

ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
April 15 2008
Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, April 15, 2008 at 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:01 p.m. Commission members present were Lynn Heath, Jan Cox, John Cromwell, Byron Stout, Dan Beck, and Jeff Syrios. Others in attendance were City Council Liaison Member J.R. Jessen, City Administrator Jeff Bridges, Director of Public Works and Community Development Les Mangus, and Administrative Secretary Kandace Hunt.

Call to order

Review the minutes of the March 18, 2008 and March 27, 2008 Planning Commission meeting.

Review the March 18, 2008 and March 27, 2008 minutes

Lynn Heath made a motion to approve the minutes with changes of "until" to "units" on page 3 and "Lynn Heath asked if "this lot went all the way to Andover Road" to "Lynn Heath asked if this lot went all the way to the driveway of the trailer court" on page 9. John Cromwell seconded the motion. Motion carried 7/0.

Communications:

Communications

Review the minutes of the February 26, 2008, March 11, 2008 and March 25, 2008 City Council meetings. The minutes were received and filed.

Review the minutes of the March 11, 2008 Subdivision meeting. The minutes were received and filed.

Review the minutes of the February 5, 2008 and the February 13, 2008 Site Plan Review Committee meeting. The minutes were received and filed.

Review the Potential Residential Development Lot Report.

Recommendation on the annexation of the property known as the Andover Farm at Cedar Park.

Recommendation on Annexation

From Les Mangus Memo: This petition for annexation is for the proposed +/- 140 acres to be added to the Cedar Park PUD. The property abuts the City on two sides, and streets and utilities are available adjacent to the property or can be extended. Staff supports the annexation as petitioned for.

Chairman Coon asked Les Mangus for staff comments on the application. Les Mangus explained the petition for annexation is for the +/- 140 acres to be added to the Cedar Park Planned Unit Development. He continued by saying the land is located north of 13th Street and east of 159th Street. It has a water line adjacent along the south property line; paved streets on both 13th Street and 159th Street and sewer can be extended from across the Kansas Turnpike near Terradyne as well as from the existing Cedar Park Subdivision.

Lynn Heath made a motion to recommend the annexation of the property known as Andover Farm at Cedar Park to the City Council. Jeff Syrios seconded the motion. Chairman Coon asked if there was any discussion. There was none. Motion carried 7/0.

Z-96-07- Public hearing on a proposed third amendment to the Preliminary Planned Unit Development for the Cedar Park Addition. Z-96-07

From Les Mangus Memo: This proposed amendment to the Cedar Park PUD is the result of new ownership of the undeveloped portion of the original PUD, and the addition of the adjacent +/- 140 acres to the PUD. The General and Parcel Provisions of the original PUD remain virtually intact. The provisions for the new addition take little or no exception to the bulk regulations for the R-2 Single Family Residential District. The only point of discussion the Staff has is that the proposed 4.1 acre public park does not meet the Parks & Open Space Master Plan requirements for a Neighborhood Park.

Chairman Coon asked Les Mangus for staff comments on the application. Les Mangus explained the case is a public hearing on an amendment to the Cedar Park Planned Unit Development to add the +/- 140 acres from the annexation request the commission just heard. He continued by saying the developer has purchased the remainder of the vacant lots in the undeveloped portion of Cedar Park. There are virtually no changes to the existing Cedar Park; the application is merely an addition to the existing PUD.

Chairman Coon asked if there was an applicant present. Agent for the applicant Phil Meyer of Baughman Company was present along with applicant Hal McCoy and consultants Dave Neal and Susan Kaplan.

The commission was given a rendering of the proposed development along with a revised sidewalk plan and revised PUD.

Mr. Meyer stated he felt the two issues needing to be addressed at the meeting were the less than five acre public park and the sidewalk system.

Mr. Meyer explained to the commission the overall development had not changed much from the sketch plat previously presented. He continued by saying the vacant lots in the existing Cedar Park area will be replatted and completed, and the new developer will add the 160 acres that sets at the northeast corner of 13th Street and 159th Street to the overall PUD. The area will consist of two markets with the first being made up of 60, 90x130 foot lots. The public park will set in this area. Mr. Meyer explained the park is 4.13 acres which is shy of the required five acres, but hopes the sidewalk system and green space created throughout the development will compensate for the smaller park. The second area will consist of the annexed land with a proposed 213, 90x105-145 foot lots. There will be one grand entrance off of 13th Street with other entrances along 159th. Buffers have been placed around 159th and 13th Streets with reserves which will be landscaped and bermed to create a sense of entry for the development, as well as protect the homes that back-up to the major arterials. In the southwest corner there is a large platted reserve that will house the community center, which will be for the use of residents only.

