

**ANDOVER CITY PLANNING COMMISSION/
BOARD OF ZONING APPEALS**
Tuesday, November 19, 2013
Minutes

1. [Call to order.](#)

Chairman Quentin Coon called the meeting to order at 7:00 p.m.

2. [Roll call.](#)

Planning Commission members present were Chairman Quentin Coon, Lynn Heath, Brian Lindebak, Lee Butler and Aaron Masterson. Others in attendance were Mayor Ben Lawrence, Director of Public Works and Community Development Les Mangus, City Administrator Sasha Stiles, Assistant Director of Public Works Steve Anderson and Administrative Secretary Daynna DuFriend. Members William Schnauber and Ken Boone were not in attendance. Council Liaison Kris Estes arrived at 7:06 p.m.

A/V Staff: Cindy Barrett

3. [Approval of the minutes of the October 15, 2013 meeting.](#)

A motion was made by Lynn Heath, seconded by Brian Lindebak to approve minutes of the October 15, 2013 meeting. Motion carried 5/0.

4. [Communications:](#)

- A. City Council minutes.
- B. Committee and Staff Report.
- C. Potential Residential Development Report.

5. [SU-2013-02- A continued public hearing on an application to approve a Special Use requested to exceed the 35 foot maximum height limitation for wireless communication facilities to construct a 120ft. cellular tower in the B-1 Office Business District located on the South side of Central Ave. between 159th Street and Andover Rd.](#)

Les Mangus explained that on the map provided by the applicant the separation distances required for the tower site are indicated. The dimensions shown meet the requirement discussed from the previous meeting about meeting the two times the height of separation from the tower and residential districts.

Ron Kutter, owner and applicant and Mike Douchant, Dolan Realty Advisors were both present to represent this application.

Mr. Kutter explained the determination for the placement of the tower site on the map.

Mr. Douchant described why this site is critical to their network and how each cell site can only hold so many calls. As the network matures and reaches a danger percentage of volume of calls on the surrounding sites that form the existing triangle between towers they look for an additional site within the triangle. With the way Andover has been growing, they actually need to have two sites. One will be on the southwest outskirts of the city on an existing structure. The other, this proposed site, is not able to be placed on an existing structure due to the distances of such structures not meeting their coverage objectives. The exact center location for the proposed site to reach the interior of town would be in a property owners' backyard to the east. Due to flexibility of this proposed site and being able to meet the set backs and the center line objectives enables them to float this proposed tower site. In terms of the design, whatever is required for the access, fencing around the base of the pole and the equipment shelters will be done with input from the property owner. Their preference would be to have exterior antennas for direct line of site. If that is objectionable the antenna can be put in canisters, however, this reduces the availability for future carriers to co-locate.

Lynn Heath commented that one of the reasons for the continuation of the public hearing was the total/best area for the placement of the tower.

Brian Lindebak asked how many other property owners were solicited in this area of the triangle.

Mr. Douchant replied that they looked as far north as the maintenance area on the golf course. They did approach a church, but weighing the options they felt there would be more opposition by being more towards the interior of the city and in a much more residential area.

Chairman Coon asked if what is being proposed is a mono-pole and if there is more capacity with external antenna versus internal.

Mr. Douchant stated that is correct it will be a mono-pole and that there is significantly better coverage with external antenna; the canister used for an internal antenna has some degradation on the signal.

Lee Butler inquired as to what the projection might be for citizens to start experiencing dropped calls with the current growth rate.

Mr. Douchant replied that they try to stay 1 to 1 ½ years ahead of the curve, that allows a little buffer time for complications.

Jim Stoffle, 450 N. 159th Street, commented that he is not against this project. His concern is for the children playing in the yard of his property tenant. He would not want to see spring ice fall on children as they are playing outside. He asked that Planning Commission make sure that the tower is placed exactly as it is shown to prevent this.

Brad Stout, representing Bill & Mary Lou Hadwiger, neighboring property owners, asked for clarification of what is going before this committee. It is a single pole structure, not to exceed 120ft. at the precise location indicated on the map, one other maintenance building and other landscaping.

Chairman Coon answered yes.

