
PLANNING & ZONING COMMISSION
November 1, 2010
Minutes

Members Present: Bruce Bixby
 Gary Glenn
 David Todd
 Clint Rosenbaum

Members Absent: Tim McClarty
 Ovelia Campos
 Fred Famble

Staff Present: Jon James, Director of Planning and Development Services
 Dan Santee, City Attorney
 Ben Bryner, Planning Services Manager
 Matt Jones, Planner II

Others Present: Daniella Herrera
 Ross Bennett
 Joann Bennett
 Mia White
 Chris Jones
 Lane Shair
 Rebecca Castillio
 Agnes Campbell
 Jason Castille
 Dave Boyll
 Lydia Long
 Jamie Amber
 David Gomez
 Deborah Gomez
 Amanda Fuentes
 Tina Herdshaw
 Earl Foster
 Jason Hill
 Erik Johnson
 Pat Hippely
 Dawn Wagner

Item One: Call to Order

Mr. Rosenbaum called the meeting to order at 1:30 p.m. and declared a quorum present.

Item Two: Invocation

Mr. Rosenbaum gave the Invocation.

Item Three: Approval of Minutes

Mr. Bixby moved to approve the minutes of the October 4, 2010 meeting with a change from 2 in favor to 3 in favor for the 1st motion on the last item. Mr. Todd seconded the motion and the motion carried unanimously.

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

Item Four: Plats

a. MRP-3410

A public hearing to consider a plat of Lot 108, Block 16, North Park Addition, Out of Lot 8, Block 16, North Park Addition, to the City of Abilene, Taylor County, Texas.

b. FP-0910

A public hearing to consider a plat of Dakota Springs Addition, Section 2, 12.394 Acres Out of the SE 1/4 of Section 67, Blind Asylum Land, Abstract No. 1461, City of Abilene, Taylor County, Texas

c. MRP-3710

A public hearing to consider a plat of Lot 1, Block 1, North Olsen Place Subdivision, Abilene, Texas, a Replat of Lot 4, Block 12, North Park Addition as Recorded in Plat Cabinet 2, Slide 137-C and Lots 8-12, Block 1 and Lots 1-8, Block 2, Olsen Place Subdivision of Lots 5-9, Block 12 of North Park Addition, Abilene, Taylor County, Texas.

Mr. Bryner presented the report for the plats. The applicant for Plat MRP-3710 has requested that the plat be removed from the agenda due to insufficient votes (Mr. Todd will be abstaining). The item will go forward and after the thirty (30) day state requirement of no action, it will be deemed approved.

Planning staff recommends approval of the requests.

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

Mr. Todd moved to approve MRP-3410 and FP-0190. Mr. Bixby seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Glenn, Rosenbaum, and Todd), none (0) opposed.

Item Five: Zoning

a. Z-2010-16

Public hearing and possible vote to recommend approval or denial to the City Council on a request from Tina Hershaw to rezone property from MD (Medium Density) to PD (Planned Development) zoning, located at 1101 Palm St.

Mr. Jones presented the staff report on this case. The subject parcel totals approximately 0.78 acres and is currently zoned MD (Medium Density Residential). The most recent use of the current facility was for a church, the building is currently vacant. The adjacent properties have MD zoning to the north, south, east, and west.

The area was included in the original city limits and was zoned MD sometime after it was incorporated into the City of Abilene.

Currently the property is zoned MD and has been developed with a two story building which is currently vacant. The adjacent properties to the north, south, east, and west are developed with multi family residential units. The Future Land Use section of the Comprehensive Plan designates this general area as low density residential. The applicant is requesting the zone change to allow for a pet grooming business as well as kennel services (indoor only). The PD ordinance would allow for these uses as well as residential uses on the property. The PD would also require all fencing to be setback a minimum of 20 from all property lines with street frontage. The property has frontage along a collector road (S.11th St.) which supports having some low intensive commercial uses. The proposed PD ordinance would be compatible with the Comprehensive Plan and the surrounding land uses.

Property owners within 200 feet of the rezoning request were notified. No (0) comment form were received in favor and two (2) in opposition of the request. Planning staff recommends approval of the request.

Mr. Bixby asked if the entire surrounding residence was zoned single family. Mr. Jones replied that the surrounding residence were zoned multi family.

Mr. Bixby asked if the actual use was for single family. Mr. Jones replied that there are some single families in the area as well as multi families since medium density would allow for single family residence.

Mr. Bixby stated that he didn't notice any multi family in the immediate area surrounding the building, but rather only single family residence. Mr. Jones stated that he agreed with Mr. Bixby's comment but there is also multi family residence within the immediate area surrounding the building.

Mr. Todd stated under the old zoning category RM-3 nothing has changed by changing the designation.

