

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, October 21, 2014
Minutes**

1. Call to order. 00:00:10

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

2. Roll call. 00:00:20

Planning Commission members present were Chairman Quentin Coon, Lynn Heath, Ken Boone, Brian Lindebak, and Lee Butler. Others in attendance were Director of Public Works Les Mangus, Assistant Director of Public Works Steve Anderson, City Administrator Sasha Stiles, Assistant City Administrator Jennifer McCausland, City Council Liaison Sheri Geisler and Administrative Assistant Daynna DuFriend.

A/V: Cindy Barrett

3. Approval of the minutes of the August 19, 2014 meeting. 00:01:22

A motion was made by Ken Boone, seconded by Brian Lindebak to approve the minutes. Motion carried 5/0.

4. Communications: 00:02:05

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

5. **VA-2014-04- A public hearing on a petition for a vacation of a 20 foot rear yard drainage and utility easement on property located at 1118 E. Rosemont Pl., Andover, KS.** 00:03:20

Les Mangus explained that this is a complex issue involving a separate document being filed by the developer after the plat was filed for to dedicate a rear yard easement for drainage purposes. The applicant wishes to install a swimming pool in their back yard that would encroach on the 20 foot drainage easement. This property backs up to a substantial drainage way. There are no utility conflicts. The drainage engineer does not see any conflicts with the vacation of the western portion of the lot. They do wish to keep the easement on the eastern portion of the lot because of the slope into the natural waterway.

Tina Sholl, 1118 E. Rosemont Pl., Andover, KS, applicant, was present to represent the application.

Chairman Coon asked if the area would be re-graded with extra fill dirt and if the plan for the pool would work without the eastern portion of the drainage easement.

Mrs. Sholl replied that back fill would be done on the north side that slopes down. The backyard was not finished initially because of plans to have the pool installed. She said the plan would work for the pool.

Brian Lindebak asked if the engineer was assisting with the base flood elevation and legal description of the area the design engineer felt was appropriate to vacate.

Mrs. Sholl said she was told they would have that information within the next two days.

Lynn Heath stated that he agreed with the comments from the engineer regarding the easement.

Les Mangus said they are relying on the engineer to decide how much of the easement they are willing to sign off on the vacation.

A motion was made by Brian Lindebak, seconded by Ken Boone to approve the petition for vacation for VA-2014-04 of the rear drainage easement abutting Reserve A contingent upon Steve Anderson's review and approval of base flood elevation and legal description. Motion carried 5/0.

6. **VA-2014-05- A public hearing on a petition for a vacation of that portion of Kingsway Road right-of-way adjacent to Lots 20, 21, 22, 23, and 24, Block 9, Crescent Heights Revised and Lots 8, 9, 10, and 11, Block 5, Crescent Heights 1st Addition, Butler County, Andover, KS.** 00:15:25

Les Mangus explained that half of the lots owned by the petitioner are in one subdivision and the other lots are in another subdivision. No replies have been received from the utility companies. Two replies have been received from adjacent neighbors. This is an older subdivision with only a portion of the roads being developed.

Todd Duggins, 917 Kingsway Rd., Andover, KS, applicant, was present to represent the application.

Mr. Duggins explained that at the township's request he would install a turn-around at the south end of the property allowing access for neighboring properties. This vacated portion would become a private driveway.

Lynn Heath asked if other homes were being built in this area or any development in the area and stated concern for future development.

Mr. Duggins said that to build in this area five lots or one acre are required. There are no individual lots available.

Brian Lindebak asked what the plans were for drainage of this road and if there were estimates for the cost of the turn-around.

Mr. Duggins answered that the ditches would not change and that he would build the turn-around and the Butler County will do the final grade.

Ken Boone asked what type of commercial traffic is currently on this road.

Mr. Duggins explained that FedEx is the only one for his wife's business.

Lee Butler asked what will be done with this vacation area.

Mr. Duggins said that it will be a private driveway with gates at both ends.

Brian Lindebak stated that this appears to be creating a hardship for neighboring property owners.

