



**PLANNING & ZONING**  
1609 E. CENTRAL AVE.  
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ANDOVER, KS 67002  
316.733.1303

**PLANNING COMMISSION  
& BOARD OF ZONING APPEAL MINUTES**  
**OCTOBER 15, 2019 | 7:00pm**  
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

[\*\*VIDEO LINK\*\*](#)

**1. CALL TO ORDER**

Chairperson William Schnauber called the meeting to order at 7:01pm.

**2. ROLL CALL**

Commissioners in attendance: Chairperson William Schnauber, Vice Chairperson Erik Pedersen, Lynn Heath, Alex Zarchan, Marla Canfield and Brian Davidson. Secretary Gary Israel was absent. Staff in attendance: Jennifer McCausland, City Administrator; Les Mangus, Director of Community Development & Public Works; Tyler Heffron, City Attorney; DJ Gering, Management Intern; and Lance Onstott, Stormwater/GIS/Planning Technician. A/V services provided by WAV Services.

**3. APPROVAL OF THE MINUTES OF THE SEPTEMBER 17, 2019 MEETING**

*I, Erik Pedersen, move to approve the minutes of the September 17, 2019 meeting as presented. Motion seconded by Lynn Heath. Motion carried 4/0/2. Marla Canfield and Brian Davidson abstained.*

**4. COMMUNICATIONS**

- A. COMMITTEE & STAFF REPORT**
- B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT**

**5. FINAL PLAT – REVIEW OF THE MEADOWBROOK SUBDIVISION FINAL PLAT GENERALLY LOCATED WEST OF SOUTH ANDOVER ROAD AND NORTH OF WEST HARRY STREET, ANDOVER, KANSAS**

*I, Lynn Heath, move to approve the final plat as presented. Motion seconded by Alex Zarchan. Motion carried 6/0.*

**6. PRELIMINARY PLAT – REVIEW OF THE SANDSTONE MEADOWS ADDITION PRELIMINARY PLAT LOCATED EAST OF NORTH ANDOVER ROAD AND NORTH OF EAST 21<sup>ST</sup> STREET, ANDOVER, KANSAS**

Les Mangus indicated that staff met with the applicant's engineer and the Butler County Engineer. All agreed that the drainage details can be worked out prior to the submission of a final plat.

*I, Erik Pedersen, move to approve the preliminary plat as presented. Motion seconded by Brian Davidson. Motion carried 6/0.*

**7. VA-2019-02 – PUBLIC HEARING AND RECOMMENDATION ON A PETITION FOR VACATION OF A PLATTED FRONT-YARD UTILITY EASEMENT ON PROPERTY GENERALLY LOCATED AT 1206 WEST BASSWOOD DRIVE, ANDOVER, KANSAS**

Les Mangus stated that in many subdivisions, engineers will plat a front-yard utility easement not knowing the exact route of the public utilities. This property has a large 25' utility easement in the front easement with no public utilities.

Lynn Heath asked if there were any plans for future public utilities.

Les Mangus confirmed that no utility provider objected to the vacation. This type of request typically comes from a property owner desiring to install a water well in the front-yard, which is common in developed neighborhoods as it can prevent equipment from getting in rear-yards.

*I, Brian Davidson, move to recommend approval of the petition for vacation as presented. Motion seconded by Alex Zarchan. Motion carried 6/0.*

**8. Z-2019-09 – PUBLIC HEARING AND RECOMMENDATION ON THE HERITAGE MIXED-USE PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN & DISTRICT GENERALLY LOCATED AT THE NORTHWEST CORNER OF SOUTH YORKTOWN PARKWAY AND US 54/400, ANDOVER, KANSAS**

Brian Davidson announced his abstention from this item.

Les Mangus stated that the residential planned unit development plan of the Heritage development was approved a few months ago. The plan before the Commission tonight, south of the residential plan, includes a proposed mix of residential, commercial, office and retail uses. The property's current zoning permits separate residential and commercial uses. The current proposal attempts to bring all the existing separate uses into one planned unit development, so that the uses may be mixed and better controlled as compared to the current Euclidean zoning that allows each use only in a specific area. Revisions were submitted by the applicant late last week, of which contained changes to Parcel 1. Parcel 1 has been revised to MXR Multiple-Family/Mixed Residential District from the originally-proposed MXN Neighborhood Transition/Mixed Use District.

Jason Gish, MKEC Engineering, Inc., stated the aim is a new-urbanism type of development. The attempt is to blend zoning to mix residential and commercial uses to create a walkable community. For example, a two-story building may contain retail/commercial on the first floor and office space or residential units on the second floor. The intent is to limit the most intense uses to the core of the plan. The plan contains a north-south greenway/park and a public square. In an attempt to be compatible with the existing neighborhood, they have included MXR zoning on Parcel 1. There is also a two-story maximum within 100' of the existing neighborhood, along Willowbrook St. and Sunflower Ln. The architecture of the building will be aesthetically pleasing, and like all commercial developments in Andover, will need to gain approval from the City's Site Plan Review Committee.

Chairperson Schnauber opened the public hearing at 7:25pm.

