. James recommended that the zoning be tied to the southern boundary of the easement for the power lines. This would provide staff with a defined line from which to measure (200 feet to the south of the easement).

Mr. McClarty reopened the public hearing.

Mr. Barbee stated that he asked that this area be measured while the item was tabled and their measurement from the corner of the property to the power lines is approximately 417 feet. This is pretty close to the Commission's recommendation and this placement would work for them (200 feet from the power line to the south and 200 feet over).

Ms. Wendy Chamberlain asked to staff to point out on the map the Commission's recommended placement of the mobile home. Ms. Chamberlain asked why the site could not be flipped to the north side of the property.

Mr. McClarty stated that the problem is that the sewer line is along the south property line and this is placing the mobile home 200 feet further from the sewer line. Mr. McClarty stated that this appears to be the best compromise for everyone.

Mr. Santee mentioned that the parcel where the mobile home is located will be the only area zoned for a mobile home. If placement of additional mobile homes was requested in the future, the proponent would be required to submit an application and go through the rezoning process.

Mr. McClarty closed the public hearing.

**Mr. Glenn moved to approve Z-2009-18 with the following conditions:**

- ⇒ **from Potomac Street – come back 200 feet to the south along Baker Street**
- ⇒ **200 feet to the east (this would be the area to be approved for rezoning)**

**Mr. Bixby asked if the starting point is the south line of the easement for the utilities. Mr. Glenn stated that this is correct.**

**Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

**Item Eight: Capital Improvement Program (CIP)**

Public Hearing to receive potential project suggestions from the public regarding the 2010-2014 CIP.

Mr. Ed McRoy provided the staff report for this item. Mr. McRoy stated that today staff will be seeking comments from citizens regarding suggestions for capital projects.

Mr. McRoy explained that the CIP is a five-year program used to plan for various City expenditures over the next few years. Year one provides authorization for expenditure of funds for capital projects and subsequent years (2, 3, 4 and 5) are for planning purposes only.

Mr. McClarty stated that he has mentioned this item in the past but wanted to include a request that money be set aside for a homeless shelter. Mr. McClarty stated that this request has been studied for many years and he feels that if the City can afford to maintain City streets, funds should be available to assist the homeless – even it is only a token amount to get a homeless shelter constructed within the City.

Mr. James stated that some funding has been provided to "Our House." This is a homeless shelter that CCDC is working on and funds have been provided through both the 2009 City budget (CDBG) as well as the CDBG-R, which is additional funding received through the Community Development Block Grant

program for the Federal stimulus program. Mr. James stated that hundreds of thousands of dollars have been allocated to this project.

Mr. McClarty stated that the City needs to continue efforts to provide a homeless shelter.

Mr. McClarty opened the public hearing.

Mr. Robert Allen, Metropolitan Planning Organization, spoke in favor of the transportation items included in the CIP. Mr. Allen stated that although the dollar amount is not what they had hoped to see (due to economic conditions); however, he is in favor of the proposed transportation funding. Mr. Allen stated that the amount proposed for transportation is not really adequate to fund the maintenance and rehabilitation of the City streets system.

Mr. McClarty closed the public hearing.

**No action is required of the Planning and Zoning Commission regarding this item.**

**Item Nine: Land Development Code**

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to adopt the Land Development Code.

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

Mr. Jon James, Director of Planning and Development Services, pointed out changes in the Land Development Code:

⇒ Page 1-40 – Proportionality Appeal

Language clarification within this section

⇒ Page 2-26, Zoning Section, Table 2-2

Changes language from maximum building coverage to maximum lot coverage (impervious coverage on a lot). When this change was made, the amount of allowable coverage was not increased – this section raises the limits in accordance with regulations of peer cities. (This does not apply to Commercial or Industrial areas – a separate chart deals with these zoning districts.)

Mr. James stated that there are two questions for the Commission:

1. Is the Commission comfortable with this philosophical change?
2. Is the Commission comfortable with the percentages?

⇒ Page 2-129

This provision provides for a reduction of the setback for a property adjacent to undevelopable property (golf course, railroad right of way, utility line easement, etc.).

