
PLANNING & ZONING COMMISSION
August 2, 2010
Minutes

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

Members Absent: Ovelia Campos
Clint Rosenbaum

Staff Present: Jon James, Director of Planning and Development Services
Dan Santee, City Attorney
Ben Bryner, Planning Services Manager
Zack Rainbow, Planner II
Alysha Pasieta, Executive Secretary
Megan Santee, Public Works
Richard Burdine, Economic Development

Others Present: BoBo Peggy Johnson
Charliet Peggy Parker
Ganie R. Hatch
Gary Goodloe
Athlene Mullins
Virginia Bailey
Ed Emerson
Roberta Brown
Dave Boyll
Barbara Printer
Russell English
Charlie Marlur

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. McClarty gave the Invocation.

Item Three: Approval of Minutes

Mr. McClarty moved to approve the minutes of the June 7, 2010 meeting. Mr. Bruce Bixby seconded the motion and the motion carried unanimously.

Mr. McClarty moved to approve the minutes of the July 6, 2010 meeting. Mr. Bruce Bixby seconded the motion and the motion carried unanimously.

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

Item Four: Plats

a. No Plats were submitted for approval

Item Five: Zoning

a. Z-2010-10

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the City of Abilene to rezone property from AO (Agricultural Open Space) and GC (General Commercial) to PD (Planned Development) zoning, located at the southeast corner of West Lake Rd. and Johnson Rd. and being approximately 90 acres.

Mr. Ben Bryner presented the staff report for this case. The request is to rezone property from AO and GC to PD. The subject parcel totals approximately 90 acres and is currently zoned AO (Agricultural Open Space) and GC (General Commercial). The subject property has been developed with a wide variety of uses, including a City Park, boat ramps, an RV Park, and a restaurant.

The adjacent properties have AO (Agricultural Open Space) to the north, RS-6 (Single Family Residential) to the south, GC (General Commercial) and AO (Agricultural Open Space) to the west across W. Lake Rd., and Lake Fort Phantom borders the property to the east and south.

The area was annexed in 1956 and 1983, the majority of the property has been zoned AO since it was annexed and a portion of the property was zoned GC sometime after it was annexed.

Currently the property is zoned AO and GC and has been developed with a City Park, boat ramps, RV Park, and restaurant. The adjacent property to the north is undeveloped. There are single family homes bordering the subject property on the south. There are commercial developments to the west across W Lake Rd., and Lake Fort Phantom Borders the property on the south. Comprehensive Planning Analysis the Lake Fort Phantom Land Use Plan identifies this area as a Commercial Recreational area. The plan also designates this general area as a special point of interest. The proposed PD (Planned Development) would incorporate a variety of recreational as well as commercial activities on the property to promote future development and activity on the lake. The PD also includes several design guidelines for the property to ensure development is consistent with the Lake Fort Phantom Hill Land Use Plan. Overall the proposed PD is compatible with the surrounding uses as well as the Lake Fort Phantom Hill Land Use Plan.

Property owners within 200 feet of the rezoning request were notified. No (0) comment forms were received in favor or in opposition of the request. Planning staff recommends approval of the request.

Mr. Bixby asked where the ownership lies within the 90 acres. Mr. Bryner stated all of the property is City owned. He also stated that the majority of commercial property is leased space that will remain in tact until the City plats and sells to the current lessees. Mr. Todd asked if there were any lots there were going to be sold as single family lots or if it's a platted area that's going to be sold as lots. Mr. Bryner stated that the City planned for the commercial elements because it's currently zoned GC (General Commercial) which is the Charlottes Cove area. Mr. Bryner also stated on the preliminary plans none of the lots will be zone residential and that he doesn't think it would be the best use for the area given the

park, Charlottes cove and the boat ramp. Mr. Santee stated that there is a residence on site now. Mr. Santee stated that the City is going to sell this property and needed to have a plan place prior to this place being surveyed and put up for commercial development. Mr. Bixby asked how long the lease runs on the leased property. Mr. Santee stated that the current lease is a one year lease with the options of a year extension. Mr. Santee also stated that the property is currently being marketed for sale.

Mr. McClarty opened the public hearing.

Gary Goodloe owns a commercial property at 11250 West Lake Road. He stated that he doesn't have any problem with the development but was curious as to what PD meant considering he had never heard of it before. He stated that his property is zoned commercial and with the rezoning wanted to know how he was going to be affected.