Marci Laffen, 301 S. Sunflower Ln., stated she was happy to see the change in proposed uses in Parcel 1, although she still has reservations about some of the permitted uses of the MXR district. She is concerned about compatibility of the proposed development and the existing neighborhood. She asked if Willowbrook St. would connect to the north-south street proposed with the development. She also asked if Sunflower Ln. would be cut off from the east-west street.

Les Mangus indicated that Willowbrook St. will continue east and connect with Shay Rd. and the proposed Heritage Way. Willowbrook Street will not connect to Yorktown Pkwy.

Mrs. Laffen stated her concern with the increased traffic through the neighborhood, as well as inconsistencies with the zoning regulations and the proposed development. She read a veto memo of Ordinance 1292 from 2006, which presented concerns regarding traffic impacts of a separate, previous development proposal. She asked that the traffic not be allowed on Willowbrook St. and Sunflower Ln., and that a berm be installed along those streets.

Mrs. Laffen read a letter from Lucas and Hannah Chavez, 317 E. Manor Rd., which stated their concerns regarding the increased traffic and requested a berm along Sunflower Ln. and Willowbrook St.

Ken Pung, 218 S. Westview Rd., stated his concerns regarding increased traffic and potential assessments for potential street improvements. He requested the development have no access to the existing neighborhood streets.

Kenneth Boone, 235 S. Sunset Dr., stated his concern with the compatibility of Parcel 1 and the existing neighborhood – also concerned with increased traffic. He requested a buffer around Parcel 1.

Gary Adams, 428 E. Willowbrook St., stated his concerns with drainage and increased traffic.

Trisha Thomison, 128 S. Westview Rd., stated her concerns with increased traffic. She requested no connection to Willowbrook St.

Mary Ann Adams, 428 E. Willowbrook St., stated her concerns with potential assessments for street improvements. She requested a barrier between the existing homes and the development.

Tyler Caggiano, 115 S. Westview Rd., stated his concerns with increased traffic and decreased property values. He requested no access from the development to the existing neighborhood.

Lynda Graham Carlson, 321 S. Sunflower Ln., stated her concerns with increased traffic. She requested a buffer between the neighborhood and development.

Jo Cummings, 326 S. Westview Rd., stated her concerns with general neighborhood disruption and increased traffic. She requested a buffer.

Valeta Hole, 318 E. Willowbrook St., asked the Commission to not put the application through.

Zach Dinicola, 1220 S. Colleen Ter., stated his concern with increased traffic. He asked if additional infrastructure would be necessary.

Les Mangus indicated that Yorktown Pkwy. has already been constructed from US 54/400 to Douglas Ave., and is currently under construction from Douglas Ave. to Central Ave. A corridor study has been completed in anticipation of the US 54/400 expansion, which included a projected vertical alignment of US 54/400. The study also depicts the corridor with mixed land uses, and uses the term 'lifestyle corridor'. The corridor should be walkable – providing people the chance to walk from store to store without having to drive from parking lot to parking lot. The study includes frontage roads.

Lynn Heath asked if preventing the proposed streets for the development from connecting to the existing residential neighborhood was considered.

Les Mangus replied that the corridor study recommends both pedestrian and vehicular connectivity amongst corridor development and existing neighborhoods.

Todd Schroeder, 835 S. Sunset Cir., lives on the other side of US 54/400. He requested that Parcel 1 be considered for residential development only, and that the commercial development end at Sunset Dr.

Mr. Gish stated that he heard the concerns regarding increased traffic made during the public hearing. He indicated screening is being planned along Sunflower Ln. and Willowbrook St., and will work with the City on the exact details as the process continues. They have worked hard to reflect the vision contained in the City's US 54/400 Corridor Study. The City has completed traffic engineering as part of the Yorktown Pkwy. construction. Designated sidewalks and crossings will be included to get kids to the schools north of the site.

Erik Pedersen asked how many access points are proposed to the development from Yorktown Pkwy.

Mr. Gish indicated that they have worked with staff and their consultants on the access locations. As proposed, one full-movement access is included on this plan. Two limited movement access points, right-in and right-out only, are also proposed on this plan.

Lynn Heath asked what happens to Founders' Pkwy. once it reaches Sunflower Ln.

Mr. Gish indicated the City's corridor study depicts it eventually connecting to Andover Rd. south of the Taco Bell.

Brett McKown, 327 S. Sunflower Ln., stated his concerns with decreased value of his property and increased traffic.

Les Mangus stated that the corridor study calls for Founders' Pkwy. to connect to Andover Rd. The final alignment of that connection has not been determined. This plan shows a connection at the west-end of this owner's property. The connection from the developer's property to Andover Rd. will likely be a City project at some point in the future.

Erik Pedersen asked if it was possible that the applicant take a closer look at the plan in order to find potential solutions to the public's traffic concerns.

Mr. Gish indicated that this proposal is a preliminary plan, and is subject to revision during the final plan process. The important subject for tonight's meeting is the land uses.

Alex Zarchan asked if Founders' Pkwy. could end before making a connection to the existing neighborhood.