Mr. Meyer said the developers hope to put in as many lake amenities as possible to create the opportunity for residents to get out and experience the open space. Access to the abandoned railroad right-of-way has been allowed by the walking system. Mr. Meyer informed the commission they hope to preserve the hedge rows throughout the area.

The sidewalk system was explained next. Mr. Meyer said as he understood them, the Subdivision Regulations call for five foot sidewalks on all through streets, an eight foot sidewalk on all collector streets and a 10 foot sidewalk on all arterials. They are hoping for a slight deviation from the regulations by asking to not have a five foot sidewalk on the through streets of Stable and Dovecreek. Mr. Meyer noted that even without the aforementioned sidewalks any homeowner will be able to get on a sidewalk system to maneuver themselves to the community center.

Mr. Meyer informed the commission the development will start with two phases simultaneously. He explained Phases 1 and 2 are the completed areas of Cedar Park. Phase 3 will be the completion of the vacant lots in the existing Cedar Park area, and Phase 4 will be the development of the southwest quadrant of the new area which will house the community center.

Mr. McCoy explained to the commission the neighborhood will be homogeneous in the fact that although there will be a range of home prices, there will be no division in the community. He continued by saying the development will have areas where the landscaping will be tailored but others will be a natural habitat.

Mr. Meyer reminded the commission the applicants would like for them to approve the less than five acre public park and the sidewalk system which slightly deviates from the Subdivision Regulations.

Lynn Heath asked if the sidewalks would be reinforced to handle the weight of the trucks driving over them to service the power poles. Mr. Meyer said the developers will be working with Westar as to what their requirements will be in the area. He explained to the commission Westar wants to have the ability to jump the curb at 159th Street and drive all along the power lines and wherever they need the sidewalk to be reinforced the developers will comply.

Jeff Syrios asked to hear the different opinions on the smaller public park and the sidewalk system. Mr. Meyer said there was no major battle over the issues, Les Mangus had simply noted the applicants requests deviate from the regulations and would have to be approved by the Planning Commission and City Council. Les Mangus explained the City has established one neighborhood park with the five acre requirement and it fits a regulation size soccer field, a small multi-use concrete court, a little landscaping, a small play structure and a small parking lot. He continued by saying the power lines above the proposed park will also restrict recreational activity in the area.

Byron Stout asked if any power poles were set within the proposed park. Jeff Bridges said no, but some are close. He continued by saying the size of the park is not its only problem, the functionality of the park will also be affected by the shape.

Jeff Syrios asked how many lots it would take to makeup the 0.9 acres the park was short. Mr. Meyer said it would take three to three and a half lots.

Chairman Coon asked Mr. Meyer what would happen if Westar did not approve the lakes under the power lines. Mr. Meyer said the developers would have to comply, but feel confident the lakes will not be an issue.

Mr. McCoy noted more sidewalks had been added to the development than removed.

Lynn Heath asked if the existing homes would have access to the community center. Mr. Meyer said no, because the existing Cedar Park's homeowners association is already established and the developers did not want to impose on it. He continued by saying any of the lots being replatted within the existing Cedar Park area will be under the new homeowner's association.

Jeff Syrios asked what the developers would do if the less than five acre park was not approved. Mr. Meyer said at this time they did not have a good solution for that instance, but would find one if need be. He informed the commission the developers feel the park fits best in the proposed area and does not feel small when you are on site.

Jeff Syrios asked if the developers had considered constructing a sidewalk to connect Lakeside Drive to Gatewood Lane for more continuity and access to the park. Mr. McCoy said the developers did not own that area. Mr. Meyer said they were not opposed to connecting the areas, but assumed the old homeowners association would not want to join the new association because it is already established as well as the fact that fees with the new development may be higher. He continued by saying if connecting the area would be a compromise for the smaller park, they would not be opposed to doing so with permission of the existing homeowners association. Mr. McCoy added the developers would be willing to fund the sidewalk.