Mr. Santee stated that Mr. Goodloe's property was not part of the re-zoning and the main purpose for the re-zoning was to control what type of commercial development might ultimately take place in the area. The city currently owns the property and is allowed to place some restrictions on the area.

Gary Goodloe asked whether some of the property would be available to purchase.

Mr. Santee stated that the property would eventually become available for purchase and would have to be developed in accordance with the standards set by the city.

Mr. McClarty closed the public hearing. The P&Z Commission discussed the request. Mr. Bixby asked as more of the Lake is considered for development and sale if the City planned to put additional planned development districts in the area. Mr. Bryner stated it is the plan but could potentially change if an overlay is applied for in the Lake Fort Phantom area. Currently Lake Fort Phantom is just a plan and doesn't have any zoning requirements in the land Development code; the PD is the City's mechanisms to incorporate those districts. Mr. Bryner also stated that in the future they would be looking at an overlay for the Lake Fort Phantom area. Mr. Bixby asked if zoning was enough or if the City needed additional controls. Mr. Bryner stated in order to implement what is recommended with the plan more controls are needed. Mr. James stated that there was an implantation section at the end of the plan which made very specific recommendation on what kinds of uses and their appearances. Mr. James also stated that certain things that are normal ordinances are not necessarily applicable to a lake setting. For example, in residential areas sidewalks are not required because of the more natural lake setting. Mr. Bixby asked if the staff would be looking at two tools one might be a PDD and the other an overlay. Mr. James stated that the longer term objective is to have a separate lake lot district or an overlay district. Mr. Bixby asked if the City had money set aside for Johnson Park. Mr. James stated improvements in the area are currently under way. Mr. Bixby asked if the improvements to Johnson Park prompted the PDD. Mr. James stated that was part of it as well as the recent renewal on the lease of the property and talk of selling the lease. Mr. Santee stated that the property is included in Phase II of selling of the lots at Charlotte Cove and that the City has completed Phase I. Mr. Santee also stated that the plan had to be in place prior to making the land available.

Mr. Bixby moved to approve Z-2010-10 to include the use of 'Retail fishing dock and related sale of lures and bait'. Mr. Famble seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, Todd, and McClarty) and none (0) opposed.

b. Z-2010-11

Public hearing and possible vote to recommend approval or denial to the City Council on a request from the Development Corporation of Abilene, Inc. to amend PD-73 concerning signage and business identification.

Mr. Bryner presented the staff report for this case. The request is to amend PD-73 concerning signage and business identification. The subject parcel totals approximately 200 acres and is currently zoned PD (Planned Development). The subject properties have been developed with large industrial type uses.

The adjacent properties have AO (Agricultural Open Space) zoning to the north, HI (Heavy industrial) to the east and west, and HC (Heavy Commercial) zoning to the south.

The area was annexed in 1959 and 1964 and later zoned HI (Heavy Industrial) after it was annexed, it was later zoned PDD in 2000.

Currently the property is zoned PD and has been developed with large scale industrial type uses. There are several commercial and industrial uses in the surrounding area. Comprehensive Planning Analysis The Future Land Use section of the Comprehensive Plan designates this general area as business/industrial as well as a Gateway into the City. The requested PD amendment would increase the size of the wall signage and identification allowed within the PD. The existing developments are all large scale buildings, the increased size of the identification on the structures would allow these developments to better identify themselves without detracting from the overall aesthetic quality of the development within the PD.

Property owners within 200 feet of the rezoning request were notified. Staff received two (2) comment forms favor and none (0) in opposition of the request. Planning staff recommends approval of the request.

Mr. McClarty asked what the current letter size is on the PWP. Mr. Bryner stated that he was unsure but explained that it should not exceed eighteen (18) inches.

Mr. McClarty opened the public hearing.

Mr. Burdine, representing the Development Corporation of Abilene. Mr. Burdine stated that he was available to answer any questions. He also stated that the PWP letters are taller than eighteen (18) inches and are most likely three (3) to four (4) feet tall.

Mr. McClarty closed the public hearing. The P&Z Commission discussed the request. Mr. Bixby stated that the current requirements are too small.

Mr. Bixby moved to approve Z-2010-11. Mr. Glenn seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, Todd, and McClarty) and none (0) opposed.

c. Z-2010-12

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Butterfield Meadows, LLC. to rezone property from MD (Medium Density) to PH (Patio Home) zoning, located at the 3500 block of Firedog Rd.

Mr. Bryner presented the staff report for this case. The request is to rezone property from MD to PH zoning. The subject parcels total approximately 3 acres and are currently zoned MD (Medium Density Residential). The parcels are currently undeveloped.

