

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, September 18, 2018
Minutes**

- 1. Call to order. 00:00:00**

Brian Lindebak called the meeting to order at 7:20 p.m.

- 2. Roll call. 00:00:05**

Planning Commission members in attendance: Brian Lindebak, William Schnauber, Gary Israel, Lynn Heath and Alex Zarchan. Members Erik Pederson and Stephanie Gillespie were absent.

Staff in attendance: Director of Community Development & Public Works Les Mangus, City Administrator Mark Detter and Stormwater/GIS/Planning Technician Lance Onstott.

A/V: WAV Services

- 3. Approval of the minutes of the August 21, 2018 meeting. 00:00:20**

A motion was made by William Schnauber, seconded by Gary Israel, to approve the minutes of the August 21, 2018 meeting. Motion carried 4/0/1. Brian Lindebak abstained.

- 4. Communications 00:01:06**
A. Committee and Staff Report.
B. Potential Residential Development Report.

None.

- 5. Z-2018-05- Public hearing on an application for a proposed amendment to The Cornerstone Addition Preliminary Planned Unit Development Plan Parcel 6 and Cornerstone Medical Addition Final Planned Unit Development Plan to allow acute surgical center as a permitted use in the B-3 Central Shopping District. 00:01:23**

Les Mangus explained that the medical development in the area began with the hospital, has added medical office buildings and now looks to add an acute ambulatory surgery center. The addition will allow the operation to separate the walk-in and walk-out needs from the existing services at the hospital that serve overnight needs.

Brian Lindebak asked if the entire Parcel 6 will be used for this building.

Les Mangus responded that the entire 10-acre parcel will not be used.

REZONING REPORT *

CASE NUMBER: **Z-2018-05**

APPLICANT/AGENT: **KMC Development, LLC / Garver, Will Clevenger**

REQUEST: **Proposed amendment to The Cornerstone Addition Preliminary Planned Unit Development Plan to allow an acute surgical center as a permitted use on Parcel 6.**

CASE HISTORY:

LOCATION: **1124 W. 21st St., Andover, Kansas.**

SITE SIZE: **±12.89 acres (Parcel 6)**

PROPOSED USE: **Acute surgical center attached to the Kansas Medical Center.**

ADJACENT ZONING AND EXISTING LAND USE:

North: B-2 Neighborhood Business – vacant lot
South: R-2 Single-Family Residential District – Quail Crossing subdivision
East: R-4 Multi-Family Residential District – Kansas Medical Center
West: B-3 Central Shopping District – vacant lots

Background Information:

The overwhelming success of the Kansas Medical Center has prompted the owners to expand with an ambulatory surgery center for patients that are more of a planned walk-in walk-out procedure.

* 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: Noted
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: Noted
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: The Kansas Medical Center has expanded to the limits of the existing property.
X PLANNING: Concur.
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 and adequate.
X PLANNING: Concur.
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 subject property is already platted.
X PLANNING: Concur.
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 adjacent Prairie Pointe multifamily residential development is required.
X PLANNING: Concur.
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: The overwhelming success of the Kansas Medical Center has prompted the owners to expand with an ambulatory surgery center for patients that are more of a planned walk-in walk-out procedure. The expansion will provide both jobs and services to the area.

X

PLANNING: Concur.
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: Staff perceives no change in the affects as commercial to the other permitted business uses.

PLANNING: Concur.
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 supports the development of the 21st Street Corridor for medical uses.

X

PLANNING: Concur.
COUNCIL:

15. What is the nature of the support or opposition to the request?

YES NO

STAFF: None at this time.

PLANNING: Concur.
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 as applied for.

X PLANNING: Concur.

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: Staff doesn't perceive any loss to the public health, safety and general welfare.

PLANNING: Concur.

COUNCIL:

Having considered the evidence at the hearing and the factors to evaluate the rezoning, I, Gary Israel move that we recommend to the Governing Body that Case No. Z-2018-05 be approved to add acute surgical center as a permitted use in Parcel 6 of The Cornerstone Addition Preliminary Planned Unit Development Plan based on the findings 5, 14 and 15 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by William Schnauber. Motion carried 5/0.

Closing remarks by Chairman Brian Lindebak:

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 9, 2018 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 1, 2018 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.)

Recess the Planning Commission and Convene the Board of Zoning Appeals

A motion was made by Lynn Health, seconded by Alex Zarchan, to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 5/0.

6. **BZA-V-2018-04- Public hearing on an application filed by Jim Ackerman requesting a variance of 2,200 square feet from the required 200 square foot maximum total floor area for an accessory structure used exclusively for storage permitted by Section 6-100b3 and a variance of 2,000 square feet from the required 400 square foot maximum aggregate total floor area of all accessory structures permitted by Section 6-100c4 for the purpose of constructing a 2,400 square foot accessory storage structure on property zoned as the R-3 Multi-Family Residential District and generally located at 610 S. Ruth Ave., Andover, Kansas.** 00:14:40

Les Mangus explained the owner recently made application for rezoning of this property to R-3 Multi-Family Residential, which was recommended for disapproval by the Planning Commission. The City Council overturned this recommendation and added a protective overlay which limits the construction of one two-family dwelling on the lot. The applicant stated at the rezoning public hearing, and again at the City Council meeting, that he would like to build a storage building on the property if limited to one two-family dwelling in order to store equipment. Adjacent to the backyard of the applicant property is a truck repair shop that is approximately 2,800 square feet. Two additional storage buildings, each approximately 3,700 square feet each, are northwest of the applicant property. Additionally, there are a couple properties to the west of the applicant property that have accessory buildings around 1,600 square feet each.