Chairman Coon asked what the maximum size needed on the building that goes with this tower site.

Mr. Douchant stated that the equipment shelter under normal circumstances is a 10 1/2 foot x 20 foot prefab building that is very close to the base of the pole.

Les Mangus noted that the requirements of a tower this height would have co-locations so that up to three carriers could be on the tower. Typically this requires three separate equipment buildings.

Mr. Douchant stated that based on this, being the first carrier they lease what is needed. Any subsequent carrier will go to the property owner of the compound to reconfigure accordingly.

Chairman Coon closed the public hearing.

The following are letters of protest received concerning SU-2013-02.

October 11, 2013

Andover Planning Commission
c/o Les Mangus, Zoning Administrator
sent via email to: *lmangus@andoverks.com*

RE: SU-2013-02 Cell Tower Application

Dear Commissioners:

Greetings: just last month you received letters, email & in-person comments from many of the Chateauroux homeowners (hereafter "HOA") regarding potential development of this tract. Out of respect for your time, memory and intelligence, the HOA will not specifically repeat all of those comments as they relate to SU-2013-02. We trust that you still have the written input and will review the meeting discussion, as applicable, in preparation for your October 15th meeting and discussion.

Some of last month's application discussion is not very relevant to this month's application discussion (e.g., excess noise, vehicles, traffic, ground coverage ratios). Other topics (e.g., structure design, materials, aesthetics, lights, effect on nearby property values, effect on future business or residential development in this area, effect on this entranceway to Andover) remain absolutely relevant this month, but is a markedly different analysis for a 120' (10 stories high) cell tower proposed by AT&T than a mini-storage facility. Since your analysis will follow the City's Zoning Code Section 11-100H 17 factors, we enclosed comments organized by those factors.

Our HOA's current consensus is that the cell tower proposed 120' height might fail for many of the same reasons as the mini-storage proposed use. For example, due to residential setback requirements, this 10-story tall cell tower will need to be located no further South than 85' from Central Avenue. It seems that many other cell towers are sited quite a bit further back from main public roads and walkways. The Planning Commission will need to decide if a tower that size in that location of town is consistent with the comprehensive plan for Andover (item #14 below provides the relevant comprehensive plan text), or if you need more information to make that decision.

If you decide that a 120' cell tower in this area is acceptable, the Planning Commission's approval should be conditioned on the following requirements of AT&T being expressly included in its zoning permit:

- (1) AT&T provide camouflage, screening and landscaping acceptable to the Site Plan Review Committee, Zoning Administrator, all adjacent landowners, and the HOA (item #8 below provides specific terms);
- (2) there will be only one monopole tower, and the tower will adhere to zoning setbacks of no less than 240' from all currently zoned residential tracts (item #6 below provides the City's current zoning code terms);
- (3) no principal structure will be further permitted on this tract South of where the tower is built (per City Zoning Code 3-102(Q)(5)(d), the tower will "not be located between a principal structure and a public street"); and

(4) the cash assurance for the life of the tower will also cover maintaining the screening plan and decommissioning the tower (item #8 below provides specific terms).

Our HOA welcomes the opportunity to work with AT&T on its tower, screening and landscape design plans, to assist with the analysis. We have not been contacted by AT&T to date, but are happy to meet with AT&T. Likewise, we would be happy to provide the Planning Commission with any additional input it requests.

Chateauroux Homeowners
(addresses on Chaumont Circle & Chaumont Court, Andover)

**Chateauroux Homeowners' Input
On Some of the Section 11-100 H Zoning Code 17 Factors
(numbering corresponds to City's Special Use Report form)**

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood?

The subject property is vacant. The surrounding neighborhood uses, character and condition overall are on the higher end, with zoning limited to B-1 (residential "transitional/buffer" uses), and single-family residential uses. The subject property is bordered on three sides by residentially-zoned tracts. The surrounding neighborhood (within a 1/2-mile radius) includes consistently quality residential neighborhoods with very desirable homes, landscaping and other aesthetics, the City's only country club, golf course homes, several nice business buildings, and some of the City's higher-end value homes. Construction materials and design within this neighborhood 1/2-mile radius range well above average. Residents and business owners have invested heavily in this area. Some land in the surrounding neighborhood remains undeveloped, including the residential lot that borders the South side of the subject property, and seven residential lots in Chateauroux. Please see items ## 8 & 14 below for further related discussion.