The adjacent properties have MD and PH(Patio Home) to the south, GC (General Commercial) to the west, RS-6 (Single Family Residential) to the north, and PH and AO (Agricultural Open Space) zoning to the east.

The area was annexed in 1986 and was later zoned RM-3 (Multi Family Residential) in December 2007. With the adoption of the Land Development Code, the current zoning is now MD (Medium Density Residential).

Currently the properties are zoned MD and are undeveloped. The adjacent properties have been developed with a few single family residential homes to the north as well as a few patio home developments to the south. The commercial property to the west along HWY 277 South remains undeveloped. The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The request would reduce the number of dwelling units that would be allowed since PH zoning is single family and MD is multi family zoning and would reduce the overall density of the area. The request would also allow for decreased setbacks on the subject properties. The requested zoning is compatible with the surrounding uses as well as the Future Land Use Map and Comprehensive Plan.

Property owners within 200 feet of the rezoning request were notified. No (0) comment forms were received in favor or in opposition of the request. Planning staff recommends approval of the request.

Mr. McClarty opened the public hearing.

Tall Fillingim, agent for applicant, stated that PH zoning is appropriate for the location. There is GC zoning between this location and HWY 277 and believes that it's good transitional zoning which is less of an intense use. The primary reason for request is the market; the owner has seen more of a demand for patio homes.

Mr. McClarty closed the public hearing. The P&Z Commission discussed the request.

Mr. Famble moved to approve Z-2010-12. Mr. Bixby seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, Todd, and McClarty) and none (0) opposed.

d. Z-2010-13

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Joseph Lopez to rezone property from RS-6 (Single Family Residential) to NO (Neighborhood Office) zoning, located at 841 EN 10th St.

Mr. Bryner presented the staff report for this case. The request is to rezone property from RS-6 to NO zoning. The subject parcel totals approximately 0.23 acres and is currently zoned RS-6 (Single Family Residential). The parcel is currently undeveloped.

The adjacent properties have RS-6 zoning to the north, south, and east, with MD (Medium Density Residential) across Avenue F to the east.

The area was annexed in 1957 and was zoned to RS-6 sometime after it was annexed.

Currently the property is zoned RS-6 and is undeveloped. The adjacent properties to the west and south are developed with single family homes as well as the properties to the north across EN 10th Street. The property to the east across Avenue F is developed with a multi family home. The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The subject property is also along an Enhancement Corridor and part of a Local Community Center as defined by the Comprehensive Plan. The applicant is requesting the zone change to allow for a parking lot for a bank. The requested zoning would be compatible with the surrounding residential uses as well as the Comprehensive Plan. Neighborhood Office seems to be an appropriate zoning for the subject property since the property has frontage at the intersection with an arterial street. The required landscaping and buffering will also help to soften the impacts of any development on the surrounding neighborhoods.

Property owners within 200 feet of the rezoning request were notified. Staff received zero (0) comment forms in favor and six (6) in opposition of the request. Planning staff recommends approval of the request.

Mr. Bixby asked what the zoning on 1001 Ave. F. Mr. Bryner stated the zoning was medium density. Mr. Bixby asked why staff recommended approval before they heard any opposition and wanted to know the reasoning. Mr. Famble stated that he had the same question as Mr. Bixby. Mr. Bryner stated that in several cases staff is 50/50 on the request and waits for responses that they receive through the notification. Mr. Bryner explained that the responses are valid in nature but given that neighborhood office has limitations it would protect the residential owners. Staff would recommend approval but will also take the responses into consideration. Mr. Todd asked if there was a site plan submitted to for the bank and if there was ample parking space on the site plan. Mr. Bryner stated that they have met the City's parking lot requirements, which was submitted before the changed land development code. Mr. Bryner stated the rezoning would be for additional parking to what they currently have. Mr. Famble asked what triggered the rezoning. Mr. Bryner stated that the bank requested the rezoning. Mr. Bixby stated that there is a difference between taking an open agricultural piece of property and putting neighborhood office on it; as opposed to taking something that has already been zoned residential and rezoning it to neighborhood office. Mr. Bixby wanted to know if there was a difference when staff has already established zoning. Mr. Bryner stated that staff did look into that but since neighborhood office has protection with screening and buffer yards we were okay with the requested rezoning. Mr. Bixby asked how staff makes consideration on something that has zoning as opposed to taking a raw piece of agricultural and putting it into new zoning. Mr. Bryner stated it depends on what currently exist on the property. Mr. Bryner stated an undeveloped piece of property that has residential zoning is easier to rezone versus a piece of property that is developed. Mr. Bryner stated that if the property had a house on it and wanted to remove the home to put a parking lot on it, it would weigh heavier on the decision. Mr. James stated that it does raise a higher level of scrutiny to rezone where there is existing zoning and the presumption is that the current zoning is appropriate for that area. Mr. Todd asked what the approximate age of the surrounding homes were. Mr. Bryner stated the homes were built in the 1970's and that nothing has been on the vacant lot since that time.

