

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, June 20, 2017
Minutes**

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

Chairman Brian Lindebak called the meeting to order at 7:01 p.m.

- 2. [Roll call.](#) 00:00:11

Planning Commission members in attendance: Chairman Lindebak, Stephanie Gillespie, Mike Warrington, William Schnauber, Tyson Bean and Kirsten Bender. Member Lynn Heath 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 April 18, 2017 meeting.](#) 00:00:27

A motion was made by William Schnauber, seconded by Tyson Bean to approve the minutes of the April 18, 2017 meeting. Motion carried 6/0.

- 4. [Communications](#) 00:01:26
 - A. Committee and Staff Report.
 - B. Potential Residential Development Report.

- 5. [Z-2017-03- Proposed amendment #6 to the Amended Cornerstone Addition Preliminary Planned Unit Development Plan to make the following changes:](#)

- a. [To rezone from existing B-3 Central Shopping District to the R-4 Multiple-Family Residential District, and](#)

- b. [To reconfigure the boundaries of Parcel 6 & 7 to expand the area of Parcel 7.](#)

00:01:47

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

Les Mangus explained that this is shifting the boundary between two parcels to expand the area for these townhomes.

Will Clevenger, Ruggles & Bohm, P.A., agent to the applicant was present to represent the application.

Mr. Clevenger stated that they are in agreement with the comments from Les.

Vice-Chairman Mike Warrington opened the hearing for public comments.

There were no public comments.

Vice-Chairman Mike Warrington closed the public hearing.

ANDOVER CITY PLANNING COMMISSION Agenda Item No. 5

REZONING REPORT *

CASE NUMBER: **Z-2017-03**

APPLICANT/AGENT: **Milestone Partners, LLC/ Ruggles & Bohm, PA**

REQUEST: Proposed amendment #6 to the Amended Cornerstone Addition Preliminary Planned Unit Development Plan to make the following changes:

1. To rezone from existing B-3 Central Shopping District to the R-4 Multiple Family Residential District, and
2. To reconfigure the boundaries of Parcel 6 & 7 to expand the area of Parcel 7.

CASE HISTORY:

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

SITE SIZE: **22.07 acres**

PROPOSED USE: **Construction of townhouses**

ADJACENT ZONING AND EXISTING LAND USE:

North: B-2 Neighborhood Business District – Robert Martin Elementary School

South: B-3 Central Shopping District – vacant land

East: B-2 Neighborhood Business District – vacant land

West: Wichita - Monarch Landing Commercial and Single Family Residential

Background Information:

The subject property is currently all of Parcel 7 R-4 Multifamily and a portion of Parcel 6 B-3 Central Shopping. The applicant desires to enlarge Parcel 7, therefore reducing Parcel 6. The net effect on the area is a reduction in residential density allowed and a reduction in the amount of commercial area available.

* 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:
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:
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 and streets are in place.
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: The property would need to be replatted.
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:

X STAFF: There is a smaller vacant parcel zoned for duplexes in the Cornerstone PUD closer to Andover Rd. approximately 1/2 mile east of the subject property.

X PLANNING:
COUNCIL:

9. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

YES NO

STAFF: NA
PLANNING: NA
COUNCIL:

10. Is the subject property suitable for the current zoning to which it has been restricted?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

11. 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.
PLANNING: Same.
COUNCIL:

X STAFF:
X PLANNING:
COUNCIL:

12. 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 recognizes an overabundance of vacant commercial property and the need for a variety of housing types.

X PLANNING:
COUNCIL:

13. 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:

14. 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.
PLANNING: Same.
COUNCIL:

15. 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, William Schnauber move that we recommend to the Governing Body that Case No. Z-2017-03 be **approved** to Amend the Cornerstone Preliminary Planned Unit Development to change the zoning district classification of a portion of Parcel 6 from the B-3 Central Shopping District to the R-4 Multiple Family Residential District and reconfigure the boundaries of Parcels 6 & 7 based on the findings 6, 7, 9, & 12 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 Tyson Bean. Motion carried 5/0.*

CONDITIONS: (Determine conditions, if any, applicable to the case with rewording if necessary and add additional conditions as deemed desirable.)

- 1. **Platting:** That (all) or (a portion of) such property to be platted (or replatted) and recorded within one year from the date of Governing Body approval or the case be considered disapproved and closed, and that the Ordinance effectuating the zone change not be published by the City

Clerk until the final plat has been recorded with the Register of Deeds during the period stated above.