Mr. Gish replied that he doesn't want to second guess the circulation plan contained in the City's corridor study. He does believe there are traffic calming and other engineering strategies that can be explored. Segregation of neighborhoods has traditionally shown to be a detriment to neighborhood viability.

John Laffen, 301 S. Sunflower Ln., stated that a memo from MKEC on October 10, 2019 indicated that no access to Sunflower Ln. would be allowed, and that access controls would be finalized during the final plan.

Mr. Gish replied that the memo states that no private driveway access from Parcel 1 would be allowed to Sunflower Ln.

Mr. Dinicola stated his concerns regarding drainage.

Chairperson Schnauber closed the public hearing at 8:31pm.

1. 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 if the change in zoning were approved?

STAFF

Public water, sewer, and streets are available adjacent to the subject property and can be readily extended.

2.	If the zoning change request was approved, would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights-of-way, easements, building setback lines, or access control?
STAFF	Platting would be required.
3.	If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?
STAFF	Screening in conformance with the Site Plan Review Standards would be required.
4.	What fact-based information in support of or in opposition to the requested zoning change has staff received?
STAFF	None at this time.
5.	If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?
STAFF	No error is known to exist.
6.	How suitable or unsuitable is the subject property for its current zoning?
STAFF	The subject property has a mixture of uses in segregated zoning parcels that are suitable for the location, but not in conformance with the US-54/400 Corridor Study and Comprehensive Plan.
PLANNING	Concur, with conditions as to traffic flow.
COUNCIL	
7.	Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the zoning change request?
STAFF	No.
PLANNING	Concur.
COUNCIL	

8. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.

STAFF The proposed uses are generally in conformance with the US-54/400 Corridor Study and Comprehensive Plan with the exception of Parcel 1, which was recommended to be multifamily to serve as a buffer to the existing residential neighborhood. The applicant has agreed to limit the parcel adjacent to Willowbrook St. & Sunflower Ln. to MXR Multiple Family/Mixed Residential District to better serve as a buffer to adjacent single family residences.

PLANNING Concur, with conditions as to traffic flow.

COUNCIL

9. Has the zoning change been requested because conditions in the area of the subject property have changed or are changing? If so, what is the nature and significance of these conditions?

STAFF The request has been submitted to further the US-54/400 Corridor Study and Comprehensive Plan recommendations.

PLANNING Concur, with added commentary regarding the general growth of Andover and the expansion of US 54/400.

COUNCIL

10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?

STAFF The surrounding area has a mixture of uses from single family residential to multifamily residential to commercial.

PLANNING Concur.

COUNCIL

11. Would the proposed zoning change of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?

STAFF Staff perceives little to no detrimental effects as compared to the current permitted uses, with the amendment of Parcel 1 to the MXR District.

PLANNING Concur, with emphasis that the land uses proposed today are similar to the land uses permitted before today.

COUNCIL

12. How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.

STAFF The proposed uses are generally in conformance with the US-54/400 Corridor Study and Comprehensive Plan with the amendment of Parcel 1 to MXR District and the text amendments as noted.

PLANNING **Concur.**

COUNCIL

13. Do any professional persons knowledgeable on conditions that affect this zoning change request have information or recommendations to provide, which would be helpful in its evaluation?

STAFF Approval with the amendment of Parcel 1 to MXR District and further amendments to the text as reflected in the revised PUD drawing.

PLANNING **Concur.**

COUNCIL

14. How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety and welfare, if there is a change from the current zone to the requested zone?

STAFF Staff knows of no loss to public health safety and welfare as long as Parcel 1 is limited to multifamily residential uses as reflected in the US-54/400 Corridor Study and Comprehensive Plan.

PLANNING **Concur.**

COUNCIL

Lynn Heath stated his desire for the applicant to take another look at the circulation and connectivity with Sunflower Ln., Willowbrook St., and Founders' Parkway. He indicated that Willowbrook St. is a half-mile line road.

Les Mangus indicated that these details would be worked out at the final plan stage. Today's objective is to look at the land uses for the property and the general circulation of the property. The connection point of Founders' Pkwy. and Sunflower Ln. is a critical point of the US 54/400 land use and transportation plan. That doesn't mean that Sunflower Ln. has to connect – it could end before Founders' Pkwy. The connection point shown on this plan is in concept only.

*Having considered the evidence at the hearing and the factors to evaluate the application, I, Erik Pedersen, move that we recommend to the Governing Body that Case No. Z-2019-09 be modified & approved to create a Planned Unit Development (PUD) District and establish a Preliminary Planned Unit Development (PUD) Plan of The Heritage Mixed-Use based on the findings of the Planning Commission on findings of fact #6, 8, 9 and 12 as recorded in the summary of this hearing, and that the following condition be attached to this recommendation: 1) the circulation and traffic plan surrounding this development, including but not limited to, Founders' Pkwy., Sunflower Ln., and Willowbrook St., be addressed for the good of the surrounding neighborhood and the mixed-use development. Motion seconded by Lynn Heath. Motion carried 5/0/1. Brian Davidson abstained.*

Chairperson Schnauber's closing remarks:

This case will be forwarded to the Governing Body with the Planning Commission's recommendation and a written summary of the hearing for consideration at their regular meeting of November 12, 2019. The recording of this hearing will be retained for at least 60 days after the final determination is completed on this case.