Mr. Santee stated that he had one correction to make for the benefit of the Planning and Zoning Commission. At the last P & Z meeting, Mr. Santee stated that a city cannot be sued if a permit was issued in error. A court has disagreed with that theory and has stated that a city can be sued for inverse condemnation if a permit is issued in error and the permit is revoked. Mr. Santee stated that he does anticipate that this decision will be appealed.

Mr. McClarty opened the public hearing.

Mr. Tal Fillingim stated that he is in favor of the philosophical change or shift regarding impervious cover for specific zoning districts mentioned by Mr. James. Mr. Fillingim stated that to him multi family zoning districts (apartment complexes) presents a site specific issue. Landscape requirements are in place and with the development of an apartment complex either a detention pond or mitigation facility is specifically designed for the site. Mr. Fillingim stated that regardless of the amount of impervious cover, the drainage issue is taken care of by the site specific detention pond. Mr. Fillingim stated that his recommendation would be to remove multi-family from the list. Mr. Fillingim stated that he is in favor of the other two issues mentioned by Mr. James.

Mr. Randy Duncan stated that his concern is the definition for accessory structures (Page 2-111 - #4, Accessory Dwelling Units). Mr. Duncan stated that the problem occurs when the landlord lives off site – having the landlord live on site would probable solve 90% of the problem. Mr. Duncan presented the Commission with a petition signed by his neighbors.

Mr. Bryner stated that the problem arises when a home is leased and the accessory unit is leased without the knowledge of the property owner. This situation has occurred a couple of times and Mr. Bryner stated that it is his belief that Mr. Duncan is requesting that it be made explicit within the Land Development Code so that staff will have better enforcement opportunities in order to regulate this type of dwelling.

Mr. James stated that the provision in the proposed Land Development Code allows units similar to those in some of the older neighborhoods in Abilene. This would allow a secondary dwelling unit by right. The units that currently exist are legal nonconforming units. This would allow two dwelling units on one lot with restrictions, i.e., the secondary unit be a maximum of 800 square feet, etc.

Mr. McClarty closed the public hearing.

Mr. McClarty asked City staff to research this problem (secondary units) and submit information to the Commission at the next meeting.

Mr. Bixby stated that the issue of adequate public facilities was addressed within the Committee meetings but does not recall discussing this issue since the committee meeting. This item is in Chapter 3, Page 3-31, Section 3.2.1.1. The Committee discussed limitations on public facility requirements by the developer. The Committee was not comfortable with requiring developers to provide park land and the Committee requested an explanation as to exactly what facilities would be required and a limit placed on the required facilities by developers (Section 3.2.1.1).

Mr. McClarty stated that what he believed to be done was to add the wording “limited to” and ensure that this wording remained within the Code.

Mr. Bixby stated that there are numerous sections within the Code that refer to “adequate public facilities.” Mr. Bixby requested that the wording “limited to” be included in each instance where the words “adequate public facilities” are mentioned (e.g., Sections B-1, #4, #5, #6). Mr. Bixby stated that Section 3.2.1.2 (a).(2), “The Planning and Zoning Commission may refer the subdivider to the Parks Board to seek appropriate recommendations” makes him think once again developers are being required to provide parks. Mr. Bixby stated that it was specifically stated in the Committee meeting that this would

not be the choice of the Committee.

Mr. James stated that this provision remains in the Land Development Code at the request of the City Council. If the Council's decision is no parkland dedication, all the references to park facilities throughout the Land Development Code will be removed. This is noted in the Parkland Dedication Section of the Land Development Code that both the Committee and this Commission have recommended this be eliminated. Mr. James stated that this information is noted in this draft of the Land Development Code that will be provided to the Council and will be noted in the summary memorandum of the changes recommended by this Commission.

Mr. Bixby asked if the same information will be submitted to the Council regarding Traffic Impact Analysis.

Mr. James stated that this is correct.

Mr. Bixby stated that there are many issues included in the draft Code that the Commission had recommended be removed. Mr. Bixby asked if notations could be made in the draft wherever this occurs that the Commission made a recommendation to remove this information.

Mr. James stated that this has been done with the TIA references and this can be done for references to parkland dedication as well.

