

**ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS  
Tuesday, January 19, 2016  
Minutes**

1. [Call to order.](#) 00:00:00

Chairman Lynn Heath called the meeting to order at 7:00 p.m.

2. [Roll call.](#) 00:03:58

Planning Commission members present were Chairman Heath, Mike Warrington, Brian Lindebak, William Schnauber, and Tyson Bean. Members Stephanie Gillespie and Lee Butler were absent.

Staff in attendance: Director of Public Works Les Mangus, City Administrator Mark Detter, Administrative Assistant Dayna DuFriend and City Council Liaison Sheri Geisler.

A/V: Craig Brown

3. [Approval of the minutes of the November 17, 2015 meeting.](#) 00:04:05

*A motion was made by William Schnauber, seconded by Mike Warrington to approve minutes of the November 17, 2015 meeting. Motion carried 5/0.*

4. [Communications](#) 00:05:06

- A. [Committee and Staff Report.](#)
- B. [Potential Residential Development Report.](#)

5. [Z-2015-04- Public hearing on a proposed amendment to the Preliminary and Final Planned Unit Development \(P.U.D.\) of the Village Crossing Addition to allow drive-thru restaurants as a permitted use in Parcel 1.](#) 00:05:27

Les Mangus explained that when this Planned Unit Development was originally filed in 2000 there was debate about drive-in and drive-thru restaurants, lumber yards with outdoor speakers and noise intruding on the neighborhood resulting in a sentence being added to the provisions of the P.U.D. that prohibited drive-in and drive-thru restaurants. Loud speakers were not allowed for a lumber yard or a service business but drive-thru banks with speakers were allowed.

Chairman Heath noted that since that time, speakers now are more direct and less likely to be heard at a distance.

Russ Ewy, Baughman Company, P.A. was present to represent the application.

Mr. Ewy explained that the developers are asking for an amendment to provide a drive-thru service for a Dunkin Donuts restaurant on the south end of the existing strip center. They are looking to reconfigure the site design to modify parking behind the building to allow drive-thru customer traffic to enter from the north and wrap behind the building to the window on the south end of the building.

Chairman Heath asked what the business hours would be and expressed concern for the lighting and vehicle noise early in the morning.

Doug Day and Dan Day, contract purchasers, were present to represent the application.

Mr. Doug Day stated that Dunkin Donuts requires business hours to be 5:00 a.m. to 10:00 p.m.

Brian Lindebak asked how tall the existing wall at the rear of the property is and if the speaker could be placed on the south wall of the building.

Mr. Dan Day said that the wall is eight (8) feet in height.

William Schnauber asked what the additional lighting would consist of.

Mr. Doug Day explained that the menu board will be lit and security lighting will be added. All lighting will be directed downward. Dunkin Donuts requires a 4-5 car stack and having the menu board and speaker on the south wall would not allow this.

Brian Lindebak and Mike Warrington questioned if noise from the air conditioning units located behind the building creating interference with the menu speaker.

Mr. Doug Day said that roof top air conditioning units are planned to be installed and screened as per the Site Plan requirements.

Chairman Heath opened the public hearing.

Danny Hawkins, 314 Village Road, opposes the drive-thru based on the noise and light disturbances. He has had to put in complaints to Metro Grill on several occasions regarding their employees making noise in the rear parking lot at night and throwing trash over the wall.

Tyson Bean expressed concern for the flow of traffic at the driveway shared with Bank of America.

Mike Warrington asked if there was room for additional trees to be planted.

Les Mangus replied that there is a drainage swale located between the wall and the parking curb. The applicant will be hiring a traffic engineer to review the configuration of the left turn lane.

William Schnauber asked what the restrictions would be for employee parking.

Chairman Heath asked where deliveries to the business would be made.

Mr. Dan Day said that there would be employee parking in the front parking lot and a few behind the building. Deliveries will be made through the front door of the business.

Mike Warrington asked if the parking stall minimums were met and if the six (6) rear stalls were needed.

Mr. Dan Day said that the parking would be restriped to create parallel parking.

Brian Lindebak and Mike Warrington asked if they would agree to taking out those parking stalls and installing a landscape buffer of evergreens to help eliminate noise. This would help satisfy the residential neighbors.

Les Mangus stated that trees could not be planted over the storm sewer. Parking minimums appear to be met even with the removal of the six (6) stalls.

