
PLANNING & ZONING COMMISSION

November 16, 2009

Minutes

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

Members Absent: Clint Rosenbaum

Staff Present: Jon James, Director of Planning and Development Services
Dan Santee, City Attorney
Ed McRoy, Assistant Director of Planning and Development Services
Ben Bryner, Planning Services Manager
JoAnn Szech, Executive Secretary, Recording

Others Present: Dave Boyll
Riley Griffith
Jeanine Lund

Item One: Call to Order

Mr. Tim McClarty called the meeting to order at 5:35 p.m. and declared a quorum present.

Item Two: Invocation

Mr. McClarty gave the Invocation.

Item Three: 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. Jon James presented the staff report for this item. Changes made by staff to the Land Development Code were provided to the Commissioners (three pages).

1. Page 3-31 – Section 3.2.1.1 (b) – Number 10 was added:
“Nothing in this Chapter shall be construed to require any dedication or construction that is not explicitly required by the standards within this Article.”

This item is to clarify any statement, such as *adequate public facilities* is not intended to provide an open-ended requirement to allow the City, at some point, to inform a developer at a later date that facilities are inadequate. This language clarifies that the only things required are those items specifically outlined in this article (Article 2 – Subdivision Standards) – water facilities, wastewater facilities, transportation facilities, and drainage facilities.

Mr. James stated that staff reviewed the entire document and references to *park facilities* were highlighted. Also highlighted were those instances where traffic impact analysis was mentioned. Assuming that the City Council follows the Planning and Zoning Commission's recommendation to remove both the park dedication and traffic impact analysis, the highlighting indicates to staff those areas where these references would be removed from the document.

Mr. McClarty stated that before the Commission approves the Land Development Code and forwards this recommendation to the City Council, he would like to have a copy for the ordinance as approved by the Commission. Other items requested by the Council could be referenced with a footnote.

Mr. James asked the Commission if their suggestions would be to completely remove this information from the document and provide a separate document to the Council with the information included. Mr. James stated that staff feels obligated to provide the Council with this language (per Council's request).

Mr. Todd asked why staff felt obligated to provide this information to the Council.

Mr. James stated that the Council met with the Consultant during the diagnostic phase of this project. The Consultant's direction from the Council was to include the parkland dedication requirement and traffic impact analysis requirement. The Council made it clear at that time that they were not necessarily endorsing these requirements, but they wanted this information included so that the Council could understand the ramifications of these requirements.

Mr. Bixby stated that he agreed that this document should be written as approved by the Planning and Zoning Commission.

Mr. Glenn agreed with Mr. McClarty and Mr. Bixby regarding the document presented to the Planning and Zoning Commission.

2. Pages 3-45 and 3-47 – Utility Placement Guidelines (Subsections 4 and 7)
Provides a *financial guarantee* option for the subdivider.

Mr. James asked if the utility companies charge the developers for installation. Mr. Todd responded that only one utility company charges for installation and in some cases they have waived this fee.

Mr. James stated that in light of this information, the *financial guarantee* can be eliminated from this Number 4 and Number 7 in the *Guidelines* section.

Mr. Todd asked if the Utility Placement Policy which has been in effect for many years will be enforced through this section.

Mr. James stated that Numbers 5 and 6 of the Guidelines address this issue. Mr. James stated that staff could review the possibility of removing some of the requirements in these items (5 & 6); however, staff would need to discuss this with the Public Works Department.

3. Page 3-68, Item (b) (4)
The wording *winged side slopes* should be changed to *flared side slopes*

Staff researched the following issues:

1. Maximum Lot Coverage for Multi Family Zoning Districts (Page 2-26)
Addresses issues of drainage, landscaping, aesthetics and water quality

Consensus of Commission: Increase maximum lot coverage to 90% in multi-family zoning districts.

2. Accessory Dwelling Units (Page 2-112)

Concern regarding primary and accessory dwellings utilized as rental units. Mr. James stated that after consulting with the City's Legal Department, staff's recommendation is to not change the current policy. If the Commission feels this issue warrants a change to the ordinance the following steps could be put in place: (1) tighten the restrictions on these units; and, (2) Special Exception through the Board of Adjustment.

3. Permit Revocation Issue

City staff met with the Consultant to discuss this issue. The recommendation from this Commission stating that permit revocation should occur through action of the City Council was acceptable. Revised language regarding the Planning and Zoning Commission's recommendation will be included in the revision of the Land Development Code.

4. Driveway Spacing from Intersection
Particularly regarding a "T" intersection.

Mr. McClarty opened the public hearing.

Ms. Jeanine Lund stated that she sees no advantage to giving up green space – allowing 90% of multi-family property to be covered by a building or impervious surface. Keeping the coverage at 80% would be an advantage in terms of water quality and quality of life.