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change?

The property's current zoning (City's Zoning Code Section 3-102(Q)(6)) allows a cell tower up to 35' tall stating the "purpose of this Section is to regulate the height of structures above ground level in order to maintain the character and scale of the predominant single-family residential development." Please see items ## 1, 8 & 14 for related discussion.

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

No

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

No; the area has experienced stable-to-improving conditions in terms of quality and value of development.

6. Do ... all other necessary public facilities ... exist?

The North side of the Chateauroux neighborhood is susceptible to drainage problems. Any additional displaced water, or change in the runoff rate, when developing this tract will need to be addressed in a way that does not increase the drainage amount or flow rate to the South or West.

Other siting limits for this tract include: (1) existing 66' - wide high-pressure pipeline easement that encumbers the subject property (Misc Book 301, Page 563); (2) the City's Zoning Code Section 3-102(Q)(5)(c) requires the tower to be set back from the tract's North, East and South boundaries by at least 240' where those boundaries are zoned residential (the golf course is zone residential), which means the tower would need to be sited 85' or closer to Central Ave. on the West part of the property; (3) a portion of the subject tract appears to be in a FEMA flood zone per online FEMA maps; and (4) our HOA has not researched other easements, setbacks or recorded restrictions affecting the tract, please consult the Zoning Administrator.

8. Would a screening plan be necessary for potential uses of the subject property?

Yes.

The tract is bordered on 3 sides by land zoned residential (the subject tract North side will also affect the view and character at this entrance to the City, and from the golf course and a two-story office building). Additionally, at least 5 Chateauroux homes have direct visibility to the tract over the existing vacant residential lot. Those homes were permitted by the City with main floors at a level elevated above the ground level on their North sides, which will require more than a 6' perimeter fence to have any screening impact (we earlier provided a photo to better convey the screening need).

The City's Zoning Code Section 3-102(Q)(4)(b) requires that at the ground level the tower & accessory structures "must be surrounded by a security fence and screening at least six feet in height." The code uses "at least" to acknowledge that taller screening may be necessary.

So, a mix of earth berms, landscaping with a mix of tall evergreen and deciduous trees, and perimeter fencing will be needed to accomplish useful screening and mitigate the view of the tower from the ground-view and building window/deck levels.

As important will be a requirement that the zoning permit require AT&T to maintain the screening and landscaping plan for the life of the tower. The City's Zoning Code Section 3-102(Q)(15) requires AT&T to deposit with the City Clerk for the life of the tower cash assurance to cover tower removal costs. Our HOA advises that to protect the community's Zoning Code and Development Plan concerns, that the Planning Commission add a requirement that the cash assurance be available to use to maintain and replace screening as needed, and that upon removal of the tower the cash assurance be available to cover restoration of the former tower improvements area to a seeded condition if visible.

A failure to adequately screen the tower for the life of the tower will negatively impact the development potential of the area, plus negatively impact the property values, character and aesthetics of the existing improved surrounding neighborhood.

The City's Zoning Code in several places further supports and emphasizes the importance of adequate design and screening standards:

-Section 3-102(Q): "In order to accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, this criteria is necessary in order to ... minimize adverse visual effects of wireless communication facilities through careful design and siting standards; ... and maximize the use of existing and approved wireless communication facilities and buildings to accommodate new wireless communication facilities in order to reduce the number of wireless communication facilities needed to serve the community."

-Section 3-102(Q)(4)(a): A "wireless communication facility shall be designed to blend into the surrounding environmental through the use of color and camouflaging architectural treatment."

-Section 3-102(Q)(9): "All utility buildings and structures accessory to wireless communication facility shall be architecturally designed to blend in with the surrounding environment.... Ground mounted equipment shall be screened from view by materials which complement the architectural character of the surrounding neighborhood."