Read by Vice-Chairman Warrington:

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 **July 11, 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. **July 4, 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.)

Brian Lindebak rejoined the Planning Commission.

- 6. [VA-2017-01- Public hearing on a petition for a vacation, beginning at the northwest corner, of the twenty \(20\) foot rear yard drainage and utility easement.](#)

00:15:07

Les Mangus pointed out that Phil Meyer, Baughman Company is here to talk about this and they may ask to defer this giving them time to discuss conflicts with the utility companies because the locates provided did not show the conflicts.

Phil Meyer, Baughman Company, agent to the applicant was present to represent the application.

Mr. Meyer said that he agreed with what Les stated. They want to ask for a deferral until possibly the next Planning Commission meeting in order to meet with the utility companies on site. The utilities all sit north of the fence and are not within the 10 feet but there is some confusion on that. He has spoken with most of them today and they are willing to reconsider and need time to work through this.

A motion was made by William Schnauber, seconded by Kirsten Bender to defer the hearing for VA-2017-01 to the July 18, 2017 Planning Commission meeting. Motion carried 6/0.

Recess the Planning Commission and Convene the Board of Zoning Appeals

A motion was made by Tyson Bean, seconded by Mike Warrington to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 6/0.

- 7. [BZA-V-2017-03- A public hearing on an application filed by Andover Family Dentistry requesting a variance to permit a 5 foot, 6 inch, increase to the required 10-foot maximum height limitation to allow construction of a new 15 foot, 6 inch, high monument sign on property zoned as the B-1 Office Business District / B-2 Neighborhood Business District located at 1145 N. Andover Road, Andover, Kansas.](#)

00:17:56

John Saindon, Ron’s Sign Company, agent to the applicant was present to represent the application.

Mr. Saindon said that this design is a projecting mount sign. The reasons they are asking for the increase in sign height from 10-foot to 15 foot, 6 inches are being this a multi-tenant center and they want to represent each of their tenants at the top portion of the sign. This would allow them to state what their business is and who they are. A colored LED screen will be below that to help promote the businesses and help promote the center and keep it full.

William Schnauber asked if the lighted portion of the sign would be on 24 hours a day and what would be done with the existing signage.

Mr. Saindon explained that the lighting can be adjusted accordingly. The LED will conform under an automatic dimmer, dimming the light down at night to not affect the traffic. The upper portion will have white 12 volt LED back lighting. He has not discussed with the applicant whether this portion will be on at night.

Les Mangus stated that their existing signage was damaged in a recent storm and is no longer there.

Chairman Lindebak asked staff if this proposed sign would be encroaching on any easements needed in the future.

Les Mangus commented that the subject property is platted so all of the right of ways are in place and the sign couldn’t encroach over on the right of way.

Mike Warrington asked if this sign and lighting would meet the proposed regulations that are being currently being worked on.

Les Mangus replied that it probably would not, however the 10-foot limitation may be adjusted slightly in the new regulations. There will be some prescriptive standards for the lighting in the new regulations.

William Schnauber asked if there was not a concern for the location of the new sign next to the driveway as it looks to be close and may cause problems visually.

Les Mangus explained that the sign would be back far enough. These dimensions will be reviewed when they are at the Site Plan Review Committee meeting.

Chairman Lindebak added that his only concern is the brightness of the sign.

Chairman Lindebak opened the hearing for public comments.

There were no public comments.

Chairman Lindebak closed the public hearing.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 7

June 20, 2017

VARIANCE REPORT *

CASE NUMBER: BZA-V-2017-03

APPLICANT/AGENT: Andover Family Dentistry

REQUEST: Andover Family Dentistry, 1145 N. Andover Road, Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to permit a 5 foot, 6 inch, increase in the required 10-foot maximum height limitation to allow construction of a new 15 foot, 6 inch, high monument sign on property zoned as the B-1 Office Business District and B-2 Neighborhood Business District.

CASE HISTORY: The subject property had a multitenant monument sign that was damaged by high winds.

LOCATION: Legal description: Lot 2, Block A, Anna Addition, Hodges Tracts to the City of Andover, Kansas.

General location: 1145 N. Andover Road, Andover, Kansas.

SITE SIZE: ±0.80 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: R-2 Single-Family Residential District
South: R-2 Single-Family Residential District
East: B-6 Business District
West: R-2 Single-Family Residential District

*NOTE: This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing so as to base their decision for a variance on the required five findings found in Section 10-107 D 1 of the Zoning Regulations. The Board may grant a request upon specific written findings of fact when all five conditions, as required by state statutes, are found to exist. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Board of Zoning Appeals considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

BACKGROUND INFORMATION:

DOES THE EVIDENCE DEMONSTRATE 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, **because the subject property houses multiple tenants and in order to provide a space for each tenant a larger sign is necessary.**
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, **because the subject property houses multiple tenants and in order to provide a space for each tenant a larger sign is necessary.**
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, **because the size of the sign is in proportion to the size of the building.**
4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood, **because the sign will only be taller than the allowed 10' it will not be out of character for the surroundings.**

SPECIFIED CONDITIONS TO BE MET:

The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented at the hearing so that all five of the conditions required by K.S.A 12-759(e) have been met which are listed below. If any of the conditions cannot be met, the condition(s) needs to be reworded from a positive to a negative statement and the variance not granted.

1. That 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 owner or the applicant, **because the subject property houses multiple tenants and in order to provide a space for each tenant a larger sign is necessary.**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the size of the sign is in proportion to the size of the building.**
3. That 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, **because the subject property houses multiple tenants and in order to provide a space for each tenant a larger sign is necessary.**
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because the size of the sign is in proportion to the size of the building.**
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the size of the sign is in proportion to the size of the building.**

Date Granted: June 20, 2017

Valid Until (date): December 17, 2017

(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: June 20, 2017

*Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report have been found to exist that support all of the five conditions set out in section 10-107D1 of the Zoning Regulations and K.S.A.12-759(e) of the state statutes which are necessary for granting of a variance, I, William Schnauber move that the Chairperson be authorized to sign a Resolution granting a Variance for Case No. BZA-V-2017-03 as **requested** in the Report. Motion was seconded by Mike Warrington. Motion carried 6/0.*

Closing remarks by Chairman Lindebak:

A Resolution will be prepared and made available to the applicant by June 30, 2017. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after Resolution is signed and filed with the Zoning Administrator.

- 8. [BZA-V-2017-04- A public hearing on an application filed by Dollar Tree requesting a variance to increase the required 5% maximum surface area of wall signage limitation to 17.10% for the purpose of installing larger wall signage on property zoned as B-4 Central Business District located at 530 N. Andover Road, Andover, Kansas.](#)

00:35:38

Les Mangus informed the Chairman and commission members of a letter placed on the bench that was received today.

Chairman Lindebak asked the commission members to please review the letter.

Les Mangus explained that this is another multi-tenant situation. This shopping center was built in the early 1980's and the building is approximately 370 feet from the street, so signage on the building appears very small from the street.

Kirsten Bender asked if staff had the dimensions for the Tuesday Morning signage and how much larger this sign would be.

Les Mangus responded that Tuesday Morning also has a variance for their sign, for the same reasons. This sign is of a very similar scale to theirs.

Chairman Lindebak asked how long this tenant space has been vacant.

Les Mangus said he understands this to be the space vacated by Ed's IGA in the 1990's.

Sheri Geisler, City Council Liaison, voiced three comments/questions: 1. Are they not able to use the marquee sign on Andover Road for advertising? 2. If they increase their signage, are all of the other businesses in this building then able to do the same. Does this set a precedence? 3. Will this be visually distracting to Andover Road in regards to the recent work in putting the power lines below ground to clean up the appearance of Andover Road?

Les Mangus replied that there would be a panel to use in the marquee sign and the precedence was set with the Tuesday Morning signage.

Chairman Lindebak indicated that a visual distraction could be a perception detail. It will be a benefit to the city if a viable tenant is in a space that has been vacant for so long.

John Saindon, Ron's Sign Company, agent to the applicant was present to represent the application.

Mr. Saindon explained that this sign design is a photo typical sign for Dollar Tree and they feel very strongly in using this design. They have been successful with it. He suggested dropping the small portion of the logo with the tree but they did not approve. The building does set far from the road. Proportionately the sign is fair and not overbearing.

William Schnauber asked if the company had the sign up without the logo anywhere else.

Mr. Saindon answered that he did not know that, but stated again that the company was very persistent in having their logo with it.

Chairman Lindebak confirmed with staff that this variance would continue with the land if approved regardless if it is Dollar Tree or not. The next tenant would also have the same rights.

Tyson Bean asked if this sign is the same size as others they have in the market currently.

Mr. Saindon answered that this is what they carry on their other stores.

William Schnauber inquired as to whether the elevation shown was the full width of the building.

Mr. Saindon said that what is shown is the store front.

Chairman Lindebak opened the hearing for public comments.

Roger Placzek, business tenant in The Plaza Shopping Center, said that he is also representing other tenants of this building and they are in opposition of this large sign. Historically the shopping center provides a box style sign panel that is 30-inches high in various widths. This signage calculation is 295sq. ft.

Les Mangus asked the applicant if the proposed sign was a box or individual letters. The 295sq.ft. is the perimeter of what is seen in white around the letters. The letters are considerably less than that.

Mr. Saindon replied that it will be individual letters and individually lit with LED lighting.

Les Mangus calculated the size of the letters and logo circle to be 117sq.ft. and the actual area would be 7.46% not 17.10%. So it would be 2.5% larger than the allowable size.

Chairman Lindebak confirmed with the agent that the sign is 3 ½ feet tall and approximately 37 feet long, roughly 129sq.ft.

Mr. Saindon said that is correct as it does not include the white area. The letters are 36 inches tall and the logo is 42 inches tall.

Chairman Lindebak closed the public hearing.

Kirsten Bender stated that if this is truly a nationwide brand, they shouldn't need to have as large of sign as what is being asked for, in her opinion.

Mark Detter, City Administrator, presented a photo from his iPad of Dollar Tree signage used on a store in Overland Park, KS showing lettering without the logo.

Tyson Bean asked what the size would be if the logo was removed.

Les Mangus said that would remove 12-13sq.ft.

Chairman Lindebak noted his concern is with this site being vacant for so long and likes the idea of businesses coming to the community. This sign does seem reasonable for the façade and will be large but signage is very important to commercial real estate.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 8

June 20, 2017

VARIANCE REPORT *

CASE NUMBER: BZA-V-2017-04

APPLICANT/AGENT: Dollar Tree / Ron's Sign Company

REQUEST: Dollar Tree, 530 N. Andover Road, Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to increase the required 5% maximum surface area of wall signage limitation to 17.10% for the purpose of installing larger wall signage on property zoned as B-4 Central Business District.

CASE HISTORY: The tenant space requesting the variance for a larger wall sign is a portion of what was the former anchor tenant, Ed's IGA, which occupied what is now 4-5 tenant spaces. The tenants

have often complained about visibility because the shopping center is located approximately 350' from the street. The existing marquee sign at the entrance is occupied by many tenants so the areas allotted to each tenant are very small.

LOCATION: Legal description: MEADOWS, (THE) 2nd ADD, LT 3 EXC BEG SE/C LT 2 S5.92 W190 N5.92 E190 TO POB & EXC BEG SE/C LT 3 W40.7 N397.52 NW157.56 E80.01 S550 TO POB, City of Andover, Kansas.

General location: 530 N. Andover Road, Andover, Kansas.

SITE SIZE: ±9.60 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: B-3 Central Shopping District
South: B-3 Central Shopping District and R-1 Single-Family Residential District
East: R-2 Single-Family Residential District and R-4 Multiple-Family Residential District
West: R-1 Single-Family Residential District, R-3 Multiple-Family Residential District, B-2 Neighborhood Business District and B-3 Central Shopping District

*NOTE: This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing so as to base their decision for a variance on the required five findings found in Section 10-107 D 1 of the Zoning Regulations. The Board may grant a request upon specific written findings of fact when all five conditions, as required by state statutes, are found to exist. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Board of Zoning Appeals considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

BACKGROUND INFORMATION:

DOES THE EVIDENCE DEMONSTRATE 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, **because the tenant space requesting the variance for a larger wall sign is a portion of what was the former anchor tenant, Ed's IGA, which occupied what is now 4-5 tenant spaces. The tenants have often complained about visibility because the shopping center is located approximately 350' from the street. The existing marquee sign at the entrance is occupied by**

many tenants so the areas allotted to each tenant are very small.

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, because the tenant space requesting the variance for a larger wall sign is a portion of what was the former anchor tenant, Ed's IGA, which occupied what is now 4-5 tenant spaces. The tenants have often complained about visibility because the shopping center is located approximately 350' from the street. The existing marquee sign at the entrance is occupied by many tenants so the areas allotted to each tenant are very small.
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, because the tenant space requesting the variance for a larger wall sign is a portion of what was the former anchor tenant, Ed's IGA, which occupied what is now 4-5 tenant spaces. The tenants have often complained about visibility because the shopping center is located approximately 350' from the street. The existing marquee sign at the entrance is occupied by many tenants so the areas allotted to each tenant are very small.
4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood, because the wall signage would be in proportion with the size of the building.

SPECIFIED CONDITIONS TO BE MET:

The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented at the hearing so that all five of the conditions required by K.S.A 12-759(e) have been met which are listed below. If any of the conditions cannot be met, the condition(s) needs to be reworded from a positive to a negative statement and the variance not granted.

1. That 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 owner or the applicant, because the tenant space requesting the variance for a larger wall sign is a portion of what was the former anchor tenant, Ed's IGA, which occupied what is now 4-5 tenant spaces. The tenants have often complained about visibility because the shopping center is located approximately 350' from the street. The existing marquee sign at the entrance is occupied by many tenants so the areas allotted to each tenant are very small.
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, because the wall signage would be in proportion with the size of the building.

- 3. That 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, **because the tenant space requesting the variance for a larger wall sign is a portion of what was the former anchor tenant, Ed's IGA, which occupied what is now 4-5 tenant spaces. The tenants have often complained about visibility because the shopping center is located approximately 350' from the street. The existing marquee sign at the entrance is occupied by many tenants so the areas allotted to each tenant are very small.**

- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because the wall signage would be in proportion with the size of the building.**

- 5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the tenant space requesting the variance for a larger wall sign is a portion of what was the former anchor tenant, Ed's IGA, which occupied what is now 4-5 tenant spaces. The tenants have often complained about visibility because the shopping center is located approximately 350' from the street. The existing marquee sign at the entrance is occupied by many tenants so the areas allotted to each tenant are very small.**

Date Granted: June 20, 2017

Valid Until (date): December 17, 2017

(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: June 20, 2017

Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report have been found to exist that support all of the five conditions set out in section 10-107D1 of the Zoning Regulations and K.S.A.12-759(e) of the state statutes which are

necessary for granting of a variance, I, William Schnauber move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2017-04 as modified to wall signage limitation to 6.78% or 113 sq.ft. in the report. Motion was seconded by Mike Warrington. Motion carried 6/0.

Closing remarks by Chairman Lindebak:

A Resolution will be prepared and made available to the applicant by June 30, 2017. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after Resolution is signed and filed with the Zoning Administrator.

9. [BZA-V-2017-05- A public hearing on an application filed by Trax, LLC requesting a variance to permit a 15-foot increase to the required 10-foot maximum height limitation to allow construction of a new 25-foot high monument sign on property zoned as the B-3 Central Shopping District located at 565 S. Andover Road, Andover, Kansas.](#)

01:22:13

Les Mangus stated that the photos of the neighboring signs were included to give the committee an idea of the signage in the area. One of the photos shows the major development sign for a 70-acre commercial site. It has seven different tenants in it and is 30 feet tall. The other photo is of a 10-foot monument sign that is allowed in that zoning district. The major development tenant sign is in approximate proportion to the requested sign for the car wash, single user. Only the height variance is being reviewed in this case.

Chairman Lindebak asked if there was a square footage amount being asked for.

Mike Warrington asked if there is any proposed signage indicated.

Phil Meyer, Baughman Company, agent to the applicant was present to represent the application.

Stan Cox and Steve Cox, applicants were present.

John Saindon, Ron's Sign Company, was present.

Mr. Meyer presented photos of proposed signage options to the commission members and explained that they are requesting an increase in the sign height allowed. They have been through zoning for a conditional use permit to allow the car wash and they have been through site plan review and have approval for a 10-foot sign. From marketing standpoints car wash businesses typically operate with a sign larger than 10 feet. Generally, half of the people that stop at a car wash tend to make that decision on impulse. With that impulse, signage comes into play. Signage above 10 feet gives a visual perspective for people to see. The first photo is of the requested sign height at 25 feet on a pole. The second photo is the same signage in monument style with a

wrapped pole to give it character. The third and fourth photos are of the same two styles at a height of 17 feet. They want to ask for the 25 foot as applied for but are open to discussion.

Mike Warrington asked staff for the height of the sign located at Braum's.

Les Mangus said that he did not know that height but stated that the sign at the Dunkin Donuts location has a variance and is just over 17 feet. It is also just outside of that range of the highway that would allow a taller sign, as this property is.

Several commission members expressed concern for the requested height and the LED display.

Chairman Lindebak agreed with those comments and added that this may seem appropriate if on a highway. Andover Road is a collector arterial street. LED signage is here to stay and is a better way for business communications and stated that the square footage to keep proper proportions is just as important. He feels design option #4 would be a successful sign. He asked if the building colors would match the sign.

Mr. Stan Cox explained that the colors on their existing building in Derby are not bright colors. The building and signage at this site will match what is at their Derby location and the colors are the same as shown in the design. He added that the LED board will only be on during business hours.

William Schnauber asked where the sign would be located on the property.

Mr. Meyer stated that it will sit at the northeast corner of the site and was approved for that by Site Plan.

Mr. Saindon added that their intent is not have the largest possible signage. They are only looking to be effective and attract customers.

Chairman Lindebak opened the hearing for public comments.

There were no public comments.

Chairman Lindebak closed the public hearing.

Kirsten Bender stated that the sign design is very impactful.

Mike Warrington said that he felt option #4 at 17 feet was more appropriate for this location.

Chairman Lindebak said he understood the concerns for Kellogg but that portion will be underground. They could have located on Kellogg for better visibility. He feels that a sign in the 15-17-foot height range with 60-90 sq.ft. of signage would be reasonable.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 9

June 20, 2017

VARIANCE REPORT *

CASE NUMBER: BZA-V-2017-05

APPLICANT/AGENT: Trax, LLC. / Baughman Company

REQUEST: Trax, LLC, 565 S. Andover Road, Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to permit a 15-foot increase in the required 10-foot maximum height limitation, to allow construction of a new 25-foot-high monument sign on property zoned as the B-3 Central Shopping District.

CASE HISTORY: The applicant desires to construct a 25' high pole sign in order to be seen from US-54 over 700 feet away from the site.

LOCATION: Legal description: Lot 2, Block A, River at Andover 2nd Addition to the City of Andover, Kansas.

General location: 565 S. Andover Road, Andover, Kansas.

SITE SIZE: ±1.1 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 Office Business – vacant land

South: R-1 Single-Family Residential District – single family dwellings

East: B-4 Central Business District – strip retail center

West: R-1 Single-Family Residential District – single family dwellings

***NOTE:** This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing so as to base their decision for a variance on the required five findings found in Section 10-107 D 1 of the Zoning Regulations. The Board may grant a request upon specific written findings of fact when all five conditions, as required by state statutes, are found to exist. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Board of Zoning Appeals considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

BACKGROUND INFORMATION:

DOES THE EVIDENCE DEMONSTRATE 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. **The applicant desires to construct a 25' high pole sign in order to be seen from US-54 over 700 feet away from the site. The hardship perceived by the applicant is not created by any unusual circumstance, just the mere proximity of the highway. There are vacant commercial properties available along the highway, which afford better visibility.**

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. **The applicant desires to construct a 25' high pole sign in order to be seen from US-54 over 700 feet away from the site. The hardship perceived by the applicant is not created by any unusual circumstance, just the mere proximity of the highway. There are vacant commercial properties available along the highway, which afford better visibility.**

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. **The proposed 25' high pole sign would be out of scale with the carwash building, the surrounding residences, and the monuments signs across the street in the Marketplace shopping center.**

4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood. **The proposed 25' high pole sign would be out of scale with the carwash building, the surrounding residences, and the monuments signs across the street in the Marketplace shopping center.**

SPECIFIED CONDITIONS TO BE MET:

The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented at the hearing so that all five of the conditions required by K.S.A 12-759(e) have been met which are listed below. If any of the conditions cannot be met, the condition(s) needs to be reworded from a positive to a negative statement and the variance not granted.

1. That 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 owner or the applicant. **The applicant desires to construct a 25' high pole sign in order to be seen from US-54 over 700 feet away from the site. The hardship perceived by the applicant is not created by any unusual circumstance, just**

the mere proximity of the highway. There are vacant commercial properties available along the highway, which afford better visibility.

- 2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents. The proposed 25' high pole sign would be out of scale with the carwash building, the surrounding residences, and the monuments signs across the street in the Marketplace shopping center.
- 3. That 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. The applicant desires to construct a 25' high pole sign in order to be seen from US-54 over 700 feet away from the site. The hardship perceived by the applicant is not created by any unusual circumstance, just the mere proximity of the highway. There are vacant commercial properties available along the highway, which afford better visibility.
- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed 25' high pole sign would be totally out of scale with the carwash building, the surrounding residences, and the monuments signs across the street in the Marketplace shopping center.
- 5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations. The proposed variance The proposed 25' high pole sign would be out of scale with the carwash building, the surrounding residences, and the monuments signs across the street in the Marketplace shopping center. The spirit and intent of the regulations are to insure harmony between adjacent land uses. The proposed 25' pole sign would be nearly as large as the development marquee for the Marketplace shopping center that contains name panels for 7 different tenants in the nearly 70-acre shopping center.

Date Granted: June 20, 2017

Valid Until (date): December 17, 2017

(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: June 20, 2017

*Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report have been found to exist that support all of the five conditions set out in section 10-107D1 of the Zoning Regulations and K.S.A.12-759(e) of the state statutes which are necessary for granting of a variance, I Mike Warrington move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2017-05 as **modified** to allow construction of a new 17 foot high monument sign with signage allowance to be capped at 60 sq. ft. in the report. Motion was seconded by William Schnauber. Motion carried 6/0.*

Closing remarks by Chairman Lindebak:

A Resolution will be prepared and made available to the applicant by June 30, 2017. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after Resolution is signed and filed with the Zoning Administrator.

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission.

A motion was made by William Schnauber, seconded by Kirsten Bender to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 6/0.

A motion was made by William Schnauber, seconded by Mike Warrington to recess the Planning Commission meeting for a five-minute break. Motion carried 6/0.

10. [Andover Unified Development Manual update from Foster Design Associates, LLC.](#) 02:04:10

David Foster, Bickley Foster and Debra Foster, Foster Design Associates, LLC gave a brief update on the progress of the Unified Development Manual.

David Foster stated that the Site Plan Review portion is now 95% complete. The 17 Factors and Findings for zoning have now been reduced to 9 and staff will provide 5 of those factors in their report. He explained that much of the standards stay the same in the zoning districts. The mixed use districts will be unique. The intent with mixed use districts is to increase density and give more flexibility of uses. The B-5 Highway Corridor Mixed Use Business District will be a mixed use district. The idea is to draw from the Corridor Study for uses that are appropriate along the highway. A land use matrix with definitions will be included in the manual.

Bickley Foster explained the process of vesting by developers for subdivision developments. The amount of time for submitting applications has been changed to 30 days prior to the meeting date to allow more time for notifications. The largest change will be that the Planning Commission will now hold the formal public hearing for vacation petitions.

Debra Foster explained that Rick Lanzrath has been working on the stormwater management regulations for the City. This will address pre-construction and post-construction sedimentation and water quality. What will be retained in the zoning and subdivision will be more focused on drainage and grading to make the subdivision work as a drainage system and manage stormwater appropriately. Stormwater management will remain separate from the UDM. Street design information will be pulled from the assessment ordinance and put into the Subdivision Regulations. There will be a new ordinance that will strictly address how streets are paid for instead of how they are designed. This will make it easier for developers to use and simplify the implementation of assessments. The document will also include inter links, active links, illustrations and diagrams.

11. Review and approval of the budget Capital Improvement Plan.

02:45:17

Les Mangus explained that by state statute the planning commission is charged with reviewing and approving the City’s Capital Improvement Plan. The Capital Improvement Plan is the means for implementing the Comprehensive Plan.

Mark Detter, City Administrator, presented to the Planning Commission the Capital Improvement Plan budgets from all City of Andover Departments.

A motion was made by Chairman Lindebak, seconded by William Schnauber to approve the Capital Improvement Plan as presented. Motion carried 6/0.

12. Member items.

00:26:41

No member items.

13. Adjourn.

00:26:49

A motion was made by Chairman Lindebak, seconded by Tyson Bean, to adjourn at 9:59 p.m. Motion carried 6/0.

Respectfully Submitted by

Dayna DuFriend
Administrative Assistant

Approved this 18th day of July, 2017 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.