Chairman Coon opened the public hearing.

Ralph Cooper of 1336 N. Robin Court informed the commission one of the problems the existing Cedar Park area has had in communicating with the new developers is, to the best of his knowledge, their homeowners association technically does not exist as it is not registered with the state and has no president. He continued by saying they had no knowledge of the new development until receiving the zoning notice in the mail. Mr. Cooper said the presumptions the existing homeowners association would not be willing to cooperate with the new association is unfounded since there is not a homeowners association to speak of.

Jeff Syrios asked for Mr. Cooper's opinion of the proposed development. Mr. Cooper said he thought the development was a great idea and felt the developers had good plans for the area. He continued by saying he felt most of the residents in the existing Cedar Park area would probably be willing to join the new homeowners association and accept the higher fees.

Mr. Cooper was thanked by the commission for his comments.

Tammy Lewis of 1314 Robin Court informed the commission she had moved into her home in December and has never been contacted by the homeowners association. She continued by saying most of the residents she has spoken with would be willing to join the new homeowners association depending on the cost of fees.

Byron Stout asked Ms. Lewis if she had paid homeowners association dues and if so, who had she paid them to. Ms. Lewis said the fees were collected when she closed on her home, but she has never been contacted by anyone regarding the association.

Ms. Lewis was thanked for her input.

Lynn Heath asked those who had spoken if the reserves in the development are maintained. Ms. Lewis said the areas have received some maintenance but do not look good.

Chairman Coon asked if there were any other comments from the public. With none coming forward, Chairman Coon closed the public hearing.

John Cromwell asked Les Mangus if there were any other parks in Andover less than five acres. Les Mangus said Andover has three existing mini parks from the 70's that are plus or minus a half acre. He continued by saying the concept of a five acre neighborhood park serving an entire square mile was adopted five years ago. Since that time, the City has accepted the title to one, another is being platted and a third is in a preliminary plat waiting for financing. All three are five acres or more.

Byron Stout noted the park was an odd size and shape, but it had been established that due to the power lines overhead several typical recreational functions would not be able to occur. He continued by saying he thought the park was meant to have a different concept than the five acre park idea.

Jan Cox noted she was concerned about the precedence accepting the smaller park would set. It was stated the commission is not governed by precedence.

Jeff Bridges explained the purpose of the five acre neighborhood park is to allow neighborhoods the amenities available at the larger parks on a neighborhood scale.

Jeff Syrios asked if there was a formal definition of a public park with how many acres it should hold. Chairman Coon said it was roughly outlined in the Comprehensive Plan.

Chairman Coon asked if the 4.13 acres included the public right-of-way. Mr. Meyer said no, the 4.13 was net acreage and does not include any street right-of-ways or public parking. Chairman Coon asked if the City will acquire the right-of-way when the land for the park is acquired. Les Mangus stated he believed the area was an easement not a power line right-of-way. With an easement, the land and fee titles belong to the landowner not the utility, but all of the rights are given to the utility to construct and maintain their facilities.

Chairman Coon asked if any commission member had concerns other than the size of the park.

Jan Cox asked Les Mangus if he had mentioned during the Subdivision meeting that the street Saddle Circle could not be a circle. Les Mangus explained a street labeled circle implies the road comes back to itself or makes a loop. Saddle Circle does not, so therefore it does not qualify as a circle, it would need to be a street. He also informed the committee that he had spoke with the developers and they are in no way committed to the street names currently being used. Mr. Meyer added that if the commission does approve the Preliminary PUD the developers would like permission to work with staff on street names, as they have not finalized them. The commission said they would leave approval of street names to staff.

Dan Beck made a motion to accept the 4.13 acre park. Jeff Syrios recommend

the motion be amended to include the recommendation of negotiations between the developer and the existing homeowners association to construct a sidewalk connecting Lakeside Drive and Gatewood Lane. Dan Beck amended his motion to include the recommendation of negotiations between the developer and existing homeowners association to construct a sidewalk connecting Lakeside Drive to Gatewood Lane. Byron Stout seconded the motion. Chairman Coon declared a motion had been made with a second. He then asked if there was any discussion. Jeff Syrios noted the developers have utilized the hedge rows to the best of their ability and to require them to have five acres would create a hardship and make the area feel unnatural. Chairman Coon said he was curious as to how well the north section of the park would function. John Cromwell stated he felt the developers would be able to turn the area into more of a nature park instead of the traditional recreational park to help keep with the theme of the overall development. Jeff Syrios read the commission an excerpt from the Parks and Open Spaces Master Plan, "Park development should achieve a balance between active use, areas such as sports fields and game courts, and passive use, areas intended for sitting, picnicking and relaxing As a general rule, about half of the parks area should be planned for passive activities and comprised of natural features, active recreational facilities should be used mostly in an informal and unstructured manner." Chairman Coon closed the discussion. Motion carried 7/0.