Mr. Riley Griffith made the following comments:

- ⇒ Lot percentage coverage – water restrictions and the requirement of detention ponds when Abilene is in a drought seems counterproductive to him
- ⇒ Chapter 2, Zoning Regulations, Article 5, Use Regulations, Page 92, Item (4), Animal Lot
(a) Site Size – ½ acre per animal (Mr. James informed Mr. Griffith that this regulation does not apply to the ETJ)
- ⇒ Section 2, Page 95, Section 22, Farming, Ranching and Livestock Hatchery
Item (a), Water Quality Requirements – Mr. Griffith stated that he does not want the Water Quality Board to establish water quality requirements for livestock
Item (c), Site Suitability – Mr. Griffith asked exactly what this means and is concerned when a regulation is not clear.
- ⇒ Page 2-101, Item 34, Mining, (e) Oil and Gas Exploration
Mr. Griffith stated that he has a problem with the restrictions placed on AO property which happens to fall within the City limits of Abilene (particularly for him to sell a load of gravel or top soil off his property).
- ⇒ Section 3, Page 5, Subdivision Regulations and Procedures, Item (5), Farmland Exception
Item (a) states a 20 acre minimum
Mr. Bryner stated that this is the exception for platting within the City limits.

⇒ Page 23, Section 3, Amending Plats (Section B, Item (4))

Mr. Griffith stated that monuments are required to be set before a plat is filed.

Mr. Todd stated that he believed the monuments could be set after the plat is filed if this is stated on the plat.

Mr. Griffith stated that as a general comment regarding the entire Land Development Code, any rules adopted with this new code need to be enforced.

Mr. McClarty closed the public hearing.

Mr. McClarty stated that once the final draft of the ordinance has been completed, in accordance with the recommendations of the Planning and Zoning Commission, the Commission will vote on a final recommendation to the City Council.

Mr. McClarty stated that he had placed tabs on the pages in the Code where he had questions. He stated that if there is no objection, he would go through the draft and review those areas where he had questions.

⇒ Page 1-16 (b) – Composition of the Landmarks Commission

In the past a representative of the Planning and Zoning Commission was a member of this Commission. Mr. Santee stated that the makeup of this board was reconstituted about eight years ago and a subcommittee of the Landmarks Commission vote to remove the P&Z member.

Consensus: Leave this section as written.

⇒ Page 1-25 – Section 1.2.2.3 - Posting of Rezoning Notice on Property

The Review Committee and the Planning and Zoning Commission voted against this option.

Consensus: Remove this language from the Land Development Code.

⇒ Page 1-56

Reads “Super Majority” rather than “Simple Majority” as recommended by this Commission.

Consensus: Replace wording - Simple Majority rather than Super Majority

⇒ Page 2-23

Consensus: Remove all of “K” - #1, #2 and #3.

⇒ Page 2-26 – Chart

Consensus: Maximum coverage for Multi-Family – 90%.

⇒ Page 2-39

Consensus: Reformat top right hand corner of the table (some of the text is blocked out).

⇒ Page 2-40

Consensus: Reformat text.

⇒ Page 2-76 – Land Use Matrix

Consensus: Section 2.4.2.1 (NOT 2.5.2.1)

⇒ Page 2-77

Consensus: Section 2.4.2.1 (NOT 2.5.2.1)

⇒ Page 2.-82 – Adult Entertainment Enterprises

Consensus: Reads: Section 2.5.3.16 – SECTION NUMBER IS INCORRECT.

⇒ Page 2-83

Mr. McClarty asked why a conditional use permit was required for post offices in Neighborhood Retail and Mixed Use. Mr. McClarty stated that Post Offices should be allowed in the following zoning districts: College/University, Neighborhood Retail, Mixed Use and Heavy Industrial

Consensus: Allow Post Offices in College/University district and in Heavy Industrial areas as an accessory use; and, as a conditional use in Mixed Use and Neighborhood Retail.

⇒ Page 2-87

Restaurants, Fast Food/Restaurant/Standard under the Office and Medical Use columns – P/C
Mr. McClarty asked if the designation should be P or C.

Mr. James stated that this use is permitted in these zoning categories; however, under specific situations and this is explained later under “conditions.”

Mr. Glenn asked why this was not included under College/University (fast food).

Consensus: Add College/University with the same conditions (that it be internal).

⇒ Page 2-91- Adult Entertainment Enterprises

Consensus: Reads: Section 2.5.3.4 – SECTION NUMBER IS INCORRECT – It should be Section 2.4.3.4.