Protest petitions against the case, but not directed at the Commission's recommendations as such, may be received by the City Clerk for 14 days after tonight, October 30, 2019 at 4:30pm. If there are properly signed protest petitions with accurate legal descriptions from the owners of record of 20% or more of the total real property owners within the official area of notification, both inside and outside of the City and not counting public street rights of way or specific statutorily excluded property, then such a change shall not be passed except by a three-fourths vote of all members of the City Council.

**RECESS**

*Lynn Heath moved to recess the Planning Commission and Board of Zoning Appeals meeting for 5 minutes. Motion seconded by Erik Pedersen. Motion carried 6/0. Meeting recessed at 8:54pm.*

*Erik Pedersen moved to reconvene the Planning Commission and Board of Zoning Appeals meeting. Motion seconded by Lynn Heath. Motion carried 6/0. Meeting reconvened at 9:03pm.*

**9. Z-2019-11 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED AMENDMENT #8  
TO THE CORNERSTONE ADDITION PRELIMINARY PLANNED UNIT DEVELOPMENT DISTRICT &  
PLAN GENERALLY LOCATED AT THE NORTHWEST CORNER OF NORTH ANDOVER ROAD AND  
WEST 21<sup>ST</sup> STREET, ANDOVER, KANSAS**

Les Mangus indicated that revisions were submitted at approximately 3:00pm today. The revised text that limits the number of multi-family dwelling units and emphasizes the mixture of uses is more in line with the Comprehensive Plan. Existing uses permitted for Parcel 1 include uses from the B-3 district, and the proposed amendment is to add in some residential uses and uses similar to nursing care. The original intention for this parcel was for big-box commercial. The original planned unit development plan is from 2000. Since that time, staff realizes that the big-box model no longer fits with either the market or the City's currently adopted Comprehensive Plan.

Brian Lindebak, MKEC Engineering, Inc., confirmed that the revisions submitted today do reduce the multi-family component. No structures over two-story will be allowed to be located within 100' of the westerly property boundary. As applied for, the request would allow single-family, two-family and/or apartments. Parcel 1 would allow one apartment complex up to 250 dwelling units with a maximum of 20 dwelling units per acre.

Alex Zarchan asked if the application would remove the current B-3 district classification.

Mr. Lindebak stated that the B-3 zoning district classification will remain, but that additional uses will be added to the PUD overlay. This will create a mixed-use district.

Les Mangus confirmed the underlying zone would remain B-3, but a planned unit development overlay allows for the addition of other uses from other districts. This is one method to providing a mixture of commercial and residential uses for a property.

Alex Zarchan asked if it would be better to split Parcel 1 in order to better see what may develop commercial and what may develop residential.

Les Mangus stated that the market is much smarter than we are, and when guessing what may develop where, you can find yourself revising again and again depending on future, specific development plans. In order to avoid

this, it is common today to aggregate mixed uses and finalize locations during the final plan stage. Buffering and circulation are also finalized at that stage to ensure that land uses are compatible.

Erik Pedersen asked what the buffer on the west side of the property is.

Mr. Lindebak replied that there is an existing berm with trees. Along the north side is a tree row. What is existing today is planned to remain.

Alex Zarchan asked if the property would have access to 21<sup>st</sup> St. and Andover Rd. Additionally, would any development have access to the existing adjacent neighborhoods.

Mr. Lindebak indicated that the access controls have not been changed on this application. The main access is projected to be off 21<sup>st</sup> St. The access drive at that location is already built. Access to Andover Rd. is also projected.

Chairperson Schnauber opened the public hearing at 9:18pm.

Albert Murray, 2332 N. Sandstone St., stated that the east-west tree row on the north side of the subject parcel no longer exists. He asked if the current zoning of the parcel would allow three-story multi-family buildings.

Les Mangus stated that the existing zoning does not allow multi-family uses, and they are requesting to add multi-family uses with this application.

Mr. Murray stated his concern with the proposed building heights and questioned the need for multi-family units.

Greg Pease, 614 W. Candlestar Ct., stated his concern with building heights, neighborhood compatibility, increased crime and decreased property values.

Brock Evans, 711 W. Candlestar Ct., stated his preference for small-box commercial, and his concern with increased density, potential impacts on the schools and decreased property values.

Mark Ramge, 2336 N. Silverdale St., stated his concern with building heights and increased traffic. He also asked about the tax rate of apartments.

Mr. Lindebak stated that the revisions to the plan include a requirement that 20% of the parcel remain in open/green space. He noted single-family uses are also permitted on the parcel. The school owns a large property in the area that would allow for expansion. They have included a one-story restriction for any buildings within 100' of the west property line. Additional development, and the increased tax revenues, will allow for the funding of any future Andover Rd. improvements.

Alex Zarchan asked if there any ideas regarding the development of Parcel 14.

Mr. Lindebak indicated that his client does not own that parcel.

Lynn Heath asked about the screening between the parcels.

Mr. Lindebak stated that screening would be determined by City ordinance based on the zoning and land uses.