Rob Luallen, 940 Kingsway Dr., said that he would have to travel an addition half mile if this vacation request were granted. This would create extra burden on any emergency equipment having to get to them and trash pickup and mail delivery would be impeded. The southern exit from his home is not in very good condition.

Ken Boone stated that this would be an inconvenience.

The following letters of protest were received concerning VA-2014-05.

From: Rob Luallen [<mailto:RLuallen@txtav.com>]

Sent: Tuesday, October 07, 2014 12:39 PM

To: Les Mangus

Cc: klassicline@yahoo.com

Subject: A plea to reject the closure of Kingsway

Importance: High

To Mr. Les Mangus,

Please send me a return to this e-mail to let me know you received it.

My name is Rob Luallen. My wife and I live at 940 S. Kingsway Rd. Andover Kansas.

Per our short conversation this morning on the phone I'm sending this e-mail in protest to the closure of Kingsway Road.

My wife and I have many major objections to the City/County granting the request that Todd & Sandra Diggins have made to vacate our main road out of the area which is north of our property. We feel very strongly that it is a very selfish request of them to have you even consider closing this road. I'm requesting you refuse their request before it even goes to a public discussion. Below are a few of the objections to their request

Any emergency vehicles could very well get confused as to how to get to our property creating undue time delays in the case of any type of emergency.

There would not be any place for vehicle to turn around without turning around in our private driveway which would be totally unacceptable.

We do not want to give any of our property to put in a cul-de-sac nor do I want a cul-de-sac in front of my home.

Trash service trucks travels this road and would have no way to get out other than trying to turn around without getting stuck

Postal Service uses this road and would have no way to get out other than turning around creating additional delays in the completion of their route

Propane truck would have to back down the road or back out because they could turn around either-

It would create undue burden on anyone visiting our home both in finding it and getting to it. It causes undesired and required travel for myself and my wife, a little under .8 of a mile further travel per trip out and back. (.4 out and another .4 to return)highlighted in yellow below.

As you can see below, there is no way out of the area other than getting to Kellogg/Highway 400 or Meadowlark to the east. To get to both you have to go to the north. Not south

The Diggins have ask us numerous time to consider vacating the road and we have given them numerous time an answer of NO. We have nothing to gain and everything to lose.

During inclement weather our roads are not the easiest roads to get around on. In snowy weather it's tough sometimes until the snowplows come through. When it rains the roads south of us get very, very muddy again making it hard to get around. it's so much easier to go less than 100yds to the north to get to Lincoln rather than 4 blocks to get to the same location.

I cannot see any advantage to anyone in the area but the Duggins for allowing this to happen. It would only cause additional hardship on many others that service the area including the township workers if this road is blocked off. PLEASE do not let this happen.



Thank you very much for your service to the community,

Stay Safe

Rob Luallen

Sr. Mfg. Engineer, MOP780 – Mexico Support

Textron Aviation

316.517.6567 **PLEASE NOTE THE NEW PHONE NUMBER**

316.617.1251

rluallen@txtav.com



> On Oct 21, 2014, at 11:36 AM, Cameron Feil <fnoremac@gmail.com> wrote:
>
> Hello Les.
>
> I thought I should weigh in. The closing of portion of Kingsway Rd would change the flow of traffic which effects everyone in the neighborhood. It would cause increased traffic in front of my house. It would also increased traffic in front of my neighbors house who happens to have a deaf child. Closing Kingsway would only benefit one home owner. I do understand that this home owner wants to be able to walk from his house to his business without crossing the road. However, in my opinion, the road should remain as is and how it has been.
>
> Thanks for you time
>
> Cameron Feil
> 725 S Meadowbrook Ln
> Andover KS 67002
> 316-806-8856

A motion was made by Brian Lindebak, seconded by Lee Butler to deny the petition for vacation for VA-2014-05 based on harm to adjacent property owners. Motion carried 5/0.

7. [**Z-2014-02- A public hearing on a proposed change of zoning district classification from the R-2 Single-Family Residential District to R-3 Multiple-Family Residential District.**](#) 00:37:00

Les Mangus explained this property is the former site of a salvage yard and is currently vacant. It has public water and sewer. A road improvement project with curb and gutter was completed on this Mike Street in 2008.