Mr. Doug Day agreed.

Chairman Heath closed the public hearing.

ANDOVER CITY PLANNING COMMISSION  
Agenda Item No. 5

REZONING REPORT \*

CASE NUMBER: Z-2015-04

APPLICANT/AGENT:  
Hays Partners II, LLC / Baughman Company, PA

REQUEST: To allow drive-thru restaurants as a permitted use in Parcel 1 of the Village Crossing Addition Planned Unit Development.

CASE HISTORY:

LOCATION: North of Village Road and west of Andover Road, Andover, Kansas.

SITE SIZE: ±43,140 square feet

PROPOSED USE: Commercial business

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 Office Business District

South: B-1 Office Business District  
East: R-1 Single-Family Residential District  
West: R-2 Single-Family Residential District

Background Information: The Village Crossing PUD has been amended three times previously in an effort to meet market demands. The current applicant desires to open a Dunkin Donuts franchise with a drive-thru window. The original PUD was very sensitive to the residences to the west and the effects of potential businesses along Andover Rd. businesses with loud speakers, and drive-in and drive-thru restaurants were prohibited because of the potential for speaker noise. Since that time technology has made drive-thru kiosk speakers more focused with a minimal amount of sound beyond the waiting car.

\* 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: Commercial business and residential.  
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: B-2 Neighborhood Business  
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:  
PLANNING:  
COUNCIL:

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

X STAFF:  
X 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?

X STAFF: Modern speaker technology is much less obtrusive  
X PLANNING:  
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?

X STAFF: All are in place.  
X 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?

X STAFF:  
X PLANNING:  
COUNCIL:

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

X STAFF: Screening and a site plan for the existing building have already been approved and constructed.

X 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: N.A. existing building

PLANNING: N.A.

COUNCIL:

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

X STAFF: Needed services and employment opportunities would be provided.

X PLANNING:  
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?

X STAFF: Added vehicular movements, lights, and potential sounds from the drive-thru.

X PLANNING:  
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:  
X PLANNING:  
COUNCIL:

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

STAFF: None at this time.  
PLANNING: Complaints of employees talking loudly and traffic noise.  
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:  
PLANNING: Traffic flow review.  
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?

X STAFF:  
PLANNING:  
COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I Mike Warrington , move that we recommend to the Governing Body that Case No. Z-2015-04 be modified & approved for the amendment to allow drive-thru restaurants as a permitted use in Parcel 1 of the Village Crossing Addition Planned Unit Development based on the findings of 8, 12 and 15 by the Planning Commission as recorded in the summary of this hearing. And that the following conditions be attached to this recommendation subject to; removal of six (6) parking stalls at the rear of the property for installation of landscape screening to be evergreen trees approved by Site Plan Review Committee, business operating hours are to be 5:00 a.m. to 10:00 p.m. as requested, and the menu board speaker to be a low volume speaker. Motion seconded by Brian Lindebak. Motion carried 5/0.*

Mark Detter, City Administrator read the following:

This case will be forwarded to the Governing Body with the Planning Commission’s recommendations and a written summary of the hearing for consideration at their regular meeting of February 9, 2016 which begins at 7:00 p.m. in this same meeting room. The tape

recording/video of this hearing will be retained for at least 60 days after the final determination is completed on this case.

Protest petitions against the change in zoning and/or special use, but not directed at the Commission's recommendations as such, may be received by the City Clerk for 14 days after tonight, i.e. February 2, 2016 at 4:30 p.m. 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 within the official area of notification both inside and outside the City 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 the members of the City Council. (See Section 11-103.)

**6. Review and approve revised City of Andover 2016 Planning Commission & Board of Zoning Appeals meetings and closing dates schedule.**

**01:01:08**

*A motion was made by Brian Lindebak, seconded by William Schnauber to approve the City of Andover 2016 Planning Commission & Board of Zoning Appeals meetings and closing dates schedule. Motion carried 5/0.*

**7. Member Items.**

**01:01:20**

There were no member items.

*A motion was made by Brian Lindebak, seconded by William Schnauber to adjourn at 7:58p.m. Motion carried 5/0.*

Respectfully Submitted by

Daynna DuFriend  
Administrative Assistant

Approved this 15<sup>th</sup> day of March, 2016 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.