Mr. Bixby asked about information on Page 3-33, (c) – this information sounds very much like impact fees.

Mr. James stated that in order to do impact fees, the City must meet specific standards outlined in State law, which this ordinance does not do. Therefore, even if this was a general statement that implied impact fees, the City could not impose these fees. Mr. James stated that this is basically the legal justification for the standards that come later in the Code. With or without the limitations mentioned earlier, the City can only require of a developer what this ordinance specifically authorizes the City to require – right of way, waterline installation, etc.

Mr. Bixby stated that in several instances requirements remain in the Land Development Code that the Commission and the Committee recommended be deleted. Mr. Bixby asked why the information was not deleted, as recommended, and add a statement that this might be included upon finalizing the Code.

Mr. James responded that it is easier to leave the information in the Code rather than remove the information and then add it back into the Code at a later date – in terms of page numbering, and ensuring that the references were included. Mr. James stated that perhaps the mistake on staff's part was not highlighting all of the materials that might be deleted (similar to the Traffic Impact Analysis information).

Mr. Bixby stated that it would be his preference for the document to be written as proposed by the Planning and Zoning Commission and the Review Committee. Staff recommended changes could be added in a summary and City Council could make the final decision.

Mr. James stated that from a technical standpoint, this is the manner in which this Code will be presented to the City Council. The formal recommendation from this Commission will be presented to the City

Council as the Commission's recommendation. Staff's intent is to highlight those issues that the Planning and Zoning Commission and the Review Committee recommended removing from the document. If the motion by the Council is to approve the recommendation of the Planning and Zoning Commission (regarding the Land Development Code) these items would be removed. Because the Council specifically asked to see these issues within the Code (back in the diagnostic phase of this project) staff did not feel comfortable removing this information. Mr. James stated that when the Land Development Code is presented to the City Council, the recommendations of the Planning and Zoning Commission will be very clear.

Mr. James stated that a concern is that if wording, such as "limited to," is missed within certain sections of the document, staff does not want this to be interpreted as "limited to" applies in one section and not in another where the words "limited to" were to be added but the addition was overlooked. Mr. James stated that under the General Policy, Section A, a sentence could be added which states, "Developers will not be required to install any infrastructure beyond what is authorized within this Code" or words to this effect.

Mr. McClarty stated that he believed this recommendation was made in the Committee meetings and agreed that this wording should be included.

Mr. McClarty stated that he recalled including the words "limited to" but also including a definition.

Mr. James stated that the wording "as set forth in the article of this chapter" limits City staff from requiring anything other than those specific requirements referenced within the Code. Mr. James stated staff will review this wording to ensure that that the wording is consistent throughout the Code.

Mr. McClarty stated that at this time he is not comfortable with forwarding this Code to the City Council with only four (4) Commissioners present. Mr. McClarty stated that additional time is required to study this Code and this item should be tabled until the Commission's next meeting.

**Mr. Glenn moved to table the Land Development Code until November 16, 2009, at 5:30 p.m. Mr. Famble seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Famble, Glenn and McClarty) to none (0) opposed.**

**Item Ten: Director's Report**

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

Mr. James stated that Council decisions were as outlined in a memorandum submitted to the Commission:

- ⇒ Request to rezone property from AO to MH zoning, located at 7809 West Lake Road.  
P & Z Recommendation: 10-8-09: Denial, by a vote of five (5) in favor (McClarty, Bixby, Rosenbaum, Todd, and Famble) to none (0) in opposition.

Council Decision: Approval of Planning and Zoning Commission's recommendation of denial (7-0).

- ⇒ **Ordinance Amendment:** Amend Section 23-319 of the City of Abilene Zoning Ordinance regarding Airport Zoning.

P & Z Recommendation: 10-8-09: Approval as amended, by a vote of four (4) in favor (McClarty, Bixby, Rosenbaum, and Famble) to none (0) in opposition.

Council Decision: Approval with six (6) amendments as recommended by P&Z (6-0)

**Item Eleven: Adjourn**

There being no further business, the Planning and Zoning Commission meeting was adjourned at 3:50 p.m.

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