Mr. Evans stated that the land owned by the school district is planned for the third middle school and third high school.

Les Mangus stated that Parcel 1 will not have access to Cornerstone Pkwy. The existing allowable maximum height, which has been in place since 2000, is 45'. A project to improve Andover Rd. to four travel lanes is in the queue for federal funding. Multi-family residential is taxed at a higher rate than single-family residential (later confirmed to be 11.5%). Parcel 14 is currently zoned R-3, which allows one-, two-, and three-family structures in addition to townhomes. Parcel 15 was originally planned for a school campus, and it still currently carries the zoning that would allow for a school to be built on it.

Alex Zarchan asked for clarification of what the exact zoning request is.

Les Mangus replied that the request is to add residential uses to the existing B-3 classification.

Erik Pedersen sought to confirm that if multi-family does in fact develop on this parcel, that it would be restricted to 250 dwelling units.

Les Mangus confirmed the 250 dwelling unit restriction is for an apartment complex. Only one apartment complex would be allowed.

Lynn Heath asked for clarification on the height limitation.

Les Mangus stated that the existing height limit is 45', and depending on the configuration, could support four stories. The Sunstone Apartments on Cloud Ave. are approximately 42-43' in height and contain three stories.

Susan Ramge, 2336 N. Silverdale St., asked if it was possible to lower the height limit. She asked the Commission to consider that as an option.

Chairperson Schnauber closed the public hearing at 9:44pm.

1.	<b>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 if the change in zoning were approved?</b>
STAFF	All of the public utilities and streets are in place adjacent to the parcel and can be readily extended to the subject property.
2.	<b>If the zoning change request was approved, would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights-of-way, easements, building setback lines, or access control?</b>
STAFF	Platting would be required.
3.	<b>If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?</b>
STAFF	Screening and buffering would be required in compliance with the Site Plan Review Committee Standards.

4. What fact-based information in support of or in opposition to the requested zoning change has staff received?

STAFF | None at this time.

5. If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?

STAFF | No error is known to exist.

6. How suitable or unsuitable is the subject property for its current zoning?

STAFF | The property is suitable for the currently permitted uses.

PLANNING | **Concur.**

COUNCIL |

7. Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the zoning change request?

STAFF | Yes. The real estate market has changed and no longer favors the traditional big box configuration.

PLANNING | **Concur.**

COUNCIL |

8. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.

STAFF | The proposed commercial uses with the addition of a multifamily residential component are very similar to the existing uses. If the entire site were to be developed as an apartment complex Staff believes the sheer size and intensity of a 480-unit multifamily complex would overwhelm the surrounding area. **In response to the revisions submitted the day of the hearing by the applicant, staff believes that 250 units would not overwhelm the surrounding area.**

PLANNING | **Concur.**

COUNCIL |

<p>9. Has the zoning change been requested because conditions in the area of the subject property have changed or are changing? If so, what is the nature and significance of these conditions?</p>	
STAFF	The focus of the subject property has changed from a typical big box store with subordinate tenant mix to a more mixed use commercial/office medical corridor.
PLANNING	Concur.
COUNCIL	
<p>10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?</p>	
STAFF	There are a mixture of land uses around the subject property including single family residential, adult care, commercial, and office uses all developed in the past 30-35 years in reasonably good condition.
PLANNING	Concur.
COUNCIL	
<p>11. Would the proposed zoning change of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?</p>	
STAFF	No detrimental effects are perceived by adding multifamily as ONE of the components of the mixed uses.
PLANNING	Concur, with a 2-3 story height restriction.
COUNCIL	
<p>12. How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.</p>	
STAFF	The Comprehensive Plan suggests that the 21 <sup>st</sup> St. Corridor west of Andover Rd. become a medical node with mixed uses. And that a greater variety of housing types be available. The "flexibility" to develop the entire Parcel 1 as an "apartment complex" is contrary to the Comprehensive Plan statement that the 21 <sup>st</sup> St. Corridor be developed as "a more compact, pedestrian friendly form of mixed use or retail development on the site and linked to the medical village concept." <b>Staff added that the dwelling unit restrictions in the revised submittal would force the mixture of uses, and thus be in conformance with the Comprehensive Plan.</b>
PLANNING	Concur.
COUNCIL	

13. Do any professional persons knowledgeable on conditions that affect this zoning change request have information or recommendations to provide, which would be helpful in its evaluation?

STAFF	Staff does not support the flexibility to develop the entire site as multifamily in contrast with the mixed uses suggested in the Comprehensive Plan. <b>Staff supports the application as amended with the dwelling unit restriction.</b>
PLANNING	Concur.
COUNCIL	

14. How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety and welfare, if there is a change from the current zone to the requested zone?

STAFF	Staff believes that if the entire Parcel 1 is allowed to be developed as an apartment complex there could be detriment to the public health, safety, or welfare by reason of traffic impacts, overcrowding, the lack of open space, and the sheer size of the complex.
PLANNING	Concur. The amended submittal with dwelling unit restrictions was noted.
COUNCIL	

Chairperson Schnauber asked the applicant for their response to a possible two-story height limitation.