Mr. McClarty opened the public hearing.

Charlie Marler owns property at 818 Radford Dr. Mr. Marler stated that he is very familiar with the property. He stated that on Ave F and EN 10th there is a Taylor school crossing. He stated that children from Radford Hills and Cockrell cross over the intersection to get to school. He stated there was a

red/green light in that area that the City had taken out just a few days ago. The City replaced them with flashing lights which signifies a school crossing. Mr. Marler believes that the parking lot will increase traffic on the street near the school crossing as well as the traffic in the alleys located behind the parking lot. Mr. Marler believes the neighborhood personality and property value will change once the parking lot is put in place. Lastly he stated that the city is not doing a good job projecting the area. Mr. Marler urged the board to deny the request.

Bob Johnson owns property at 934 Ave. F. He stated that across the street from the bank there is a piece of property for sale that the bank should purchase to use as a parking lot. He believes that the empty parking will be a place for people to congregate which will cause more problems.

Virginia Bailey owns property at 933 Ave. F. Ms. Bailey stated that people who want to park in the empty parking lot will come from Judge Ely and Piedmont area to park in there. She stated that it will increase traffic and the area already has too much traffic.

Tony Hatch owns 902 Ave F. Mr. Hatch wanted to reinforce what was stated by Mr. Johnson and that he believes that there is ample parking at the bank.

Roberta Brown owns 925 Ave F. Ms. Brown stated that she agrees with her neighbors and doesn't feel as though the property is undeveloped. She stated that the trees in the empty lot give the area a pleasant look.

Joseph Lopez, agent for applicant. Mr. Lopez is considerate of the neighbors' issues. He stated that he wrote letters to home owners to explain what was going on with the bank. He stated that the residents were unable to listen to what he had to say. He stated that a mortgage bank in the area would create more business for the bank. He stated that because of this the bank would need additional parking. Mr. Lopez stated that the high grass and weeds in the empty lot would create an area for snakes to live. He said that by eliminating the high grass and weeds it would be eliminating an eye sore which would increase the property value in the area. Mr. Lopez also made mention to the fact that the children will be crossing the street before the bank opens. Mr. Lopez stated that the property across the street is zoned PD and that the owners would not be willing to sell part of the property for a parking lot.

Mr. McClarty asked if Mr. Lopez was representing the bank or the seller. He also asked if the bank would make a compromise and make the property more like a park atmosphere with minimal parking. Mr. McClarty also stated that the board could table the item while he speaks with his clients.

Mr. Bixby asked if the bank had made attempts to lease additional parking in the spare lots surrounding the bank.

Mr. Lopez stated that the space across the street from the bank would not be interested in leasing the space but will speak to businesses down the street. He said as an investor they would rather own than lease.

Mr. McClarty asked whether or not Mr. Lopez would be willing to table the item.

Mr. Lopez stated that he would be happy to table the item and discuss the compromise with his client.

Mr. Marler stated that the compromise wouldn't fix the traffic issue. He stated there would still be more congestion and the park would draw kids to come and party. He stated that the bank could redesign their parking lot to fit more spaces.

Mr. Todd stated that eventually something is going to be developed in the empty lot. He asked Mr. Marler what he would like to see in that area.

Mr. Marler stated that the empty lot had been mowed and that it is not a danger to the public.

Mr. Johnson stated that there are so many empty parking spaces that the bank could use. He stated that he was afraid that the development would continue and grow out further.

Mr. Glenn asked Mr. Johnson what he thought of Mr. McClarty's suggestions.

Mr. Johnson stated that he would prefer to see a park put in for the kids to wait for the bus.

Mr. Lopez stated that the conversation is starting to feel like a personal attack on the bank. He stated that he is unsure of exactly how many parking spaces the bank is going to need. He stated that he assumes the board would vote and ultimately someone is going to be disappointed.