Mr. Jones stated that the kennel use would be permitted in general retail but the personal services, such as the grooming, would be permitted in office and neighborhood retail zoning.

Mr. Bixby asked for clarification on Mr. Jones' comment that the above property was a good transitional use. Mr. Jones stated that it would be a compatible use considering that it is located on a collector street and is within 500 feet of the corner of Butternut Street. There are several commercial activities that occur on collector streets in Abilene.

Mr. Rosenbaum opened the public hearing.

Ms. Agnes Campbell, resident at 1102 Palm Street, stated that she petitioned the neighborhood and obtained forty-one (41) signatures in opposition of the zone change. She stated that she doesn't approve of a pet grooming business that would be located in front of her property. Both she and the neighbors have concerns that the business won't be very sanitary and have concerns on how the pets will be cared for. They also have concerns regarding property value, noise, and dogs harming the children. Renters have told her that they refuse to rent along the area of the business. Ms. Campbell followed her statement with the reciting of a poem entitled "Tornado".

Ms. Suzie Foster stated that she is a previous kennel owner and would like to refute what Ms. Campbell stated above. Ms. Foster stated that dogs do not bark all day; they sleep just as they would if they were at home. Her kennel never received any complaints about, smells, dogs running loose or disturbances.

Mr. Todd asked if Mr. Foster was the applicant trying to purchase the building. Ms. Foster stated that she was not but wanted to state her experience on what kennels are like.

Ms. Tina Hershaw, applicant, owns Diamonds in the Ruff Pet Salon, she has been in business for seven years. She runs a very neat and clean establishment that has passed all previous inspections. She stated that she is a certified master groomer internationally and that she knows her business very well. She was associated with a very large kennel in Washington that contracted the United States Customs dogs. She stated that she plans on living on the premises; they plan on being a part of the community and takes great pride in her job. The grooming facility will be more like a pet resort with suites and a fenced in play yard. She stated that at the current time Abilene doesn't have a pet resort and would like to bring that option to the City.

Mr. Rosenbaum asked if there would be an exercise area of some sort for the pets. Ms. Hershaw stated that there would but it would only be limited to day time use.

Mr. Glenn asked how many pets would be maintained on a daily bases and how many would be outside at any given time. Ms. Hershaw stated that she was unsure but suspect around twenty dogs at any given time. The dogs would be taken out on different shifts.

Mr. Glenn asked what would be done to control or limit the odor. Ms. Hershaw stated that she has hired employees to clean up after the pets and the building has floors that are easy to maintain. The walls in the building are cinder block which helps keep out the noise and smells.

Mr. Todd asked if Ms. Hershaw owned the property. Ms. Hershaw stated that she is in the process of purchasing the property pending the outcome of today's meeting.

Pastor Jason Castille, leases the property at 1101 Palm Street, stated that he has several families that attend his church that have small children. The children play on the church grounds and in the parking lot that feel safe in the neighborhood. The pet grooming facility will be detrimental towards the community in the sense that it will take away serenity and peace that they have enjoyed over the years. Mr. Castille stated that his mother owns a pet grooming business in Eastland, Texas that is quite noisy. He feels as though this business would be a disruption to the neighborhood.

Mr. Todd asked if the church was leasing the building at 1101 Palm Street and if the lease was coming to its end date. He asked if the property would be lease back to him if the zone change is not approved. Mr. Castille stated that it could be a possibility if they have the funds to do so; they may not be able to lease the property even if the zone change is not approved.

Mr. Todd asked how long they had been leasing the building and if he knew what had been there previously. Mr. Castille stated that they have leased the property for approximately a year and stated that the property was previously used as a church.

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

Mr. Bixby stated that this case is a zoning issue and that some of the items mentioned are not zoning related issues. We've seen issues like the present one and in Abilene churches are given special exemptions. Once the church is no longer in existence there is a temptation to use the property for

commercial use. The PDD doesn't change anything; it's a question of whether the use is appropriate for the area. Property renters or owners have the understanding that certain zoning is in place and have a reasonable expectation that zoning will continue. He stated that unless there's strong support from the neighbors he would oppose the zoning change.

Mr. Rosenbaum stated that there's four or five case like the current one in which they approved one and denied the other. The case that was denied was appealed to City Council and approved.

Mr. Bixby stated that it is a common issue and will continue to be a common issue. He stated that he was opposed to a previous case involving a zone change on Chimney Rock because the neighbors were opposed to the zone change. But the second time he heard the same case the neighbors were in favor of the change and he changed his vote because the neighbors changed their opinion.

Mr. Glenn stated that on S. 11th Street back towards the church there have been various commercial properties that are no longer in existence and that currently there isn't much commercial property until you reach Oak Street. His concern is that the location of the business would be inappropriate in the middle of a residential area. He stated that if the neighbors were in favor of the zone change, he would be as well. However, considering there is a large amount of neighbors opposed to the zone change, he would have to side with the neighbors.