⇒ Page 2-95 – Farming, Ranching, Livestock, Hatchery

Mr. Griffith asked about water quality requirements and site suitability under this section

Mr. Todd stated that a permit is required through the TCEQ for a feedlot or a dairy farm.

Mr. Santee stated that if this is an issue carried over from the current code and regulated by the TCEQ, the entity that has the expertise in this area, and if they are not enforcing some issue of water quality he could not see the City’s Code Enforcement Officers issuing a citation for a violation in this area.

Consensus: Remove Paragraphs A, B and C from this section.

⇒ Page 2-101 – Mining

This issue was mentioned in an earlier public hearing.

Mr. Santee stated that there have been situations where the City has enforced this policy.

Consensus: This section should remain as written.

⇒ Page 2-112 – Accessory Buildings

Consensus: This section should remain as written.

⇒ Page 2.121 – Height and Design of Towers

Mr. James stated that this section is specifically for telecommunication towers and is carried over from the current ordinance.

Consensus: Remove #1 and #2 from this section.

⇒ Page 2-123

Consensus: Remove the word “City” from this exemption.

⇒ Page 2-131

Mr. McClarty stated that the figure at the bottom of the page illustrates a maximum 24-inch overhang. Mr. McClarty stated that he is designing very few homes with a 24-inch overhang.

Mr. Bixby stated that on the next page, a 36-inch overhang is allowed (Item I-Encroachments).

Consensus: The graphic on page 2-131 should indicate a 36 inch extension (NOT HEIGHT). If the overhang above is 36 inches then the extension below should also be 36 inches. This would agree with I-3 on the next page.

Mr. McClarty asked if the issue of parking either in the front or the rear of a building had been resolved and is this stated within the Land Development Code?

Mr. James stated that the Comprehensive Plan encourages parking on the side or in the rear of the building. If side or rear parking is selected, the building can be constructed closer to the street (reduced setback).

⇒ Chapter 3 – Section 3-8 and 3-9

Consensus: Remove *Preliminary Development Plans* and substitute with *Preliminary Plats*. (Section referring to Development Plats was deleted – Section 3-16.)

⇒ Page 3-18 – Conveyance Plats

Mr. James stated that this is a simplified plat for a case where there are no plans for development. This would allow a landowner to subdivide land and postpone a detailed plat until ready to develop the land. This item was added by the Consultant following a recommendation from the Review Committee.

⇒ Page 3-31 – Adequate Public Facilities

Mr. Bixby asked for clarification on #6.

Mr. James stated that the intent of this section is to ensure that for any facilities dedicated to the public, the entity responsible for the maintenance of such facilities is identified. Mr. James stated that perhaps this should read “public or private” facilities.

Mr. Bixby suggested that it be explained that this section refers to the requirements in Item A (extension of public facilities and roadways). Mr. Bixby recommended reviewing the next few pages and then come back to this issue.

⇒ Page 3-33, Paragraph 3.2.2.1, (a) 3.- Requirements for Dedication or Construction of Capital Improvements to serve the proposed new development...

Consensus: Add additional information be added to paragraph to 3.2.1.1. stating: *These limitations apply to all divisions in Article 2.*

⇒ Page 3-33

Consensus: Paragraph B should be removed (Traffic Impact Analysis and Other Public Facilities Studies should be removed.)

⇒ Page 3-34, Section 3.2.2.4 – Relief from Obligations

Consensus: Remove information between the two commas – from “credit or offset ... impact fees.”

⇒ Page 3-35 – Paragraph 1

Consensus: Remove all wording after “city road or utility facilities...” leaving in the wording “at no cost to the City.”

⇒ Page 3-35 – Participation of Construction Costs of Necessary Facilities

Consenses: Remove the wording, “major bridges, major drainage structures, or railroad crossings.” Remove Section “C” entirely.

⇒ Page 3-39, Section 3.2.4.3

Consensus: Add the wording “off site public facilities.”

⇒ Page 3.40 – Water Delivery Service

Mr. James stated that no plat is required for more than 10 acres. If a property is platted and falls under the “Adequate Public Facilities” requirements, delivery service water would not be allowed.

Consensus: Remove note in this section.

⇒ Page 3.41, Section 3.2.5.1, B. – Responsibility

Consensus: Add the word “public” before facilities (two areas within this section where this wording should be added).

⇒ Page 3-44

Staff will review this section and provide wording to the Commission at their next meeting.

⇒ Page 3-47 – Traffic Impact Analysis

Consensus: Remove TIA in Paragraph B.

Ms. Campos moved to table the Land Development Code until the December 7, 2009, meeting of the Planning and Zoning Commission. Mr. Bixby 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 Four: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at 7:53 p.m.

Approved: _____, Chairman
