

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

1. Call to order. 00:00:25

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

2. Roll call. 00:00:31

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

Staff in attendance: Director of Public Works Les Mangus, City Engineer Steve Anderson and Administrative Assistant Daynna DuFriend.

A/V: Craig Brown

3. Approval of the minutes of the June 20, 2017 meeting. 00:01:00

*A motion was made by William Schnauber, seconded by Tyson Bean to approve the minutes of the June 20, 2017 meeting. Motion carried 5/0/1. Lynn Heath abstained from voting.*

4. Communications 00:01:36
- A. Committee and Staff Report.
  - B. Potential Residential Development Report.

5. 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. 00:02:01

Les Mangus explained that concerns were raised last month by several public utility providers, the City Engineer and the City Stormwater Operator about drainage. Those issues have since been cleared up with the utility providers and engineer.

Chairman Lindebak noted that the correspondence included in the packet confirmed this.

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

Mr. Meyer explained that the wall is basically complete with some finish work left to do on the face of it. The wall will not be extended further east or west. AT&T has always supported this request. Westar did approve the request after more information was provided to them. He met with Cox in the field to walk the site and they approved. A 20-foot utility easement is used in rear yards so private utility companies can occupy 10 feet and sanitary sewer has 10 feet. A width of 10 feet is normal for utility companies if that is all that will be in the easement.

Chairman Lindebak asked if the utility markings in the photos were service lines north of the site and if the concrete wall was intended to stop short of the east and west property corners.

Meyer replied that they are service lines that come across, the actual line and boxes are on the north side of the wall. The concrete wall is as intended and the wrought iron fence will stay against the decorative wall.

Chairman Lindebak opened the public hearing for comments.

There were no public comments.

Chairman Lindebak closed the public hearing.

*A motion was made by Lynn Heath, seconded by William Schnauber, to approve VA-2017-01 as presented. Motion carried 6/0.*

[6. SU-2017-01- A public hearing on an application for a Special Use request to establish a plumbing and restoration service contractor in the B-5 Highway Business District on property located at 1023 W. US Highway 54, Andover, Kansas.](#)

00:08:04

Les Mangus explained that this property is currently zoned B-5 Highway Business District and has been for many years. The current owner is a plumber and does restoration work. He intends to use this as his contractor shop for his plumbing business and may have some outdoor storage of equipment or some materials which requires a special use in this zoning district. By adding the word contractor requires this to be a special use.

Chairman Lindebak noted that this property will be impacted substantially across the front by the highway corridor plan and asked if any of those items would be addressed in this hearing. And asked if the applicant understands access will be one-way across the frontage with possible limitations on the side road as well.

Les Mangus agreed that in the long term this property would be impacted by the highway frontage roads. That is a very long term plan and a project that is over 10 years in the future. The limitations on Ruth Street were discussed with the applicant prior to this meeting.

William Schnauber asked if there was a shared building to the west as seen on the aerial photo and asked what the fencing requirement would entail on the east, west and south sides.

Les Mangus explained that there appears to be an error in the aerial photography of approximately 8 – 10 feet. There is a jog in the west property line that goes around an existing building.

Chairman Lindebak asked if there was ample separation between the buildings for fire reasons, if a landscape buffer would be needed along Ruth Street or at the front of this property, and if the property shared a cross-lot agreement with the property to the west?

Les Mangus said a lot split was done several years ago with adequate separation. Fencing would be required along the south side of the property as screening for the multi-family residences to the south. Any outdoor storage would require screening for the multi-family residences to the east on Ruth Street. A landscape buffer is not required, only a screening fence in this scenario. He understands that there is a cross-lot agreement with these properties.

Britt Moore, applicant and owner of PD Plumbing was present.

Mr. Moore stated that he agreed with what had been discussed. He understands the details of the corridor plan and said that there is a cross-lot agreement.

William Schnauber asked if there were security lights for the materials and building in the back lot and also what their signage would be.

Mr. Moore explained that there is lighting on the garage door at the back. They have plans to install a pole for security cameras with additional lighting and to fence the property adding gravel for equipment storage. They are looking to possibly reface the existing signage and may install a more modern pole sign or marquee sign that would be back lit.

Chairman Lindebak asked if there would be overnight parking at the rear or front of the property. He asked staff if there is a paving requirement or if a rock pad allowed.

Mr. Moore said the office manager or secretary would park in front. A trailer or other equipment would be stored in the rear on the rock pad to be put in.

Les Mangus responded that paving is only required of the required parking and access. The storage yard is not required to be paved.

Mr. Moore added that currently there is paved parking at the front with a handicap accessible stall. The building is handicap accessible also.

Chairman Lindebak opened the hearing for public comments.

Cindy Ball, adjacent property owner on west side, said there is a dedicated easement for ingress/egress across the back of the lot and that the jog in the property line allows for a parking easement to satisfy the required parking spaces. This was done at the same time as the lot split. She is in favor of the approval of this special use permit but has concerns about the screening and the fencing. The screening along the south property line would be a duplication of screening as the residences have privacy fencing in their backyards now. She would like to see the area to be

used for equipment and material storage fenced for security due to recent break-ins and thefts that have occurred on her property.

Tyson Bean asked if there was screening between her property and the residences to the south.

Mrs. Ball said the residences were not there at the time of her special use request so screening was not required.

Discussion followed as to whether the placement of screening should be along the south property line or further north, allowing for the ingress/egress driveway.

Chairman Lindebak closed the public hearing.

Lynn Heath stated that if screening is required the property owner should have a say in the placement.

Les Mangus asked the applicant if there was a prescribed width on the access easement.

Mr. Moore said he was not sure. He mentioned that they may put fencing further north near the existing shed to allow enough space for a large truck and trailer to turn around in the yard. Their intention is to remove some of the trees on the west side of the existing shed and gravel the area. Trucks could then come in from the south off of the ingress/egress driveway eliminating having to do a lot of maneuvering of the vehicles and equipment. Sacrificing the amount of storage space would be worth having space for a circle driveway to get in and out. They plan to store most of their materials inside the buildings.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 6

SPECIAL USE REPORT \*

CASE NUMBER: SU-2017-01

APPLICANT/AGENT: Britt A. Moore

REQUEST: Special Use requested to establish a plumbing and restoration service contractor in the B-5 Highway Business District.

CASE HISTORY:

LOCATION: 1023 W. U.S. Highway 54, Andover, Kansas.

SITE SIZE: ±.53 acres

PROPOSED USE: Plumbing and restoration service contractor.

**ADJACENT ZONING AND EXISTING LAND USE:**

North: R-2 Single-Family Residential District  
South: R-3 Multiple-Family Residential District  
East: B-5 Highway Business District & R-3 Multiple-Family Residential District  
West: B-5 Highway Business District

**Background Information:**

\* 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 special use recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses initially provided need to be evaluated with the evidence and reworded as necessary to reflect the Commission’s 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. A copy of the report should be provided to the applicant before the hearing. The completed report can be included within the minutes following the statutory required summary of the hearing or attached thereto. The minutes and report should be forwarded to the Governing Body within 14 days to serve as a basis for their decision.

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:  
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: Screening of the residential property to the south and storage of materials or equipment is 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:  
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.  
PLANNING: No detriment is perceived.  
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: The intent of the B-5 Highway Business District is to provide a location for businesses which might not be compatible with prime retail areas.  
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 suggests that more intense business uses should be located along the US-54 Highway Corridor.  
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: Approval conditioned upon installation of the required screening fence screening along the south property line and around any materials or equipment stored outdoors.  
X PLANNING: East property line to be included.  
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 special use application, I, William Schnauber, move that we recommend to the Governing Body that Case No. **SU-2017-01** be **modified & approved** for the establishment of a plumbing and restoration service contractor in the B-5 Highway Business District based on the findings of the Planning Commission as recorded in the summary of this hearing, listed at 8, 15 & 16 with the following conditions: **screening fence to be installed along south property line, and along east property line where material and equipment are stored outdoors.** Motion seconded by Lynn Heath. Motion carried 6/0.*

*A motion was made by William Schnauber, to approve SU-2017-01 for the establishment of a plumbing and restoration service contractor in the B-5 Highway Business District.*

*Motion was amended to include the following condition: screening fence to be installed along south property line, and along east property line where material and equipment are stored outdoors. Motion seconded by Lynn Heath. Motion carried 6/0.*

Closing remarks read by Chairman Lindebak:



Protest petitions against the 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. August 1, 2017 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.

### **Recess the Planning Commission and Convene the Board of Zoning Appeals**

*A motion was made by Lynn Heath, seconded by William Schnauber to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 6/0.*

7. [BZA-V-2017-06- A public hearing on an application filed by Kanza Office Park requesting a variance of 15 feet to the required 20-foot vision triangle to allow a single faced multi-tenant sign within 5 feet of the street intersection property corner on property zoned as the B-1 Office Business District.](#)

00:17:56

Chairman Lindebak asked staff for confirmation that this proposed signage would not be in the street right of way.

Les Mangus said that is correct. The street right of way comes to a 90-degree intersection just out in front of this proposed sign. The proposal is to put the monument sign on a  $\pm 45$ -degree angle to the right of way line.

Chairman Lindebak added that from the photos it appears there is plenty of set back and it would not impede on the vision triangle. He asked staff if there were any plans to add a right turn lane.

Les Mangus said there are no plans at this time for adding a right turn lane.

Lynn Heath noted that the brick pillars would have to be moved with an added lane.

Andrea Edwards, Luminous Neon Art and Sign Systems, Inc. agent to the applicant was present.

Ms. Edwards said that this request was recapped well.

**ANDOVER BOARD OF ZONING APPEALS**

**Agenda Item No. 7**

**July 18, 2017**

### **VARIANCE REPORT \***

**CASE NUMBER: BZA-V-2017-06**

APPLICANT/AGENT: Kanza Office Park / Luminous Neon Art and Sign Systems, Inc.

REQUEST: Kanza Office Park, 550 N. 159<sup>th</sup> St. East, Wichita, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to the 20-foot vision triangle required to allow a single faced multi-tenant sign within 5-foot of the street property corner on property zoned as the B-1 Office Business District.

CASE HISTORY: The applicant desires to construct a single faced multi-tenant sign within 5-foot of the street property corner.

LOCATION: Legal description: Lot 1, Block L, Terradyne Estates Addition to the City of Andover, Kansas.

General location: 550 N. 159<sup>th</sup> St. East, Wichita, Kansas.

SITE SIZE: ±5.0 acres

**ADJACENT ZONING AND EXISTING LAND USE:**

North: R-2 Single-Family Residential District – single family dwellings

South: B-1 Office Business District – commercial business

East: R-2 Single-Family Residential District – golf course

West: Sedgwick County – vacant lot

\*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 existing wrought iron fence with brick columns already encroaches in the vision triangle.**
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 owner simply wants an identification sign for the large office building.**
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 existing wrought iron fence with brick columns already encroaches in the vision triangle.**
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 existing wrought iron fence with brick columns already encroaches in the vision triangle.**

**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 existing wrought iron fence with brick columns already encroaches in the vision triangle.**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the existing wrought iron fence with brick columns already encroaches in the vision triangle.**
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 owner simply wants an identification sign for the large office building.**

- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because the existing wrought iron fence with brick columns already encroaches in the vision triangle.**
- 5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the existing wrought iron fence with brick columns already encroaches in the vision triangle.**

Date Granted: July 18, 2017

Valid Until (date): January 14, 2018  
(180 days Sec. 10-107G)

/s/  
Brian Lindebak, Chairman

/s/  
William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: July 18, 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 statues which are necessary for granting of a variance, I Brian Lindebak move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2017-06 as **requested** in the Report. Motion was seconded by Kirsten Bender. Motion carried 6/0.*

Closing remarks read by Chairman Lindebak:

A Resolution will be prepared and made available to the applicant by July 31, 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 Lynn Heath, seconded by Tyson Bean to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 6/0.*

**10. Review for approval the Prairie Pointe at Cornerstone Final Planned Unit Development Plan.**

01:19:41

Les Mangus explained that this plat reflects approximately one-third of the property to be developed in three phases from the zoning case heard in June amending the planned unit development. Staff and City Engineer are satisfied with the plat and all required submittals.

Chairman Lindebak suggested including the dimension of the utility easement on the north line of Lot 4, Block A. The drainage and utility easement off-set by possibly a wall easement along the east property line should be labeled. The 15-foot drainage and utility easement on each property line should be 20-foot to allow for utilities to cross under the wall and on to the adjoining property. He asked the direction of the property drainage.

Chris Bohm, Ruggles & Bohm, engineer for the applicant was present.

Mr. Bohm agreed with adding the easement dimension. The 15-foot drainage and utility easement adjacent to the wall easement on the east line is to aid in facilitating building the units on the site and to be efficient with use of the ground. Even with a wall there, they contemplate an adjacent platter would also provide some type of easement on their property in the future creating a wider easement. Perhaps 30 foot with a 10-foot strip for a wall.

Chairman Lindebak pointed out concern for access and connection to sewer and other utilities from the west property being prohibited by a wall.

Mr. Bohm said that they were charged with front loading the sewer for this development. In his view the adjacent property wouldn't utilize a rear yard sewer, they would likely come in on a road system established for that property. He said the property drains to the south.

Les Mangus added that in the Owner's Dedication it mentions that utilities are permitted to cross the wall easement.

*A motion was made by William Schnauber, seconded by Lynn Heath to approve the Prairie Pointe at Cornerstone Final Planned Unit Development Plan as presented. Motion carried 6/0.*

11. Planning Commission member organization.

01:26:24

Planning Commission elections-

Brian Lindebak, Chairman  
Mike Warrington, Vice-Chairman  
William Schnauber, Secretary

Subdivision Committee elections-

Mike Warrington, Chairman  
Tyson Bean  
William Schnauber  
Brian Lindebak

Lynn Heath asked to be removed from the Subdivision Committee.

*A motion was made by Lynn Heath, seconded by Chairman Lindebak to approve the Planning Commission member organization as listed. Motion carried 6/0.*

12. Member items.

01:30:14

No member items.

13. Adjourn.

01:30:27

*A motion was made by Stephanie Gillespie, seconded by Lynn Heath, to adjourn at 8:31 p.m. Motion carried 6/0.*

Respectfully Submitted by

Dayna DuFriend  
Administrative Assistant

Approved this 17<sup>th</sup> day of August, 2017 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.