Brian Lindebak asked if the new road included storm sewer.

Les Mangus said that the storm sewer is further to the east of this property.

Craig Sharp, 430 Walnut, Augusta, KS, applicant, was present to represent the application.

Mr. Sharp explained that this property is a 1.6 acre tract and the number of units to be built would be approximately 15-17 units total. Units would be duplex, triplex or four-plex. Improvement estimates would be approximately \$1.5-1.7 million for this project. Rents would be \$700 - \$1300. Completed project plans are pending approval of this zoning request.

Chairman Coon asked if there were any concerns of ground contamination on the property.

Les Mangus stated that no concerns have been made at this time.

Brian Lindebak asked if this property is platted.

Les Mangus said that it would have to be platted as it currently is not.

Bob Wickland, 323 W. Mike, is opposed to this project due to excess traffic, increased property values and taxes. He thinks the ground should be tested for contamination.

Lee Butler asked when this property would have been zoned R-2.

Brian Lindebak asked if there were concerns from the Fire Department for road access.

Les Mangus answered that it was a legal non-conforming use that existed before the city was here. The road is currently an adequate width for access of a fire truck but they will be required to meet the fire code on the internal driveway to serve multiple units.

ANDOVER CITY PLANNING COMMISSION
Agenda Item No. 7

REZONING REPORT *

CASE NUMBER: Z-2014-02

APPLICANT/AGENT: Bih Jau Sheu

REQUEST: Proposed change of zoning district classification from the R-2 Single-Family Residential District to the R-3 Multiple-Family Residential District.

CASE HISTORY: The subject property is the former site of a salvage yard in the middle of the otherwise residential neighborhood.

LOCATION: 406 W. Mike Street, Andover, KS

SITE SIZE: ± 68,256 sq. ft.

PROPOSED USE: Multi-family dwellings in accordance of R-3 zoning.

ADJACENT ZONING AND EXISTING LAND USE:

North: R-1 Single-Family residences

South: R-2 Single-Family residences

East: R-2 Single-Family residences

West: R-2 Single-Family residences

Background Information:

All of the required public utilities and streets are in place.

* 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 rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission's considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

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 NO 1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See Adjacent Existing Land Uses on page 1 of 4)

STAFF:
PLANNING: R-1 & R-2
COUNCIL:

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

STAFF:
PLANNING: R-2
COUNCIL:

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

X STAFF:
X PLANNING:
COUNCIL:

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

STAFF:
 PLANNING:
 COUNCIL:

YES 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?

STAFF:
 PLANNING: Demand for rental housing.
 COUNCIL:

YES NO 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?

STAFF:
 PLANNING:
 COUNCIL:

YES NO 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?

STAFF:
 PLANNING:
 COUNCIL:

YES NO 8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

STAFF:
 PLANNING:
 COUNCIL:

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

STAFF:
 PLANNING:
 COUNCIL:

YES NO 10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

STAFF: N.A.
PLANNING: N.A.
COUNCIL:

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

X STAFF:
X PLANNING:
COUNCIL:

YES NO 12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

STAFF: Increased activity, lights, noise, traffic, etc.
PLANNING: Agree with staff.
COUNCIL:

YES NO 13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

X STAFF:
X PLANNING:
COUNCIL:

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

X STAFF: The Plan supports a variety of housing types.
X PLANNING:
COUNCIL:

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

STAFF: None at this time.
PLANNING: Neighbors opposed to change.
COUNCIL:

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

X STAFF: Approval contingent on satisfactory platting.
X PLANNING: Agree with staff.
COUNCIL:

YES NO 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?

STAFF:
 PLANNING:
 COUNCIL:

Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I Brian Lindebak , move that we recommend to the Governing Body that Case No. Z-2014-02 be approved to change the zoning district classification from the R-2 Single-Family Residential District to the R-3 Multiple-Family Residential District based on the findings of 3, 11, 15, 16 & 17 by the Planning Commission as recorded in the summary of this hearing. And that the following conditions be attached to this recommendation, platting is required as condition of approval. Motion seconded by Lynn Heath. Motion carried 5/0.