Mr. Lindebak indicated their preference for three-stories. Three-stories would allow the developer to keep the overall footprint of an apartment complex smaller. He agreed to extend the 100' one-story limitation to 150' from the westerly property line.

Les Mangus asked if the applicant would consider the same height restriction from the north property line.

Mr. Lindebak indicated that the uses currently allowed north of this property include multi-family, so he doesn't believe that restriction necessary.

Les Mangus noted that Cornerstone Park is between the subject parcel and the properties owned by many of the speakers during the public comment portion of the hearing.

Lynn Heath stated that a three-story restriction would be appropriate with a 150' one-story restriction along the west property line.

*Having considered the evidence at the hearing and the factors to evaluate the application, I, Erik Pedersen, move that we recommend to the Governing Body that Case No. Z-2019-11 be modified & approved to amend Parcel 1 of The Cornerstone Addition Preliminary Planned Unit Development District based on the findings of the Planning Commission on findings of fact #8, 9, 11 and 13 as recorded in the summary of this hearing, and that the following conditions be attached to this recommendation: 1) the one-story height restriction from the west property line be 150' at minimum, 2) any multi-family complex be no greater than three-stories, and 3) dwelling units be restricted as amended by the applicant. Motion seconded by Brian Davidson. Motion carried 5/1. Alex Zarchan opposed.*

Chairperson Schnauber's closing remarks:

This case will be forwarded to the Governing Body with the Planning Commission's recommendation and a written summary of the hearing for consideration at their regular meeting of November 12, 2019. The recording of this hearing will be retained for at least 60 days after the final determination is completed on this case.

Protest petitions against the case, but not directed at the Commission's recommendations as such, may be received by the City Clerk for 14 days after tonight, October 30, 2019 at 4:30pm. If there are properly signed protest petitions with accurate legal descriptions from the owners of record of 20% or more of the total real property owners within the official area of notification, both inside and outside of the City and not counting public street rights of way or specific statutorily excluded property, then such a change shall not be passed except by a three-fourths vote of all members of the City Council.

**10. *Z-2019-10 – PUBLIC HEARING AND RECOMMENDATION ON A CHANGE OF ZONING DISTRICT CLASSIFICATION APPLICATION FROM THE SF-1 SINGLE-FAMILY/LOW-DENSITY DISTRICT TO THE B-2 NEIGHBORHOOD BUSINESS DISTRICT WITH AN ARTERIAL TRANSITION OVERLAY DISTRICT ON PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF SOUTH ANDOVER ROAD AND WEST HARRY STREET, ANDOVER, KANSAS***

Les Mangus stated that the application seeks to mix commercial and residential uses on the subject property. The mixture of uses was not the intent of the Arterial Transition Overlay District. The intent is to limit specific uses from what would be permitted out-right in a district. Staff would support a single, mixed residential zone, because the Comprehensive Plan does not support commercial development at this location.

Brian Lindebak, MKEC Engineering, Inc., indicated that the Staff report expressed support of a classification of B-1 Office Business District at the corner of Andover Rd. and Harry St. The original application included a request for B-2 Neighborhood Business District and the MXR Multiple-Family / Mixed-Residential District, but the applicant is willing to consider B-1 limited to the hard corner with the MXR also. A private meeting with the neighbors was held, and their feedback has been incorporated into the application. Type and heights of lighting were limited in response to the neighborhood meeting. Landscaping and screening was also adjusted in response to the neighborhood concerns. Building setbacks have also been increased. The ATO District allows for structure and rules to be implemented to help guide the transition of residential uses along Andover Rd. to commercial uses. Today, the property is not well-suited for single-family development. The lack of single-family desirability, combined with its location at the intersection of two arterial streets, justifies the zoning district classification change. Platting would be required as would architectural controls. He stated some examples of general office uses that would be allowed within the B-1 District.

Les Mangus reiterated that the Arterial Transition Overlay District does not allow for the intermingling of uses from separate zoning district classifications. A Planned Unit Development Overlay District would allow intermingling of uses, which would require a new application.

Mr. Lindebak indicated that the hard corner could be limited to B-1 and that the remainder of the property could be MXR, with the ATO over the entirety of the subject property.

Chairperson Schnauber opened the public hearing at 10:33pm.

David Sharp, 1441 S. Aldrich Dr., stated his concern with access to the subject property, compatibility and suitability with the existing neighborhood, non-conformance with the Comprehensive Plan and decreased property values. His preference is for the property to remain single-family residential.

Mitch Lowderman, 1245 S. Aldrich Dr., stated his concerns regarding compatibility with the existing neighborhoods.

Zach Dinicola, 1220 S. Colleen Ter., stated his concerns regarding increased traffic and necessary infrastructure improvements.

Terri Sharpe, 1500 S. Andover Rd., stated her concerns regarding neighborhood compatibility and questioned the need for additional commercial property within the City.

Marla Camacho, 1127 S. Andover Rd., questioned the need for additional commercial property within the City.

Mr. Sharp added that he would not recommend this site to anyone looking for a business location in the City.

Mrs. Sharp added that she was only aware of five property owners that were notified of the application.