Thus, the City's zoning code requires that the accessory structure(s) and screening fence have a design and construction materials different than many typical cell tower accessory structures and screens.

9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?

Our HOA is not in a position to know this, but it is something the Planning Commission should ascertain. It is something the Zoning Administrator is required by the code to ascertain. City Zoning Code Section 3-102(Q)(2)(a) requires that a new cell tower "shall not be approved unless the telecommunications equipment planned for the proposed wireless communication facility cannot be accommodated on an existing or approved ... facility or building within ... one-half mile." Does another facility already exist, or has one been approved even if not built (this could be in Andover or on the Wichita side)? Note that the code extends this radius from a half mile to an entire mile if the tower instead is 121' or higher, so looking within a mile may be prudent.

We have heard that AT&T has at least one back-up site identified, but the Zoning Administrator or AT&T would have to provide you further information.

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

Since the request is not a business or industrial use change, but just a height variance, this factor is irrelevant. If the Planning Commission decides this request is for a business use, then the proposed use does not provide employment opportunities. As to whether it is needed to provide more services, that is covered in #9 above.

11. Is the subject property suitable for the current zoning to which it has been restricted?

Yes. Please see ##s 1, 8 & 14 for discussion.

12. To what extent would ... approval of the zoning request detrimentally affect other property in the neighborhood?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1, 8 & 14 for discussion.

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1, 8 & 14 for discussion.

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1 & 8 for further discussion.

The comprehensive plan specifically advocates for "a minimum intermixing of incompatible land uses" which "reduces the effects from negative environmental factors such as traffic, noise, lights ... and unsightly visual appearances. All of the latter affect property values and reduce the quality of life, particularly in residential areas which are a dominant characteristic of Andover." The plan advocates for "a greater amount of open space to protect drainage ways, provide buffers and greenways."

The comprehensive plan, zoning code and zoning map identify how and where the City supports particular types of development. Our HOA is not in a position to advise the Planning Commission on whether other areas -- whether in Andover zoned Industrial or on public recreational land as both already allows 120' towers, zoned in Wichita, or not zoned -- are available, and whether further questions need to be asked of AT&T. Please consult the Zoning Administrator to confirm this answer.

The comprehensive plan and zoning map reflect areas where 120' cell towers are already permitted. In contrast, the City specifically chose the much more limited B-1 zoning for this tract and intersection. Which fits, since this area is the City's entranceway (including our "Welcome to Andover" monument sign) & front porch, nearby is the City's only country club, the area includes several very nice looking office buildings, and some of the area's higher-end residential developments. The aesthetics, character and quality of architectural design and building materials of these nearby areas reflect and convey a message to our City's residents and visitors.

The City elected to limit this tract's zoning to cell towers of 35' or lower, because taller cell towers can be incompatible in a situation such as this one. The comprehensive plan and zoning code intended for this B-1 tract to serve as a transitional buffer to the adjacent residential districts.

15. What is the nature of the support or opposition to the request?

Our HOA's questions, concerns and suggestions are outlined throughout this document and corresponding letter. The nature of this input is merely to protect the buffer/transitional zone contemplated by the comprehensive plan, and maintain the character of this entranceway to the City and of the surrounding neighborhood, including Chateauroux.

16. Are there any informational materials or recommendations available from knowledgeable persons or expert which would be helpful in its evaluation?

Yes; from the Zoning Administrator and AT&T, as suggested in items ##1, 8 and 14 above.

17. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1, 8 & 14 for discussion.

October 11, 2013

Mr. Les Mangus
Zoning Administrator
Andover Planning Commission
1609 E. Central Ave.
P.O. Box 295
Andover, KS 67002

Via Email
lmangus@andoverks.com

Re: Case No. SU-2013-02

Dear Mr. Mangus

I am writing on behalf of the Hadwigers who own the single-family home immediately adjoining the subject property on the east. We object to the second request for special treatment under the zoning laws filed by the owner of the subject property. Specifically, the owners of the subject property now request special treatment under the zoning ordinances in order to build a 10-story cell tower.