John Cromwell asked if any commission members were uncomfortable with deviation from the regulations on the sidewalk plan. None were.

The commission next moved to the Rezoning Report for its checklist of 17 factors and findings.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 6

REZONING REPORT *

CASE NUMBER: **Z-96-07**

APPLICANT/AGENT: **Andover Farm At Cedar Park, LLC/Baughman Co.**

REQUEST: **Amend the Cedar Park Preliminary Planned Unit Development Plan**

CASE HISTORY: **Existing Cedar Park PUD approved in 1996**

LOCATION: **North of 13th St. and East of 159th St.**

SITE SIZE: **+/-174 acres**

PROPOSED USE: **Single & Multiple Family Residential development**

ADJACENT ZONING AND EXISTING LAND USE:

North: R-2 Single family residential neighborhoods – Caywood and Andover Heights

South: I-1 Industrial – Lafarge concrete plant and Butler County Agriculture

East: Kansas Turnpike, R-2 Original Andover single family residential neighborhoods, and B-1 Elementary School

West: Sedgwick County agriculture

Background Information:

The developer has purchased the remainder of the undeveloped portion of the Cedar Park PUD and the adjacent 140 acres for single family development. The multifamily portion of the Cedar Park PUD is completed, and remains unchanged.

* 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 is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?

YES NO

STAFF:

PLANNING: North: R-2 Single family residential neighborhoods – Caywood and Andover Heights; South: I-1 Industrial – Lafarge concrete plant and Butler County Agriculture; East: Kansas Turnpike, R-2 Original Andover single family residential neighborhoods and B-1 Elementary School; West: Sedgwick County Agriculture; Subject Property: Butler County AG-40 Agricultural District.

COUNCIL:

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?

YES NO

STAFF:

PLANNING: North: R-2 Single family residential neighborhoods – Caywood and Andover Heights; South: I-1 Industrial – Lafarge concrete plant and Butler County Agriculture; East: Kansas Turnpike, R-2 Original Andover single family residential neighborhoods and B-1 Elementary School; West: Sedgwick County Agriculture; Subject Property: Butler County AG-40 Agricultural District.

COUNCIL:

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES NO

X STAFF:

X PLANNING:

COUNCIL:

4. Would the request correct an error in the application of these regulations?
- YES NO
 STAFF:
 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
 STAFF: Adjacent properties have been developed, and 13th St. has been improved to a four-lane arterial street.
 PLANNING: Continued development of Andover.
 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
 STAFF: Water and streets are available adjacent to the additional property, but sewer will have to be extended.
 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
 STAFF:
 PLANNING:
 COUNCIL:
8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
- YES NO
 STAFF:
 PLANNING:
 COUNCIL:
9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
- YES NO
 STAFF: Not in the immediate area.
 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
 STAFF: N.A.
 PLANNING: N.A.
 COUNCIL:

11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?
- YES NO
 STAFF:
 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: Increased traffic, lighting, noise, etc.
 PLANNING: Increased traffic, lighting, noise, etc.
 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
 STAFF:
 PLANNING:
 COUNCIL:
14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
- YES NO
 STAFF: The subject property is marked potential residential in the Future Land Use map.
 PLANNING:
 COUNCIL:
15. What is the support or opposition to the request?
- YES NO
 STAFF: None at this time. I have had calls from several people in the notice area. None have expressed opposition.
 PLANNING: Residents spoke in support of the development.
 COUNCIL:
16. Is there any information or are there recommendations on this request available from knowledgeable persons which would be helpful in its evaluation?
- YES NO
 STAFF: Approval contingent on the satisfaction of the neighborhood park location/size.
 PLANNING:
 COUNCIL:
17. If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?
- YES NO
 STAFF:
 PLANNING:
 COUNCIL:

