

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, September 20, 2016
Minutes**

1. [Call to order.](#) 00:01:52

Chairman Brian Lindebak called the meeting to order at 7:00 p.m.

2. [Roll call.](#) 00:01:58

Planning Commission members present were Chairman Lindebak, Stephanie Gillespie, Lynn Heath, William Schnauber, Kirsten Bender and Tyson Bean. Member Mike Warrington was absent.

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

A/V: Craig Brown

3. [Approval of the minutes of the August 16, 2016 meeting.](#) 00:02:20

A motion was made by Chairman Lindebak, seconded by Lynn Heath to approve the minutes of the August 16, 2016 meeting. Motion carried 6/0.

4. [Communications](#) 00:03:13
 A. [Committee and Staff Report.](#)
 B. [Potential Residential Development Report.](#)

5. [Z-2016-03- Public hearing on an application for change of zoning district classification from the present R-2 Single-Family Residential District to the B-5 Highway Business District located at 920 E. Highway 54, Andover, Kansas.](#) 00:04:15

Chairman Lindebak recused himself from any discussion due to business relations.

Secretary Schnauber opened the public hearing.

Les Mangus explained that this property is adjacent to Highway 54 and what would be an extension of Yorktown Street. It is north and west of the YMCA and northeast of the Dillon’s Marketplace. This is a repeat application. Several years ago an application was heard and the B-3 Central Shopping District zoning was granted conditioned on platting. That platting never occurred so the zoning expired. This application is for the B-5 Highway Business District.

Jason Gish, MKEC Engineering, Inc. was present to represent the application.

Lance Biel and Mike Lies, applicants, were both present.

Mr. Gish explained that the B-5 Highway Business District use is being requested in preparation for and to accommodate potential future users. With recent development progress there is potential for Yorktown being a secondary link to Highway 54.

Lynn Heath asked why they were asking for B-5 zoning rather than B-4.

Mr. Gish replied that B-4 is set more for shopping centers or large malls. B-3 may have worked, although B-5 is similar it fits and the setbacks would work. With the recommendations from the Corridor Plan required for Highway 54, the center line does not affect the front setback of this property because of the required right of way. They have had discussions with City staff to work through some preliminary ideas and what different forms of circulation would look like. They plan to work within the framework of the Corridor Plan recommendations and return at a later date for platting addressing these items.

Wilma Graves stated that her and her husband were previous owners of the mobile home park and wanted to know what property this hearing was for.

Mr. Biel and Mr. Lies stated they would speak with Mrs. Graves after the hearing.

Mr. Gish conveyed to the Planning Commission that his clients would not be opposed to a modification to the B-3 zoning use. The setbacks are very compatible between the B-3 and B-5 districts. They just want to make sure that convenience type stores would be allowed. His client is also asking to prolong the required platting time frame, possibly three to five years.

Secretary Schnauber asked if the prolonged platting request is unusual. He also asked if the hearing would need to be postponed with the modification to B-3 and the request of three to five years for platting.

Les Mangus noted that in the B-3 zone, service stations and food stores are permitted uses. In today's modern world these are convenience stores. The process with a contingency on platting is to hold the zoning ordinance aside. Holding an ordinance aside for five years and then to resurrect it and put it before a City Council for adoption is unusual. The typical condition is one year, sometimes 18 months. There is no reason to postpone based on the modification to the B-3. The platting condition will need to be discussed with the city attorney and the planning consultant.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT *

CASE NUMBER:

Z-2016-03

APPLICANT/AGENT:

Countryside, LLC

REQUEST:

Proposed rezoning request to change zoning from the present R-2 Single-Family Residential District to the B-5 Highway Business District.

CASE HISTORY:

Existing legal nonconforming mobile home park.

LOCATION:

920 East US Highway 54, Andover, Kansas.

SITE SIZE:

±7.832 acres

PROPOSED USE:

Commercial development.

ADJACENT ZONING AND EXISTING LAND USE:

North: Residential District (Butler County)

South: Commercial District (Butler County) & B-4 Central Business

East: R-2 Single-Family Residential &

West: B-4 Central Business

Background Information:

The property was the subject of a previous zoning application where B-3 Central Shopping District was recommended for approval contingent on platting. The zoning expired because a plat was never filed.

* 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:

- 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)
- YES
- NO
- STAFF:
- PLANNING: Existing legal nonconforming mobile home park
- COUNCIL:

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)

YES
 NO

STAFF:
 PLANNING: Currently zoned R-2 Single-Family Residential District
 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:
 X PLANNING:
 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:
 X PLANNING:
 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: Adequate sewer and water utilities are available. Streets could be extended as required.
 X PLANNING:
 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: Platting is required.
X PLANNING:
COUNCIL:
8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
- YES
NO
- X STAFF: Site plan review would be required for commercial uses. Screening and buffering of adjacent residential uses would be required.
X PLANNING:
COUNCIL:
9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?
- YES
NO
- X STAFF: The Comprehensive Plan has identified an overabundance of vacant commercial property in the area.
X PLANNING:
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:
X PLANNING:
COUNCIL:
11. Is the subject property suitable for the current zoning to which it has been restricted?
- YES
NO
- X STAFF:
X PLANNING:
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: Increased traffic, noise, and lighting would likely occur.
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:
X PLANNING:
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: The Comprehensive Plan and US-54/400 Corridor Study suggest mixed use residential land uses for the area.
X PLANNING:
COUNCIL:
15. What is the nature of the support or opposition to the request?
- YES
NO
- STAFF: None at this time.
PLANNING: None at this time.
COUNCIL:
16. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation?
- YES
NO
- X STAFF: The requested highway business uses are not compatible with the adjacent land uses, nor are they consistent with the mixed use residential land uses suggested for the area in the Comprehensive Plan. Staff would suggest a less intense business zone in lieu of the B-5 Highway Business District conditioned on satisfactory platting within 1 year.
X PLANNING:
COUNCIL:

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?
- YES
- NO
- STAFF:
- X PLANNING:
- COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I, William Schnauber move that we recommend to the Governing Body that Case No. Z-2016-03 be **modified & approved** to change the zoning district classification from the R-2 Single-Family Residential District to the B-3 Central Shopping District based on the findings **14 and 15** of the Planning Commission as recorded in the summary of this hearing. And that the following condition be attached to this recommendation, **contingent upon satisfactory platting**. Motion seconded by Lynn Heath. Motion carried 5/0.*

Read by Secretary Schnauber:

CLOSING REMARKS AND PROTEST PETITIONS:

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 **October 11, 2016** which begins at 7:00 p.m. in the Council’s meeting room in City Hall. (The video 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 change in zoning and/or special use, but not directed at the Planning Commission’s recommendations as such, may be received by the City Clerk for 14 days after tonight, i.e. **October 4, 2016 at 4:30 p.m.** If there are properly signed and notarized protest petitions with accurate legal descriptions from the (owners of record of 20% or more of any real property proposed to be rezoned) (or) (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, then such a change shall not be passed except by a three-fourths vote of all the members of the Governing Body. (See Section 11-103.)

Chairman Lindebak rejoined the Planning Commission.

7. Member items.

00:45:54

Chairman Lindebak announced that Greater Andover Days is coming up soon and everyone should plan on attending.

8. Adjourn.

00:46:21

A motion was made by Lynn Heath, seconded by William Schnauber, to adjourn at 7:45 p.m. Motion carried 6/0.

Respectfully Submitted by

Dayna DuFriend
Administrative Assistant

Approved this 18th day of October, 2016 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.