We object to this request for special treatment for many of the same reasons that were made so emphatically at the public hearing on the owners' previous request for special treatment. Primarily, the proposed use diminishes the value created when all other neighboring landowners complied with these same zoning laws. Is there any good reason why that value should be sacrificed for this use?

We intend to appear at the hearing on this request and address the various factors in more detail. For now, we request that the commission note our objection, and ultimately, that the commission deny this request.

Very truly yours,

ADAMS JONES LAW FIRM, P.A.


Bradley A. Stout

BAS/lh

Agenda Item No. 5

ANDOVER CITY PLANNING COMMISSION

SPECIAL USE REPORT *

CASE NUMBER: SU-2013-02

APPLICANT/AGENT: Ronald L. & Lori Kutter

REQUEST: Special Use requested to establish a 120 ft. cellular tower in the B-1 Office Business District. If recommended for approval, additional requirements may be considered to make such a use compatible to the neighborhood.

CASE HISTORY:

LOCATION: On the South side of Central Avenue Street between 159th Street and Andover Road.

SITE SIZE: 2.9 acres

PROPOSED USE:

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 Office Business/R-2 Single Family – commercial building/Terradyne Golf Course

South: B-1 Office Business/R-1 Single Family – commercial building/commercial storage building

East: R-1 Single Family – single family dwelling

West: B-1 Office Business – commercial building

Background Information:

The subject property is currently vacant. The property is encumbered by a drainage way on the west and a natural gas pipeline at the southeast corner.

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their special use recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses initially provided need to be evaluated with the evidence and reworded as necessary to reflect the Commission's considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator. A copy of the report should be provided to the applicant before the hearing. The completed report can be included within the minutes following the statutory required summary of the hearing or attached thereto. The minutes and report should be forwarded to the Governing Body within 14 days to serve as a basis for their decision.

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant's reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

FACTORS AND FINDINGS:

YES 1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See
NO Adjacent Existing Land Uses on page 1 of 4)
STAFF: The subject property is in an upscale area with a variety of residential and commercial buildings including office businesses, a storage warehouse, single family homes, and a golf course.
PLANNING:
COUNCIL:

YES 2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change?
NO (See Adjacent Zoning on page 1 of 4)

STAFF:
PLANNING:
COUNCIL:

YES 3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
NO STAFF:
 PLANNING:
COUNCIL:

YES 4. Would the request correct an error in the application of these regulations?
NO STAFF:
 PLANNING:
COUNCIL:

YES 5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
NO STAFF: Cellular carriers in the area are experiencing tower capacity issues due to the increased services provided by wireless communications.
 PLANNING:
COUNCIL:

YES 6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?
NO STAFF: The subject property is currently served by public water and has direct access to a public street. There is no sewer on or adjacent to the subject property.
 PLANNING:
COUNCIL:

YES 7. Would the subject property need to be platted or replatted in lieu of dedications made for rights of way, easements access control or building setback lines?
NO STAFF:
 PLANNING:
COUNCIL:

YES 8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
 NO STAFF: Perimeter fencing around ground mounted equipment or structures are required. And an approved site plan is required.

 PLANNING:
 COUNCIL:

YES 9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?
 NO STAFF: N.A.

 PLANNING:
 COUNCIL:

YES 10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
 NO STAFF: The proposed tower would provide better coverage and capacity for customers.

 PLANNING:
 COUNCIL:

YES 11. Is the subject property suitable for the current zoning to which it has been restricted?
 NO STAFF:
 PLANNING:
 COUNCIL:

YES 12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?
 NO STAFF: Visibility of the tower and equipment from the residence adjacent to the east.

 PLANNING:
 COUNCIL:

YES 13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
 NO STAFF: The zoning regulations allow wireless communication facilities by right, but the special use is required to exceed the maximum height for the zoning district.

 PLANNING:
 COUNCIL:

YES 14. Is the request in conformance with the Comprehensive Plan and
 NO does it further enhance the implementation of the Plan?

X STAFF: The Comp Plan is silent about the provision of utility
 services.

PLANNING: N.A.

COUNCIL:

YES 15. What is the nature of the support or opposition to the request?
 NO

STAFF: None at this time.

PLANNING: Some public support but written objections.

