

**ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS  
Tuesday, April 18, 2017  
Minutes**

1. Call to order. 00:00:16

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

2. Roll call. 00:00:28

Planning Commission members in attendance: Chairman Lindebak, Lynn Heath, Mike Warrington, William Schnauber, Kirsten Bender and Tyson Bean. Member Stephanie Gillespie was not in attendance.

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

A/V: Craig Brown

3. Approval of the minutes of the March 29, 2017 meeting. 00:00:40

*A motion was made by Tyson Bean, seconded by Kirsten Bender to approve the minutes of the March 29, 2017 meeting. Motion carried 6/0.*

4. Communications 00:01:29  
     A. Committee and Staff Report.  
     B. Potential Residential Development Report.

5. Z-2017-02- Public hearing on an application for change of zoning district classification from the present R-1 Single-Family Residential District to the B-3 Central Shopping district located at 115 East US Highway 54, Andover, Kansas 00:02:15

Chairman Lindebak explained that when this property was annexed into the city it was transferred to the R-1 Single-Family Residential District.

Les Mangus added that this property is a legal-nonconformance because it was built in the county and then as utilities became necessary it was annexed into the city. The automatic zoning classification at the time was R-1. This is a matter of housekeeping for proper zoning.

Chairman Lindebak opened the public hearing.

Mike Mellinger, applicant, was present.

Mr. Mellinger explained that this property was purchased for the development of an AT&T Retail Store that will be a freestanding, 2,660 sq. ft. building. Once approved the existing structures will be taken down. Their biggest concern is with KDOT because at some point they will take the road (right of way along Highway 54). KDOT is telling him that may not be until 2025 or later. He is asking to be able to use the driveway as part of the site plan to get people on and off the lot until they can connect internally with the neighboring properties. In talking with staff he understands that as being the long term idea of connecting the properties together to have a minimal number of access points. With only one driveway he is uncertain as to whether AT&T will approve this location.

William Schnauber asked if the tanks would be removed with the demolition of the structures.

Mr. Mellinger stated that the tanks were removed prior to the purchase of the property as a condition of the agreement. This was done per Kansas of Natural Resources standards and all testing has been done with a clean bill of health.

Chairman Lindebak asked if they have studied the Highway 54 Corridor Plan and understand the implications of the right of way and also if there would be ample parking on site.

Mr. Mellinger answered that he was not aware of the plan when the property was purchased but he does now. With only one point of ingress/egress off of Andover Road and medians, traffic flow will be difficult. He feels confident that this can be worked out with the City and the neighboring properties. There is extra parking in the current design and if there would be a connecting driveway added with Arby's they could lose some spaces as they have 17-18 and 11 is the requirement.

Chairman Lindebak closed the public hearing.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT \*

CASE NUMBER:

**Z-2017-02**

APPLICANT/AGENT:

**KSCR16, LLC / Mike Mellinger**

REQUEST:

**Proposed rezoning request to change zoning district classification from the present R-1 Single-Family Residential District to the B-3 Central Shopping District.**

CASE HISTORY:

LOCATION:

**115 E. US Highway 54, Andover, Kansas.**

SITE SIZE:

**±1.49 acres**

PROPOSED USE:

**New development AT&T store.**

**ADJACENT ZONING AND EXISTING LAND USE:**

North: B-5 Highway Business District

South: B-3 Central Shopping District

East: B-3 Central Shopping District

West: B-5 Highway Business District

**Background Information:**

The subject property was developed as a convenience store in the 1990s while still in Butler County jurisdiction and later annexed in order to receive City water and public sewer, thus the zoning of the property has never changed from the R-1 Single Family Residential District that it was given upon annexation. The applicant desires to change the zoning district classification in order to construct a retail store.

The property lies within the US-54/400 Corridor and future development is subject to standards for the corridor. Since the property has never been platted Staff recommends that the zoning be conditioned upon satisfactory platting.

\* 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: Commercial  
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: Commercial  
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: All of the public utilities are in place. Access would be limited to Andover Rd. only.

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:

X PLANNING:  
COUNCIL:

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

YES NO

X STAFF:

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 subject property lies adjacent to the Marketplace development and across the street from the River development where there is a substantial amount of commercial property available for development with the same zoning classification.

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

STAFF: No detriment is perceived.  
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: Contingent on satisfactory platting and access control in conformance with the US-54/400 Corridor Study recommendations.  
  
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.  
COUNCIL:

16. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation?

YES NO

STAFF: Approval contingent on satisfactory platting and access control in conformance with the US-54/400 Corridor Study recommendations.  
  
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 zoning application, I, Mike Warrington move that we recommend to the Governing Body that Case No. Z-2017-02 be **approved** to change the zoning district classification from the R-1 Single-Family Residential District to the B-3 Central Shopping District based on the findings 1, 2, 7, 10, 11, 14 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 6/0.*

*Read by Chairman Lindebak:*

**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 **May 9, 2017** 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. **May 2, 2017 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.)

6. Review for approval the Prairie Creek Addition – Third Phase Final Planned Unit Development Plan. 00:22:58

Chairman Lindebak explained that this was reviewed by the Subdivision Committee on April 11, 2017 where there was discussion about street names. It appears that these have been altered and other conditions have been addressed.

Les Mangus explained that the applicant has responded to the comments from the Subdivision Committee, utility providers, Butler County and GIS about the street naming and they are satisfied with the changes and corrections.

Phil Baughman, Baughman Company, agent to the applicant was present.

*A motion was made by Mike Warrington, seconded by William Schnauber, to approve the Prairie Creek Addition – Third Phase Final Planned Unit Development Plan as presented. Motion carried 7/0.*

9. Member items. 00:26:41

No member items.

10. Adjourn. 00:26:49

*A motion was made by Chairman Lindebak, seconded by Tyson Bean, to adjourn at 7:27 p.m. Motion carried 6/0.*

Respectfully Submitted by

Dayna DuFriend  
Administrative Assistant

Approved this 20<sup>th</sup> day of June, 2017 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.