Dea Hollingsworth, 202 W. Harry St., stated she believes a business going in at that intersection is not inconceivable, and acknowledged that the applicant had addressed her concerns regarding lighting and traffic.

Bryce Trear, 133 E. Hamlin Rd., asked what the process would look like if the applicant wanted to change the zoning at a later time.

Chairperson Schnauber replied that a new application would be needed, and that another public notification and hearing would be necessary.

Mr. Lindebak stated that the infrastructure needed for the property is already in place. The current single-family zoning of the property is not appropriate for the corner of two arterial streets. The property directly to the south is currently zoned B-3 Retail and Service Business District. The applicant has taken steps to solicit feedback from the existing neighborhoods. This property owner should not be burdened with the report of commercial vacancies on property they do not own. He reiterated the request to allow B-1 uses at the corner and MXR uses on the remainder of the property.

Chairperson Schnauber closed the public hearing at 10:58pm.

<b>1. 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 if the change in zoning were approved?</b>	
STAFF	Adequate public water, sewer, and streets are available or can be readily extended to the site.
<b>2. If the zoning change request was approved, would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights-of-way, easements, building setback lines, or access control?</b>	
STAFF	The subject property is currently unplatted. Platting would be required.
<b>3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?</b>	
STAFF	Screening and buffering in compliance with the Site Plan Review Committee Standards would be required.

4. What fact-based information in support of or in opposition to the requested zoning change has staff received?	STAFF  Surrounding single family residential property owners in the neighborhood are opposed to commercial or higher density residential uses. A letter of support for the project was received today. A protest petition was also received. The protest petition's validity is not yet known.
5. If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?	STAFF  No error is known to exist.
6. How suitable or unsuitable is the subject property for its current zoning?	STAFF  The close proximity and high traffic volumes of Andover Rd. and Harry St. make the location less desirable for low density single family residential uses.  PLANNING  <b>Concur.</b>  COUNCIL
7. Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the zoning change request?	STAFF  No.  PLANNING  <b>Concur.</b>  COUNCIL
8. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.	STAFF  Higher density residential and/or limited commercial uses could be screened and buffered to be compatible with surrounding single family residential uses.  PLANNING  <b>Concur.</b>  COUNCIL

9.	Has the zoning change been requested because conditions in the area of the subject property have changed or are changing? If so, what is the nature and significance of these conditions?
STAFF	The increased traffic on Andover Rd. and Harry St. has made the subject property less suitable for low density single family use.
PLANNING	Concur.
COUNCIL	
10.	What are the current land uses, character and condition of the subject property and the surrounding neighborhood?
STAFF	The surrounding single family homes are older homes in good condition on large lots.
PLANNING	Concur.
COUNCIL	
11.	Would the proposed zoning change of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?
STAFF	Increased building height, activity, traffic, lighting, etc. would have a detrimental effect if not properly screened and buffered.
PLANNING	Concur.
COUNCIL	
12.	How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.
STAFF	The Comprehensive Plan Future Land Use Map depicts residential use of the subject property and recognizes the overabundance of commercial property both developed and undeveloped.
PLANNING	Concur.
COUNCIL	

13. Do any professional persons knowledgeable on conditions that affect this zoning change request have information or recommendations to provide, which would be helpful in its evaluation?	
STAFF	The requested mix of optional residential/commercial development scenarios is not within the scope of the ATO Arterial Overlay District, which was intended to "limit specific uses" to facilitate the conversion of single family residential properties along arterial streets to limited business uses. Staff could support the MXR Multiple Family/Mixed Residential District as an underlying zone with an Arterial Overlay District, which would outright permit the Special and Conditional Uses listed in the MXR District.
PLANNING	Concur.
COUNCIL	
14. How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety and welfare, if there is a change from the current zone to the requested zone?	
STAFF	The proposed-3 Retail and Service Business District with uses limited to the B-2 Neighborhood Business District permitted uses and bulk regulations could have a detrimental effect on the marketability of the surrounding single family residential properties because of the increased height of buildings, activities, traffic, lighting, etc. unless extraordinary measures were taken to adequately screen and buffer the incompatible uses.
PLANNING	Concur.
COUNCIL	

Alex Zarchan stated the deciding issue is whether it complies with the Comprehensive Plan.

Lynn Heath indicated that there are many insurance offices, and similar uses, at the edge of residential neighborhoods throughout the City.

Les Mangus indicated that if the Commission was contemplating separating the requested zones, they should also consider continuing the hearing to allow time for further contemplation.

*I, Lynn Heath, move that Case No. Z-2019-10 be deferred until the next meeting of the Planning Commission. Motion seconded by Erik Pedersen. Motion carried 6/0.*

## **11. ANNEXATION – RECOMMENDATION ON THE INTENT TO ANNEX RIGHT OF WAY COMMONLY KNOWN AS SOUTH FREY ROAD**

Les Mangus stated the right-of-way is the extension of Onewood Dr. south of US 54/400. The property adjacent to the east was unilaterally annexed in 2016.

*I, Lynn Heath, move to annex this road into the City of Andover. Motion seconded by Brian Davidson. Motion carried 6/0.*

## **12. EXECUTIVE SESSION – PURSUANT TO K.S.A. 75-4319(b)(2)**

*I, Brian Davidson, make a motion to recess this meeting to an executive session for the purpose of consultation with an attorney under K.S.A. 75-4319(b)(2) for the purpose of discussing matters privileged in the attorney-client*

*relationships for a period not to exceed 15 minutes. Said executive session to include the Chairperson, Planning Commission Members, City Attorney and Planning Technician. Motion seconded by Erik Pedersen. Motion carried 6/0. Meeting recessed at 11:25pm.*

*I, Brian Davidson, make a motion to reconvene the Planning Commission meeting. Motion seconded by Erik Pedersen. Motion carried 6/0. Meeting reconvened at 11:40pm. Chairperson Schnauber stated that no decisions were made during the Executive Session.*

### **13. APPEAL OF SUBDIVISION ADMINISTRATOR DECISION – REVIEW OF AN APPLICATION APPEALING THE REQUIREMENT TO PLAT**

Chairperson Schnauber's opening statement:

We would like to welcome everyone interested in this hearing and lay out a few ground rules.

- It is important that the Appellant and the Subdivision Administrator present any facts or views that they have as evidence at this hearing so that findings can be made for the decision of this Commission.
- I will first call upon the Appellant to present its facts and arguments in support of its application for appeal filed on October 9, 2019. Once the Appellant has been heard, the Zoning/Subdivision Administrator will have an opportunity to present his facts and arguments in support of his original decision. The Commission will close the hearing and will then consider their decision during which time they may direct questions to the Appellant or staff.
- This hearing is not a public hearing and comments from the general public will not be solicited or permitted.
- The final decision of this Planning Commission in this appeal may be appealed by the Appellant to the Governing Body of the City.

Alex Zarchan and Marla Canfield announced their disqualifications and temporarily disassociated themselves from the Commission.

Chairperson Schnauber announced that a quorum of four members was present.

Vince Haines, GravityWorks Architecture, was in attendance speaking on behalf of Butler Community College. Many of the points they have made are included in the memo that was submitted to the Commission. He stated that if agreement could be reached regarding the definitions of both 'continued use' and 'accessory structure', then we are talking about a zoning issue and not a subdivision issue. They do not think the subdivision regulations apply. Under that purview, they are asking the requirement for platting to be waived. As stated in the memo, the property has been in use, all easements have been dedicated, and they are asking for that to be considered as well. They appreciate and respect the discretion of the Zoning Administrator and the authority thereto, but the College's position is that it is a zoning issue not a subdivision issue based on it is a continued use of a special use permit that is blanketed on that property. The College takes the position that they are willing to participate in the cost of necessary improvements but not at a percentage greater than their 50% obligation. The private property adjacent stands to gain from that investment by the College, as well as the College not having complete control of the right-of-way. On August 18, the Planning Commission approved a final plat with petitions at 50%. The 50% petitions were denied by the City Council. On April 19, the Site Plan Review Committee approved a site plan and did not mention additional public improvements. On June 19, the building permit for the renovation of the current building was approved. The building permit for the accessory structure was denied August 19.

Les Mangus referenced his memo detailing the actions leading up to this point, in addition to staff responses to the points being made by the College in their response to the building permit denial letter. The Subdivision Regulations state that the Subdivision Administrator may grant an exception to the regulations, but is not obligated to do so. Staff disagrees with the classification of the new building as an accessory structure. The principal use of this property is for post-secondary education. The proposed new building includes classrooms,

which constitutes the proposed building as an expansion of the principal use. This proposed building is not a continued use. The continued use is contained within the existing building – the proposed structure is an expansion. Staff recognizes the dedications of Yorktown Pkwy. and half of Commerce St. The dedication of Yorktown Pkwy. was dedicated in the mid-1980's by the previous owner of the property, demonstrating the alignment of the collector street now known as Yorktown Pkwy. has been contemplated for approximately 35 years. Commerce St. has been contemplated since the platting of the Andover Industrial Park in the late-1990's. This property has never been legally subdivided. The original factory on this site was built in 1972. The purchaser of the property in 2002 subsequently leased a portion of the property to the College. That was followed by a subdivision that was not platted in 2007, where the owner sold a portion of the property to the College. Staff disagrees with all five points made by the College in their response to the denial of the building permit.

*Having considered the evidence presented at the hearing, I, Brian Davidson, move that the Commission uphold the decision of the Zoning/Subdivision Administrator to deny a building permit under the circumstances in this case. Motion seconded by Lynn Heath. Motion carried 4/0/2. Members Alex Zarchan and Marla Canfield disqualified themselves.*

Chairperson Schnauber's closing remarks:

The Appellant may further appeal any final decision of the Commission to the Governing Body of the City.

#### **14. MEMBER ITEMS**

None.

#### **15. ADJOURN**

*I, Lynn Heath, make a motion to adjourn. Motion seconded by Erik Pedersen. Motion carried 6/0. Meeting adjourned at 11:56pm.*

Respectfully submitted by:



Lance Onstott  
Stormwater/GIS/Planning Technician

Approved on the 19<sup>th</sup> day of November, 2019 by the City of Andover Planning Commission.