Mr. Bixby moved to deny Z-2010-16. Mr. Glenn seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Glenn, Rosenbaum, and Todd), 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 the Land Development Code, Section 2.4.4 (Accessory Uses and Structures) regarding Accessory Dwelling Units.

Mr. Bryner presented the information regarding the ordinance amendment to the Land Development Code.

With approval of the Land Development Code (LDC) earlier this year, accessory dwellings are now allowed on all residential property. Accessory dwellings are separate from the house and allow rental opportunities. In addition, accessory dwelling are subordinate to the primary dwelling, have maximum square footage restrictions, require similar construction to the primary dwelling and only allow 1 bathroom. After reviewing the specific regulations dealing with accessory dwellings, staff feels that minor amendments are needed to clarify these regulations. Specifically, the amendments address the maximum size, location, and access to the accessory dwelling.

Division 4 – Accessory Uses & Structures

Section 2.4.4.1 Description and Regulations by District Type

(b) Residential Districts.

(4) Accessory Dwelling Units.

- a. An accessory dwelling unit shall not be larger than fifty percent (50%) of the primary structure.
- b. No accessory dwelling unit shall be sold separately from the primary structure.
- c. An accessory building or dwelling unit may have a maximum of one (1) bathroom.

- d. An accessory dwelling unit shall be constructed in a manner in keeping with the general architecture and building material of the main or primary dwelling.
- e. ~~An accessory dwelling unit must be located to the rear of the primary dwelling.~~ No accessory dwelling unit shall have a front facing door unless located to the rear of the primary dwelling.
- f. An accessory dwelling unit shall be constructed only with the issuance of a building permit and with the same minimum building standards as the primary dwelling.
- g. Any required additional parking for the accessory dwelling unit shall be provided with the required parking for the primary dwelling.
- h. If detached, any wall of the secondary dwelling must be placed no closer than six feet (6') from the primary dwelling and/or any other structure existing or under construction on the same lot.

Staff recommends approval of the proposed amendments for Section 2.4.4.1.

Mr. Rosenbaum asked if staff had run into any issues with the current way the Code is written. Mr. Bryner stated there was an issue with a property owner who was adding a secondary dwelling that was attached to the primary dwelling. Some of the language, especially letter H, was unclear whether staff would allow for attached dwellings. The amendment to the code would provide clarification on such items.

Mr. Todd asked how staff differentiates between an accessory building and an expansion if it's attached. He asked about an enlargement to the house that could be entered through the interior. Mr. Bryner stated that an accessory building would not permit entrance through the interior of the property. Staff thought the change to the Code would be most valuable for accessory buildings placed on the side of the property that would need the use of the sidewalks for ease of access from one dwelling to the other. Typically accessory structures such as sheds or detached garages don't have the same requirement for access.

Mr. Todd asked for clarification on the type of accessory building staff was referring to. Mr. Bryner stated the accessory building would be a stand alone unit that could function as a mother-in-law suit or a stand alone apartment that could be rented out or used as housing for domestic servants.

Mr. Bixby asked if this type of accessory building could be used for a church as a dwelling unit. Mr. Bryner stated that a church has separate requirements and that the accessory building being discussed is primarily for single family residence or residential uses.

Mr. Glenn asked how staff came up with the 50% requirement. Mr. Bryner stated that staff felt it was an appropriate percent that would identify that it would be a subordinate use. The 50% requirement insures that the accessory dwelling will be used as a secondary building rather than a second primary structure.

Mr. Bixby stated that he had a concern with the 50% requirement. Mr. Bryner stated that there is an eight-hundred (800) square foot maximum or ten (10) percent of the lot; whichever comes first.

Mr. Bixby stated that with a twelve-hundred (1,200) square foot home, there would be a six-hundred (600) square foot maximum size for the accessory building.

Mr. James stated that staff was referring to accessory dwellings and that the size requirements are not intended for accessory buildings.

Mr. Glenn mentioned that it may be better to go off the percentage of the lot rather than the percentage of the structure.

Mr. James stated that staffs main intent was to avoid situations that would allow for a duplex in a single family zone. The limitation on the square footage was to avoid those kinds of situations; the current Land Development Code isn't written to prevent such from occurring.

Mr. Rosenbaum asked if doubling the square footage of a house would fall under this particular Code. Mr. Bryner stated that it would not fall under this Code.

Mr. Bixby stated that the smallest livable dwelling he has seen has been between six and seven hundred (600-700) square feet. He suggested that the size requirement be 50% of the primary dwelling or seven hundred (700) square feet, whichever is larger. Mr. Bryner stated that in any situation eight hundred (800) square feet is the maximum square footage no matter the size of the lot.