COUNCIL:

YES 16. Are there any informational materials or recommendations
 NO available from knowledgeable persons or experts which would be
 helpful in its evaluation?

X STAFF: Approval as applied for conditioned on the security
 fencing and screening as approved by the Site Plan
 Review Committee.

X PLANNING: More information needed.

COUNCIL:

YES 17. By comparison, does the relative gain to the public health, safety
 NO and general welfare outweigh the loss in property value or the
 hardship imposed upon the applicant by not approving the request?

STAFF:

X PLANNING:

COUNCIL:

Having considered the evidence at the hearing and the factors to evaluate the special use application, I Lynn Heath, move that we recommend to the Governing Body that Case No. SU-2013-02 be approved for the establishment of a cell tower site as presented based on the findings of the Planning Commission, numbers 5, 6, and 10, as recorded in the summary of this hearing. Motion seconded by Aaron Masterson. Motion carried 3/2. Members Brian Lindebak and Chairman Quentin Coon voted no.

6. [Z-2013-04- A public hearing on a proposed change to establish a new Preliminary Planned Unit Development \(PUD\) of the KHR Commercial Center, Andover, KS located N.E. corner of Andover Rd. and King Street.](#)

Les Mangus explained by establishing this Planned Unit Development allows some uses between the retail service business districts and those in the B-6 Commercial District, which is industrial store front businesses, to be co-mingled. This Preliminary PUD establishes just one parcel; zoning will be the same on all of the property and three lots are proposed for this property.

Phil Meyer, Baughman Company, agent for the applicant was present to represent the application.

Chairman Coon asked about other drives off of Andover Rd.

Mr. Meyer explained that there will be two drives; the existing drive at the north end of the lot and they are proposing a joint drive that will serve the south two lots. There can be access from King Street except for the west 100 feet from the intersection.

A motion was made by Lynn Heath, seconded by Lee Butler to approve as presented the Preliminary Planned Unit Development PUD as requested, Case No. Z-2013-04. Motion carried 5/0.

7. [VA-2013-03- A public hearing on a petition for a vacation of the South 2 feet of the North 12 feet of the rear yard utility easement located at 916 E. Woodstone, 1002 E. Woodstone, and 1006 E. Woodstone, Lots 1, 2, and 3, Block A, Phase 5 Crescent Lakes Addition.](#)

Les Mangus explained that this property has a 30 foot drainage and utility easement because there is a hedge tree row along the back of the lots and some drainage grading that create a slope in the back yard that is approximately 4-5 feet. The builder is looking to build a retaining wall that will stair step the grade down rather than have the long slope. There are no utilities within 20 feet of the rear property line.

Lynn Heath asked what would be done if a development would be put in on the other side of the hedgerow.

Chairman Coon asked if the slope tapered out by the fourth lot.

Les Mangus stated that a similar utility easement would be asked to be put in on the other side of the hedgerow. The slope becomes lesser, with the grading cut not being as deep.

Glen Hageman, H&H Homebuilders was present to represent the application.

Mr. Hageman described the current drainage easement as having a large swale.

A motion was made by Lynn Heath, seconded by Brian Lindebak to approve the petition for vacation for VA-2013-03 per the legal description Armstrong Land Survey and vacate that portion of the drainage and utility easement. Motion carried 5/0.

8. Review and approve the Final Planned Unit Development Plan of the KHR Commercial Center Addition.

Les Mangus stated that this document creates the lots and blocks with signatures of affected parties and acts the same as a final plat of the property.

Brian Lindebak asked if it was necessary to show the site plan on the final PUD.

Les Mangus replied that all existing conditions are required to be shown.

A motion was made by Lynn Heath, seconded by Brian Lindebak to approve the Final Planned Unit Development Plan of the KHR Commercial Center Addition as presented. Motion carried 5/0.

9. Member items.

There were no member items.

10. Adjourn.

A motion was made by Lynn Heath, seconded by Aaron Masterson to adjourn at 8:10p.m. Motion carried 5/0.

Respectfully Submitted by

Daynna DuFriend
Administrative Secretary

Approved this 17th of December, 2013 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.