Brian Lindebak stated that variances are for generally for hardships and requested more background information to that effect.

Les Mangus responded that the applicant originally intended to build two two-family dwellings on the lot. The City Council limited it to one two-family dwelling on a half-acre lot.

Jim Ackerman, Eagle Investments, LLC, 14601 E. Sundance St., Wichita, Kansas, presented photos displaying the original home on-site upon his purchase of the property, the site after demolition, the current privacy fence being installed and an example of the duplex he is planning on constructing. The proposed layout of the dwelling unit and storage building was also presented.

Brian Lindebak asked if the applicant was planning on paving the drive that leads to the storage building.

Mr. Ackerman responded that paving is planned to the dwelling unit then gravel from the dwelling unit to the storage building.

Brian Lindebak asked if the applicant would object to paving the entire drive.

Mr. Ackerman responded that this would be expensive and the current roads in the neighborhood are gravel. If he had to, he would look into it. Other out buildings in the neighborhood do not have paved drives.

Gary Israel asked if there will be any paving in front of the storage building.

Mr. Ackerman indicated there would be concrete that extended directly beyond the doors.

William Schnauber asked if there would be any visual fencing that would separate the dwelling unit and storage building.

Mr. Ackerman said it could easily be done.

Alex Zarchan asked what the building type will be.

Mr. Ackerman responded that it will be a steel building.

Brian Lindebak asked if there was a need for right-of-way or rear setback along the rear of the applicant property to prepare for the opening of Frey St.

Les Mangus indicated that a minimum rear yard setback of approximately 35-40 feet was advisable.

Brian Lindebak asked about side setback recommendations.

Les Mangus responded that the side setback requirements for the district are adequate.

Brian Lindebak suggested a 20-foot side setback.

William Schnauber sought to clarify that the applicant intended to store equipment for his rental homes not store equipment to be rented.

Mr. Ackerman confirmed that equipment used for his rental homes would be stored in addition to some personal storage items – no equipment that individuals would be able to rent.

VARIANCE REPORT *

CASE NUMBER: BZA-V-2018-04

APPLICANT/AGENT: Jim Ackerman

REQUEST: Jim Ackerman, 14601 E. Sundance St., Wichita, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance of 2,200 square feet from the required 200 square foot maximum aggregate total floor area of all accessory structures used exclusively for storage permitted by Section 6-100b3 for the purpose of constructing a 2,400 square foot residential storage structure on property zoned as the R-3 Multi-Family Residential District.

CASE HISTORY: The subject property was recently granted a change in zoning to R-3 Multiple Family Residential limited to one two-family dwelling.

LOCATION: The South half of Lot 2, Revised Plat No. 2 of Mecca Acres a Subdivision in the East Half of the Northwest Quarter of Section 30, T27S, R3E, Butler County, Kansas.

General location: 610 S. Ruth Ave., Andover, Kansas.

SITE SIZE: ±0.55 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: R-1 Single Family Residential District – single family residence

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

East: A-1 Agricultural Transition District – legal nonconforming industrial warehouse shop and storage units

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

*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 has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**
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 desires to provide indoor storage of equipment and materials used in his rental business.**
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 subject property has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**
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 subject property has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**

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 has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**

- 2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**

- 3. That strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application, **because the subject property has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**

- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because the subject property, as modified, has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**

- 5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the subject property, as modified, has adequate space to provide required separation, and the rear yard abuts an industrial building of similar size.**

Date Granted: _____

Valid Until (date): _____

(180 days Sec. 10-107G)

Brian Lindebak, Chairman

Gary Israel, Secretary

Certified to the Zoning Administrator on this date of: _____

Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report as amended have been found to exist that support all 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, Gary Israel, move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2018-04 as modified, subject to the following conditions: 1) minimum 20-foot side yard setback, 2) minimum 40-foot rear yard setback and 3) paving be completed between dwelling unit drive and storage building. Motion seconded by Lynn Heath. Motion carried 5/0.

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission

A motion was made by Gary Israel, seconded by William Schnauber, to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.

7. Review and accept the Butler County Community College Addition Final Plat. 00:41:57

Brian Lindebak asked staff if everything was in order on the plats following the Subdivision Committee’s review.

Les Mangus responded that the applicant has satisfied all requirements. Petitions for improvements, including paving of Yorktown Rd. and Commerce St. and waterlines along both, were submitted this afternoon to be considered by the City Council.

Gary Israel asked which entity is currently conducting a traffic count along 13th St.

Les Mangus responded that the City Streets Department is conducting the count. The previous traffic counts on record were completed during the summer, so City staff is conducting this count while school is in session at Butler County Community College in order to make a comparison.

A motion was made by William Schnauber to accept the Butler County Community College Addition Preliminary and Final Plats as presented. Motion seconded by Lynn Heath. Motion carried 5/0.

8. Review and accept the Final Planned Unit Development Plan for Phase 6 of the Flint Hills National Addition. 00:46:10

Brian Lindebak announced his abstention from this item.

Les Mangus stated that drainage and easement conflicts have been resolved, and staff supports the plat.

A motion was made by Gary Israel to accept the Final Planned Unit Development Plan for Phase 6 of the Flint Hills National Addition as presented. Motion seconded by Alex Zarchan. Motion carried 4/0/1. Brian Lindebak abstained.

9. Member items.

00:49:05

None.

10. Adjourn.

00:49:28

A motion was made by William Schnauber, seconded by Lynn Heath, to adjourn at 8:10 p.m. Motion carried 5/0.

Respectfully Submitted by,



Lance A. Onstott
Stormwater/GIS/Planning Technician

Approved this 16th day of October, 2018 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.