Mr. James stated that staff was concerned that the current Code would permit a property owner to place a sixteen-hundred (1600) square foot duplex consisting of two eight-hundred (800) square foot separate housing units.

Mr. Glenn asked what an owner's option would be if they wanted to place a seven-hundred (700) square foot accessory dwelling on a property with a twelve-hundred (1200) square foot house. Mr. James stated that the owner could request a variance which would be heard by the Board of Adjustments. The burden is relatively high for the property owner because they have to show some level of hardship in order to be granted a variance.

Mr. Rosenbaum opened the public hearing. No one came forward and the public hearing was closed. The P&Z Commission discussed the request.

Mr. Glenn motioned to approve the Ordinance Amendment. Mr. Bixby seconded the motion and the motion carried by a vote of four (4) in favor (Bixby, Glenn, Rosenbaum and Todd) and zero (0) in opposition.

Item Seven: Capital Improvement Program

Public Hearing to receive potential project suggestions from the public regarding the 2011-2015 CIP.

Mr. McRoy presented the information regarding the Capital Improvement Program.

The City of Abilene's Capital Improvements Program (CIP) is a 5-year plan used to identify needed capital projects and to coordinate the financing and timing of these projects. CIP projects are long-term investments rather than day-to-day operating expenses. Typical items include infrastructure and assets that are relatively costly, (\$25,000+) and that are expected to have a long life, (15+ years). Projects in a CIP can vary widely, but typically they include the acquisitions, upgrading or major repair of streets, water lines, sewer lines, drainage facilities, large vehicles, buildings, parks, major equipment or similar projects. The first year of the CIP (2010) is the Capital Budget. Projects approved in this first year (2010) will be authorized for funding. Projects scheduled for the subsequent years (2011-2014) are included in the CIP for planning purposes only.

Capital Projects represent a significant allocation of public resources. The CIP is a planning tool used to forecast, prioritize, coordinate and strategically invest those resources in an efficient and effective way that balances needed improvements with available financing. This long-term approach allows the City to more accurately anticipate and prepare for future needs. The City can also use the CIP to help achieve goals of the Comprehensive Plan. The type of projects chosen, their location, their timing, and the amount of expenditures can compliment the Comprehensive Plan directly or they can make certain goals more achievable.

The Process begins with the distribution of instructions to department heads requesting projects for consideration for the next five-year CIP period. Department heads are responsible for reviewing the most recent CIP to determine the funding necessary for projects that are currently programmed in the CIP and the Strategies identified in the Comprehensive Plan. Based on this review and a review of the new requirements for capital improvements for the next five-year period, the department head completes a Project Sheet. Once the Project Sheets are completed and prioritized, the five-year Plan is submitted to the Planning and Zoning Commission (P&Z) for review and recommendation to the City Manager. During the process, appropriate funding is determined for each of the first year projects, and a proposed capital budget and five-year plan is submitted by the City Manager to the City Council for their consideration and approval. The Finance Department conducts an analysis each year to determine that projected capital projects cost and the projected estimates for available debt instruments are reasonable and in accordance with existing standards. Upon Council adoption, the final CIP document is produced and distributed to the Departments for implantation of the program.

The CIP projects receive funding from various sources but primarily rely on Certificates of Obligation (C.O.). Other sources of funding include General Obligation (G.O.) Bonds, General Fund Revenue, Water and Sewer Utility Fund Revenues and State and Federal funds in the form of grants.

Mr. Glenn asked how long the survey would be available. Mr. McRoy stated it would be available from October 1, through November 5, 2010.

Mr. Glenn asked if the number of surveys received was a typical number. Mr. McRoy replied that it is only the second year staff has conducted an online survey. In the past staff has conducted surveys through public hearings which produced about six completed surveys versus the seventy that were produced through the online survey.

Mr. Glenn asked how the program was being promoted. Mr. McRoy replied that early on in the process staff had sent out a media release and a local station ran a story on the project. The survey link is also location on the City of Abilene's homepage for ease of access. The results thus far appear to be consistent with a recent citizen survey that was scientific.

Mr. James stated that an important part of the survey is to look for project ideas from citizens that staff may not be aware of.

Mr. Rosenbaum opened the public hearing.

Mr. Bennett, resides at 1502 Wildlife Trails, he stated the majority of citizens receive water bills and it may be a good idea to place the surveys in the envelope along with the water bill. Mr. Bennett suggested that Griffith road from EN 10th street to I-20 has numerous pot holes and there is also a large drainage issue.

Mr. James indicated that the meeting would need to adjourn at this point due to a Commission member having to leave and having insufficient members present for a quorum.

Mr. Rosenbaum closed the public hearing.

Item Eight: Adjourn

Due to a lack of quorum present to conduct business, the Planning and Zoning Commission meeting was adjourned at approximately 2:47 PM.

Approved: _____, Chairman