Mr. McClarty closed the public hearing. The P&Z Commission discussed the request. Mr. Bixby stated that the area looks like an awkward place to put a parking lot. He stated that when someone buys a home, it's a big investment and that the owners have a reasonable expectation that the zoning will continue. Mr. Bixby stated that there does continue to be more and more infringement on the neighborhood. He stated there has to be other choices the bank has for parking that have not been explored yet.

Mr. Famble stated that the lot seems too far from the bank and that he was going to lead out the motion to denial.

Mr. Todd stated what if someone wanted to put in a dental office on that lot; would our opinions change if that were the case. He stated that he's having a problem with the lot being developed into a parking lot but also has an issue with the lot remaining vacant.

Mr. Bixby stated that there may be more acceptable forms of development to place in that area besides commercial uses.

Mr. Todd stated that he hates seeing pieces of property remaining vacant for a long while.

Mr. Famble moved to deny Z-2010-13. Mr. Bixby seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, Todd, and McClarty) and none (0) opposed

Item Six: Ordinance Amendment

Public hearing and possible vote to recommend approval or denial to the City Council on a proposal to amend Section 2.4.2.1 Land Use Matrix and Section 2.4.3 Requirements Applicable to Specific Land Uses of the Land Development Code.

Mr. Ben Bryner presented the staff report. At the Planning & Zoning (P&Z) Commission on May 17, 2010, the Commission asked staff to include an item on the next agenda for potential changes to the Land Development Code (LDC). The P&Z Commission met on June 7, 2010 and discussed changes to the following sections:

Section 2.4.2.1 Land Use Matrix

Section 2.4.3 Requirements Applicable to Specific Land Uses

Staff listened to the concerns and comments and proposed options for Sections 2.4.2.1 and 2.4.3 at the July 6, 2010 meeting

The discussion included concerns about language of the signage and enforcement of the regulation. The Commission asked staff to revise the language, consult the Abilene Police Department, and bring back the item to the next meeting.

Staff has revised the provision dealing with the language of the sign. Additionally, staff has consulted with the Abilene Police Department concerning enforcement. It was agreed that a sign can be placed in hopes it would help reduce the number of violations, but the low priority of this call may not allow for response by APD.

Staff is providing options for Sections 2.4.2.1 and 2.4.3 but does not offer a recommendation.

Mr. Bixby asked if the carwash ceased to operate; is there a time period that they would have to meet new code.

Mr. Bryner stated it would have a six (6) month time frame before it was required to conform to current regulations.

Mr. McClarty stated it seemed like the City was putting the burden on the carwash owners to have to put up signs. He stated that the signs aren't going to reinforce the law and that there is no way to police the carwash.

Mr. Bixby asked if the area was hard to police and if that was an argument for or against putting up reminders.

Mr. McClarty stated that carwashes are covered with signage and that people won't pay attention or notice the noise complaint signs.

Mr. Bixby asked what the board thought of the 200 foot setbacks.

Mr. McClarty stated that he agreed that the 200 foot setbacks should be included and over a period of time the noise problem may be resolved with the setbacks.

Mr. Famble asked if the noise complaint was a low priority call to the police.

Mr. McClarty stated that it is a low priority and by time the police get there, the person will be gone. He also stated the ordinance should be revised with the distance requirement and not the signage.

Mr. Todd stated that signs will be made an issue and may then be put in other places in the city such as the mall parking lot.

Mr. McClarty asked if the item had been tabled and whether or not the board had to take it off the table.

Mr. Bryner stated that it would not need to be because it had been re-advertised.

Mr. James stated that the item was posted as a public hearing and will need to be opened up for a public hearing.

Mr. Bryner stated that the board wanted option 2 but to remove letter A.

Mr. McClarty opened the public hearing.

Ed Emerson owner of supersize carwashes. He had put up signs in the past when asked by the police. He stated that he asked people at the carwash whether or not they noticed the signs. He also stated that the more signs they put up the less they will be seen.

Mr. McClarty closed the public hearing. The P&Z Commission discussed the request.

Mr. Glenn moved to drop the A and leave the B under option #2 for the automobile wash section. Mr. Famble seconded the motion and the motion carried by a vote of five (5) in favor (Bixby, Famble, Glenn, Todd, and McClarty) and none (0) opposed

Item Seven: Director's Report

There were no recent City Council decisions regarding items recommended by the Planning and Zoning Commission.

Mr. James stated that the south downtown plan received a state grant in the amount of \$700,000 to do street improvements on South 1st street from Butternut to Locust.

Item Eight: Adjourn

There being no further business, the Planning and Zoning Commission meeting was adjourned at approximately 3:45 PM.

Approved: _____, Chairman