Byron Stout asked if there was a plan for improving 159th Street from 13th Street to 21st Street. Les Mangus explained there is a project in the Wichita Area Metropolitan Planning Organization's plan, to improve 159th Street from Central to 21st Street, but it has been pushed to beyond 2013. Byron

Stout asked where the sidewalk along 159th Street shown in the sidewalk plan would be constructed. Les Mangus said that sidewalk is there conceptually only and will come with the improvements of 159th Street. He continued by saying it would not make much sense to make the improvement until the project would give the sidewalk something to connect to. Byron Stout asked if this was a county or city issue. Les Mangus said it will be a City of Andover and Sedgwick County joint project.

Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I Lynn Heath, move that we recommend to the Governing Body that Case No. Z-96-07 be approved and modified to change the zoning district classification from the Butler County Agricultural Transition District to the R-2 Single Family District with the previous approval of the 4.13 acre neighborhood park with the request of negotiations between the developers and the current homeowners association to construct a sidewalk connecting Lakeside Drive to Gatewood Lane and the approval of the sidewalk system as requested for, unless Westar does not give their approval in which case the sidewalk system will need to be reevaluated, based on the findings 5, 6, 13 and 14 of the Planning Commission as recorded in the summary of this hearing, and that the following conditions be attached to this recommendation. Motion seconded by Byron Stout. Chairman Coon declared there was a motion and a second, he then asked if there was any discussion. There was none. Motion carried 7/0.

CONDITIONS:

1. **Platting:** That all such property be platted 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.
2. **Annexation:** That an annexation ordinance be approved and published prior to the effectuating ordinance for the rezoning amendment.

L/S 2008-02 – Review and approve the lot split of Lot 1 Block 1 in the Meadows Third Addition located at 308 E. Central.

L/S 2008-02

From Les Mangus Memo: The proposed lot split of Lot 1, Block 1 of the Meadows Third Addition is an effort to provide for separate ownership of the Fountains Skilled Nursing Care Facility. A flag lot is created by the lot split, but the unusual conditions warrant the deviation from the standards. The existing utility services to the Preferred Medical Associates clinic are affected by this lot split, which will require the dedication of the proposed access and utility easements to preserve service. Staff supports the lot split with the satisfaction of the checklist and comments.

Chairman Coon asked for staff comments on the application. Les Mangus explained the lot split being requested is on the lot where the Preferred Medical Associates Clinic is located. This building sets on a large lot but only consumes half of the property leaving two open acres trapped behind the building. Adjacent on the west is the Plaza Shopping Center; adjacent on the east is the Fountains Assisted Living. The ownership group is the same for all three properties, but each has a different LLC's. Les Mangus explained the

applicants are proposing to build a skilled nursing facility behind the clinic. Through joint access agreements there will be circulation through all three facilities. The lot split configuration was done to meet the minimum width required by the Subdivision Regulations. The applicants have worked out an agreement with the Preferred Medical Associates Clinic to take over a portion of the parking and access road.

Lynn Heath asked if a street was required in order to own access to an area. Les Mangus said it has to have a street frontage.

Chairman Coon asked if an applicant was present. Dennis Bush was present to represent the application.

Mr. Bush explained to the commission the intent was to build an extended care/nursing home facility with physical therapy capabilities behind the Preferred Medical Associates Clinic. Mr. Bush said he would be happy to answer any questions the commission might have. The commission had no questions for Mr. Bush.

John Cromwell asked Les Mangus if all the staff's check list items had been addressed. Les Mangus explained he was still waiting for a revised easement plan from applicant Bob Kaplan but the details on the easement were as simple as the easement references the lot split and the lot split references the easement.

John Cromwell made a motion to approve the lot split for L/S 2008-02 pending the final easement documentation being received by staff for Lot 1 Block 1 of the Meadows Third Addition. Jan Cox seconded the motion. Chairman Coon declared there was a motion and a second, he then asked if there was any discussion. There was none. Motion carried 7/0.

Member Items: Byron Stout congratulated the University of Kansas men's basketball team on their National Championship.

Member Items:

John Cromwell made a motion to adjourn the meeting at 8:35 p.m. Lynn Heath seconded the motion. Motion carried 7/0.

Respectfully Submitted by

Kandace Hunt
Administrative Secretary

Approved this 20th day of May 2008 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.