Recess the Planning Commission and Convene the Board of Zoning Appeals.

A motion was made by Lynn Heath, seconded by Ken Boone to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 5/0.

8. [BZA-V-2014-03- A public hearing on an application filed by Mitchell Lowry requesting a variance of 500 square feet from the required 1,000 square foot maximum aggregate total floor area of all accessory structures for the construction of a detached garage on property zoned as the R-1 Single-Family Residential District located at 205 W. Willow Rd., Andover, KS.](#) 01:04:58

Les Mangus explained that this property is nearly one acre in a subdivision of large lots, many with detached garage structures. There is a high pressure natural gas pipeline that runs through the property that would be dealt with at the time of permitting. This line would be in the northwest corner of this property.

Greg Ficken, 339 S. McCandless, agent to the applicant was present to represent the application.

Mr. Ficken explained that the garage could be moved closer to the house if needed depending on where the pipeline is.

Brian Lindebak expressed concern for the location of the pipeline. He suggested deferring this case until knowledge of the precise location is received.

Les Mangus said that there is nothing in this application that ties the precise location shown in plot plan as this is almost an acre lot with a large area available for the building to be placed. A building permit will not be approved until information is received from the pipeline company.

Lee Butler noted that the size of the building is what is being asked for here.

Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report have been found to exist that support all the five conditions set out in section 10-107D1 of the Zoning Regulations and K.S.A. 12-759(e) of the state statutes which are necessary for granting of a variance, I Lynn Heath, move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2014-03 as requested. Motion was seconded by Ken Boone. Motion carried 4/1. Brian Lindeback opposed.

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission.

A motion was made by Lynn Heath, seconded by Ken Boone to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.

9. Review of a sketch plan for Peckham Apartments.

01:22:32

Les Mangus explained that the applicant is only seeking input from the committee as they proceed in establishing a PUD. The Subdivision Committee has also reviewed this.

Tony Jacobs, Studium Architecture, presented the sketch plan.

Mr. Jacobs explained the project is to rezone a portion of the existing manufactured housing park to R-4 Multiple-Family Residential District and then submit a Final Planned Unit Development plan for Phase 1 of the project. Phase 1 would consist of 72 units in 3 buildings will be in Phase 1. Each 3 story building will have 24 units. The Phase 1 parcel is approximately 5 ½ acres and is under the allowable density of 80 units. Phase 2 would consist of 5 additional 3 story buildings for 120 more units.

Lee Butler asked how they plan to address any neighbors' concerns and how this project compared to the recently completed SunSTONE Apartment project.

Mr. Jacobs said that they plan to meet with each of the neighbors and the school Superintendent to discuss project details with them. Phase 1 and Phase 2 together will be 192 units and will be close to the same size as the SunSTONE Apartments. The building layout is being done to maximize open green space. By clustering the buildings to the center of the site allows more set back from adjacent properties. Typical apartment design includes a lot of parking lot space. Parking shown for Phase 2 is exceeding the amount required and would be less than what is currently shown. Part of the project is creating access to Shay Road from Farmer Avenue and Rhondda Avenue. They propose that Farmer Avenue would remain a private drive and Rhondda Avenue would be dedicated back to public right-of-way. Carports would provide covered parking with parking on the north side of property could have a screening fence.

Chairman Coon commented that he liked the idea of having the buildings in the center of the property.

Lee Butler expressed concern about the appearance of the covered parking facing the street.

Ken Boone asked if a drainage plan would be required for this area.

Les Mangus said that this has been discussed with the applicant and is being worked on as well as a utility plan for abandoning or rerouting the existing utilities.

Mr. Jacobs added that drainage swales or detention areas will be included in the plan so that water is not pushed off-site.

10. Member items.

01:44:37

There were no member items.

11. Adjourn.

01:44:45

A motion was made by Lynn Heath, seconded by Ken Boone to adjourn at 8:45 p.m. Motion carried 5/0.

Respectfully Submitted by

Daynna DuFriend
Administrative Assistant

Approved this _____ of _____, 2014 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover