

ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
July 17th, 2007
Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, July 17th, 2007 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:00 p.m. Commission members present were Jan Cox, Byron Stout, David Martine, Jeff Syrios, and John Cromwell. Others in attendance were City Council Liaison Member J.R. Jessen, Management Assistant Sasha Stiles, Administrative Secretary Susan Renner, and Director of Public Works and Community Development Les Mangus. Absent-City Administrator Jeff Bridges and Commission Member Lynn Heath.

Call to order

Review the minutes of the regular June 19th, 2007 Planning Commission meeting.

Review the minutes of the regular June 19, 2007 PC mtg.

Jan Cox made a motion to approve the minutes as presented. Byron seconded the motion. Motion carried 4/0/1. David Martine abstained.

Communications:

Communications

Review the City Council minutes from the June 12th, 2007 and June 26th, 2007 meetings. The minutes were received and filed.

Review of the Subdivision Committee Minutes from July 10, 2007. The minutes were received and filed.

Review the minutes of the July 9th, 2007 Site Plan Review Committee Meeting. The minutes were received and filed.

Review the Potential Residential Development Lot Report.

Z-2007-07: Proposed change of zoning district classification from the B-3 Central Shopping District to the R-4 Multiple-Family Residential District.

Z-2007-07: The Meadows 3rd Addition.

SU-2007-03: Special Use requested to establish and Extended Care/Skilled Nursing Care Center in the R-4 Multiple-Family Residential District.

SU-2007-03: The Meadows 3rd Addition.

Les Mangus explained this case is an extension of the existing Fountains Extended Living. The property is actually part of the lot that PMA Clinic is on. It is only a boundary shift between some owners to establish this new senior care facility. Case has been seen by the Site Plan Review Committee and sent back for revisions for grading and so forth but expect to be cleared up by the next meeting. The next agenda item is a request for a vacation of a 60' drainage and utility easement across the north end of this same property.

Dennis Bush, 726 S. 159th, one of the partners of The Fountains which is the Andover Senior Care facility. Have a 92 unit assisted living facility next door to the PMA Clinic. The backside of the clinic has been divided and plan to build a 60 unit extended care nursing home. Although change from zoned R-3 to R-4 multi-family there will not be any children that will be in the school

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:

- | | | |
|-----|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | 1. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition? |
| YES | NO | |
| | | STAFF: |
| | | PLANNING: The Fountains and PMA and farther west commercial |
| | | COUNCIL: |
| | | 2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change? |
| YES | NO | |
| | | STAFF: |
| | | PLANNING: B-3 |
| | | COUNCIL: |
| | | 3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration? |
| YES | NO | |
| X | | STAFF: The nursing care center would make a better transition from business to residential |
| X | | PLANNING: No one wanted to develop as multi family |
| | | COUNCIL: |
| | | 4. Would the request correct an error in the application of these regulations? |
| YES | NO | |
| | X | STAFF: |
| | X | PLANNING: |
| | | COUNCIL: |
| | | 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? |
| YES | NO | |
| X | | STAFF: The population in general is getting older |
| X | | PLANNING: Everyone getting older |
| | | COUNCIL: |
| | | 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? |
| YES | NO | |
| X | | STAFF: All are in place & adequate |
| X | | PLANNING: Concur |
| | | COUNCIL: |
| | | 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? |
| YES | NO | |
| | X | STAFF: This is a boundary shift between property owners |

- X PLANNING: Concur
COUNCIL:
8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
- YES NO
X STAFF: Screening should be required for the residences to the north
X PLANNING: Concur
COUNCIL:
9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
- YES NO
STAFF: N.A.
PLANNING: Unique case
COUNCIL:
10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
- YES NO
X STAFF: More services and employment opportunities.
PLANNING: Concur
COUNCIL:
11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?
- YES NO
X STAFF: Another nursing/housing option the elderly. Employment opportunities
X PLANNING: Concur
COUNCIL:
12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?
- YES NO
X STAFF: The nursing center makes a better buffer from business to residential
X PLANNING:
COUNCIL:
13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
- YES NO
X STAFF: Nursing/convalescing homes by special use only
X PLANNING: Concur
COUNCIL:
14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
- YES NO
X STAFF: Provides housing/care alternatives for the elderly
X PLANNING: Concur
COUNCIL:
15. What is the support or opposition to the request?
- YES NO
STAFF: None at this time

PLANNING:
COUNCIL:

16. Is there any information or are there recommendations on this request available from knowledgeable persons which would be helpful in its evaluation?

YES NO

X

STAFF: Approval limited to the extended care/skilled nursing care

X

PLANNING:
COUNCIL:

17. If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?

YES NO

STAFF:

X PLANNING:

COUNCIL:

Les Mangus added that he has received some calls concerning the screening of the property and request either some sort of screening fence or vegetative screening between the back yards of the single family to the north and the backside of the nursing home.

Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I David Martine, move that we recommend to the Governing Body that Case No. Z-2007-07 and SU-2007-03 and establish a Extended Care/Skilled Nursing Care Center as a special use be approved to change the zoning district classification from the B-3 District to the R-4 District based on the findings of the Planning Commission as recorded in the summary of this hearing. And that the following conditions or a screening fence and landscaping in the rear yard with finding numbers 3, 5, 10 and 14.

Jan Cox inquired if they should specify a concrete fence. Mr. Martine responded that he thought the Site Plan Review Committee looked at that. There are existing fences on the backside of the building currently and when the Fountains were built solid wood fences were built across properties that did not have fences and the Fountains paid for.

Motion seconded by Jeff Syrios.

Mr. Bush does not believe a concrete fence would be of benefit due to the section of land between and the growth there being ugly on the residential side. He is interested in working with the adjacent land owners as they did with the original Fountains project fencing.

Motion carried 5/0.

VA-2007-04: Request to vacate the northern 60 foot utility and drainage easement of Lot 1, Block 1. the Meadows 3rd Addition, EXCEPT the south 257.0 feet.

VA-2007-04: The Meadows 3rd Addition.

From Les Mangus memo: The proposed vacation of the 60' rear yard drainage and utility easement is a correction of a platting error or oversight. No drainage is directed to this area, and no utilities are present in the area. The proposed skilled nursing care facility can be served by existing public utilities from the west. Staff supports the vacation as presented.

Chairman Coon opened the floor for public comment – no one spoke. Chairman Coon asked Les for his comments on this application. Les explained currently there is a drainage and utility easement on the Crescent Lakes lots adjacent to the north and this property sheet drains to the northwest corner of the property and connects into the Crescent Lakes drainage. At the northwest corner of this property there is a 60' drainage easement on the Plaza Shopping Center property that runs north to the creek north of Ace Hardware. The site plan and civil plan shows collection of all of the water off of this square collects it in the northwest corner and sends it into the drainage easement that is adjacent to the Crescent Lakes drainage. This project would build a flume in the northwest corner to insure that all of the water that comes off of the parking and roofs goes into the west drainage, not allowing it to just drain to whatever is the easiest route. The Fountains Assisted Living Facility is all serviced by underground storm sewer that brings it all to the storm sewer in Central. Most of the PMA Clinic, most is drained out into the street and the remainder drains to the back to a driveway and then flows across the subject property on the ground to the northwest corner of the lot.

Dave Martine asked for assurance for the homeowners in Crescent Lakes that this project will not drain on the east side of their concrete wall it will drain on the west side. Les confirmed the flume would be routed to the west side of the wall.

Jeff Syrios asked if the current drainage on the Plaza property was working. Les stated it is not and there might need to be some additional grading to current drainage. This would be paid for by either the developer or a benefit district, but probably not an expense worthy of a benefit district.

Dennis Bush, developer, stated the grading in the easement would be at their cost.

David Martine made a motion to recommend approval of Vacation Case VA-2007-04. Byron Stout seconded the motion. Motion carried 5/0.

David Martine made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Jeff Syrios seconded the motion. Motion carried 5/0.

BZA-V-2004-04: Request for variance of 8 feet in height from the required 10 foot maximum sign height limitation for the purpose of construction of an 18 foot monument sign on property zoned as R-4 Multiple-Family Residential District.

BZA-V-2004-04: Request for variance of 8 feet in height from the required 10 foot maximum sign

height.

Les Magnus explained this application was very similar to a variance heard not quite a year ago for the Cornerstone residential subdivision. The developer intends to build landscaped entry monuments that are similar throughout the 505 acre subdivision.

David Grosi, MKEC, representing George Laham, Cornerstone Developer. This monument sign will be located at the west side of Cornerstone residential area. This is the same size sign as previously approved just different shape. The most obvious of the monument is the 18' tower with the Cornerstone logo and there will be a 9' wall that will stretch back into Keystone Parkway.

BOARD OF ZONING APPEALS ACTION

June 21, 2007

Publication Date

July 17, 2007

Hearing Date

R-4 Multiple Family Residential
Zoning District

VARIANCE

Case No. BZA-V-2007-04

A. Variances from the provisions of the zoning regulations shall be granted by the Board only in accordance with the standards in Section 10-1077(d), and only in the following instances and NO others: (A through G).

- 1. To vary the applicable lot area, lot width, and lot depth requirements, subject to the following limitations
 - a. The minimum lot width and lot depth requirements shall not be reduced more than 25%.
 - b. The minimum lot area for a single or two-family dwelling shall not be reduced more than 20%.
 - c. The minimum lot area per dwelling unit requirements for multiple-family dwellings shall not be reduced more than 10%.

Dimension of lot: N.A. Variance requested: N.A.

B. To vary the applicable bulk regulations, including maximum height, lot coverage and minimum yard requirements:

- 1. The bulk regulations for this district are: N.A.
- 2. Variance would change bulk regulations as follows: N.A

C. To vary the applicable off-street parking and off-street loading requirements. (Must establish time schedule for compliance) N.A.

D. To vary the sign provisions of Section 7-102 regarding general standards and Section 7-104 regarding nonresidential district regulations: from the required 10 foot maximum height limitation to allow an 18 foot high monument sign.

E. To vary certain provisions of the FP Flood Plain District as provided for in Section 4-114(L):
N.A.

		True/ Yes	False/ No
F.	The Board shall not grant a variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it which support all the conclusions as required by K.S.A. 12-715 as listed below:	_____	_____
1.	The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owners or the applicant;	TRUE	_____
2.	The granting of the variance will not adversely affect the rights of adjacent property owners or residents;	TRUE	_____
3.	The strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.	TRUE	_____
4.	The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and	TRUE	_____
5.	Granting the variance desired will not be opposed to the general spirit and intent of these regulations.	TRUE	_____

G.	In determining whether the evidence supports the conclusions required by Section 1-107(D)(1), the Board shall consider the extent to which the evidence demonstrates that:		
1.	The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee, or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced.	TRUE	_____
2.	The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property.	TRUE	_____
3.	The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, and	TRUE	_____
4.	The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.	TRUE	_____

- H. Restrictions imposed by the Board of Zoning Appeals as per Zoning Regulations Section 10-5G:
1. None required.
 2. None.
 3. None.

4. None.

David Martine made a motion to grant the variance as presented with no restrictions. Jeff Syrios seconded the motion. Motion carried 5/0.

David Martine made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Jeff Syrios seconded the motion. Motion carried 5/0.

Review Marketplace Village First Addition Final PUD.

Jason Gish, MKEC, representing the applicant, explained that several errors had been found in the text and corrected. He believes Mr. Mangus will concur. This is the property south of the YMCA site and east of the elementary school.

Jan Cox inquired about Jason bringing a sidewalk plan and has that been submitted? Mr. Gish did not have with him but pointed out the sidewalk location. Sidewalk will work internally in the development follows the collector type street on the east and south side and there will be sidewalk on the major collector streets. He will provide a graphic that explains.

Les Mangus stated that the preliminary PUD requires a 5 foot sidewalk on all looped streets and 8 foot sidewalk on the collector street.

David Martine inquired about the east property line that appears to be screening, where will the water flow from B and D units. Mr. Gish explained from the front of the units the water will flow straight south and from the backside of the units it will sheet flow to the east and south.

Les Mangus explained there is not pipe along the east property line. Currently there is a large drainage area on the backside of the lots is where the break point is that it drains straight east. They are reducing that area down to the back 50' or so of the adjacent lots. The drainage area coming to that point is considerably less but the drainage pattern is the same. The breakpoint will be on the common boundary line of the four units and the drives will be built to drain to the street.

Mr. Gish explained the plan is for the east half of the lots to drain east and the west half to drain west. It is equivalent to what it is today or less. Les Mangus explained that it will sheet drain through properties and down through the hedge row in an east southeast direction.

Jan Cox asked where the accumulation point is. Mr. Gish explained the benefits of sheet flow are to not push all of the water to one point so it allows it distribute more evenly and soak in more.

David Martine asked Mr. Gish to assure the existing property owners will not see any more water intake. Mr. Gish explained there will be a lesser amount flowing there.

Jan Cox asked if it would hold up if there was a concrete fence put in the landscaping area. Mr. Gish explained there would need to be cutouts in the

wall for the water to flow through.

Byron Stout made a motion to approve the final PUD Marketplace Village 1st Addition as presented. Jan Cox seconded.

Les Mangus stated he is waiting for the title report and that it should be in the motion.

Mr. Stout amended the motion to approval pending the receipt of the title report. Jeff Syrios seconded. Motion carried 5/0.

Review and adoption of the 2007–2012 CIP of the City of Andover

Quentin Coon inquired why some departments did not have a budget in the CIP. Mr. Mangus explained all departments had their 5 year projections.

Quentin Coon inquired about the library after 2009 and it was decided that being a new facility they would not have any capital improvements.

Quentin Coon stated he thought the monument at 159th and Central was done. Dave Martine said we have the monument stone but it is not placed. Les Mangus explained the Park Improvement Committee is working on monument branding for the entire city and the first of those would be to somehow incorporate the Welcome to Andover Rock we previously purchased or design a completely new concept.

John Cromwell asked if the Butler Road Study would be available for them to see once completed. Les Mangus confirmed it would be available and should be complete sometime this fall.

John Cromwell stated he did not see anything past Harry and Mr. Mangus explained that is not in the 5 year plan. The study recognizes the new improvements to Harry street and will then make recommendations on any improvements and the south end of Rose Hill. The City of Rose Hill and the county are collaborating to continue the study all of the way through the city.

Member Items

Member Items

David Martine – was absent at the last meeting and wanted to know where we were change the standard to 1.8? Les Mangus stated currently the plan is 1 to 1.8 with a goal of 2%. He would follow up with the City Council.

The 13th Street project wrapping up will there be sidewalk on north side. Les Mangus stated the paving contractor will be on site in 2-3 weeks. The contractor is running ahead of schedule.

Byron Stout – Wichita 21st street project was originally scheduled as a Sedgwick County project for 06 and now it is a Wichita city project scheduled in 08. Les Mangus stated that 21st from 159th to Andover Road is a 2010 project so the construction is not concurrent.

Jan Cox – none

Jeff Syrios – none

Quentin Coon – has noticed of the last four developers, two being Cornerstone, have requested variations of the sign ordinance. The trend seems to be bigger and bigger. He thought they wanted to clean up and control the size.

David Martine stated he has not seen any sign he would not want to see again.

Les Mangus stated the Cornerstone signs could be on every corner at impact points rather than scattered.

J.R. Jessen stated the signs were well done, a lot of structure and not a lot of sign.

Byron Stout stated they are done right without huge markers.

Les Mangus noted they are towers and have no words only logo.

Mr. Coon then stated the real estate sign at Andover Rd. and Harry Street for Montana Hills is less than desirable and would not like to see a lot of those around. Les Mangus stated it will come down soon as the lots are close to being sold.

Jeff Syrios made a motion to adjourn the meeting at 8:20 p.m. Byron Stout seconded the motion. Motion carried 5/0.

Respectfully Submitted by

Susan Renner
Administrative Secretary

Approved this 21st day of August 2007 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.