

ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
December 16, 2008
Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, December 16, 2008 at 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:03 p.m. Commission members present were Lynn Heath, Jan Cox, John Cromwell, Byron Stout and Dan Beck. Others in attendance were City Council Liaison Member J.R. Jessen, City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus, and Administrative Secretary Kandace Hunt.

Call to order

Review the minutes of the November 18, 2008 Planning Commission meeting.

Review the minutes of the November 18, 2008 Planning Commission meeting.

Byron Stout made a motion to approve the minutes as presented. Jan Cox seconded the motion. Motion carried 6/0.

Communications:

Communications

Review the minutes of the October 28, 2008, November 11, 2008 and November 25, 2008 City Council meetings. The minutes were received and filed.

Review the minutes of the November 4, 2008 Site Plan Review Committee Meeting. The minutes were received and filed.

Review the minutes of the August 12, 2008 Subdivision Committee Meeting. The minutes were received and filed.

Review the Potential Residential Development Lot Report.

The Commission received a request from Robert Kaplan, agent for the applicant of Butler County Case CU-09-02, to be moved to the top of the agenda for an announcement. The Commission granted this request.

Butler County Case CU-09-02- A recommendation to the Butler County Planning Commission on a request for a Conditional Use Permit to construct an office for the Minneha Township located at 1216 E. Highway 54.

Butler County Case CU-09-02

Mr. Kaplan informed the Commission the applicant would like to withdraw his application to Butler County until such time it can be re-filed in the City of Andover. The applicant has agreed to file for a change of zoning to the B-5 Highway Business District, annexation and to plat the property. The annexation and platting will be contingent on the approval of the B-5 zoning district.

Lynn Heath made a motion to accept the withdrawal of Butler County Case CU-09-02. Jan Cox seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

Z-2008-04/SU-2008-02- Continuance of the Public Hearing on a proposed

Z-2008-04/SU-

change of zoning classification from the Butler County AG-40 District to the R-4 Multiple Family Residential District with a Special Use request to establish multiple dwelling units for the elderly and handicapped including assisted living and nursing home facilities located at the southwest corner of Allen Street and west Bales Street.

2008-02

From Les Mangus' Memo: This application for change of zoning district classification and special use has been continued from the August meeting in order to allow the applicant to gather more information regarding the traffic generated by the proposed development, and that traffic impact on the surrounding road system. I have met with the applicant, but no new information has been provided at this time other than that a traffic engineer has been engaged. The applicant has once again requested continuance to allow for the preparation of a traffic report.

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained the applicant has once again requested a continuance pending the results of his traffic study.

Chairman Coon asked if there was anything the Commission could do to keep the applicant from repeatedly requesting a continuance. Les Mangus said a message could be sent to the applicant stating the Commission will no longer accept continuances for the case. Chairman Coon asked if the Commission could request the application be withdrawn. Les Mangus said yes.

Lynn Heath made a motion to continue the case to the January 20, 2009 Planning Commission meeting with a message being sent to the applicant stating this will be the last continuance granted for the case. John Cromwell seconded the motion. Chairman Coon asked if there was any further discussion. Byron Stout asked if there has been ample time for the applicant to conduct a traffic study. Les Mangus said yes, most of the information was going to come from an existing traffic report for the area, so it was just a matter updating numbers from the proposed assisted living facility. Motion carried 6/0.

Les Mangus said he would notify applicant David Ray of the Commission's decision.

Z-2008-08- A Public Hearing on proposed amendment number four to the Andover Farm at Cedar Park Preliminary Planned Unit Development Plan to reconfigure a portion of Parcel 3 to create a new Parcel 4 with a change of zoning district classification from the R-2 Single-Family Residential District to the B-1 Office Business District on the Planned Unit Development Plan District Overlay thereon.

Z-2008-08

From Les Mangus' Memo: The proposed amendment number four to the Andover Farm at Cedar Park Preliminary Planned Unit Development Plan reconfigures a portion of Parcel 3 to create a new 5 acre Parcel 4 near the corner of 13th Street and 159th Street with a change of zoning district classification from the R-2 Single-Family Residential District to the B-1 Office Business District on the Planned Unit Development Plan District Overlay thereon. The proposed parcel is well buffered from the adjacent single-family residential lots, has good access to 13th Street and provides a good opportunity for residents to live and work in the same area. Staff recommends approval of the amendment as applied for.

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained the Commission last saw this project as Phase 4 of the Andover Farm at Cedar Park subdivision, and the applicant is proposing to change apportion of the area from a residential cul-du-sac adjacent to 13th Street to B-1 Office Business District. The property is surrounded on two sides by a reserve, divided by the internal street of Andover Farm Lane, and bordered on the south by 13th Street.

Chairman Coon asked if an applicant was present. Phil Meyer of Baughman Company, agent for the applicant, as well as applicants Hal McCoy and Chris McCoy were present to represent the application.

Mr. Meyer explained the applicants are asking to take Parcel 3 and add a Parcel 4 to allow for the development of a five acre office business park. Parcel 4 will be platted as a single lot with two buildings. The first building will be located on the westerly portion of the lot and will house applicant Hal McCoy's corporations. The second building will be rented out by the applicant and will come with a later phase of construction. Access from the office area will be directly to 13th Street.

Jan Cox noted the north easement shown on the PUD does not look to be a full 20 feet. Mr. Meyer agreed and explained there is another 10 foot adjacent to it on the reserve. The original PUD has the easement split with 10 foot on the reserve and 10 foot on the lot. In the end there is a full 20 foot easement, it simply needs to be relabeled.

John Cromwell asked if all of City Planning Consultant Bickley Foster's comments had been addressed. Les Mangus said the majority of the comments had been addressed with the only real issue being the word plan vs. plat. Jan Cox noted Bickley Foster had mentioned a need for screening, and wondered if the Commission felt it was needed. Les Mangus said the office building will have to go to Site Plan Review and he feels it would be wise to defer to their judgment since they will review a detailed plan. Mr. Meyer said the developers would like to accomplish screening with landscaping.

Chairman Coon asked how many buildings would be on the lot. Developer Hal McCoy explained the first building will be approximately 20,000 square feet and house his corporations. He continued by saying his companies plan to bring two additional companies to the Andover area, and if successful a 45,000 square foot building will be needed. Mr. McCoy informed the Commission he is in negotiations for a larger piece of property because if the two new companies are successful, in the long run, they will need 200,000-300,000 square feet.

Chairman Coon opened the Public Hearing at 7:24 p.m. With no public input Chairman Coon closed the Public Hearing and 7:24 p.m.

The Commission next reviewed its checklist of 17 factors and findings.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 6

REZONING REPORT *

CASE NUMBER: Z-2008-08

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

REQUEST: Proposed amendment number four to the Andover Farm at Cedar Park Preliminary Planned Unit Development Plan to reconfigure a portion of Parcel 3 to create a new Parcel 4 with a change of zoning district classification from the R-2 Single-Family Residential District to the B-1 Office Business District on the Planned Unit Development District Overlay thereon.

CASE HISTORY: Existing single family residential PUD

LOCATION: NE corner of 13th St. & 159th St.

SITE SIZE: +/-5 acres

PROPOSED USE: Office complex

ADJACENT ZONING AND EXISTING LAND USE:

North: R-2 single family residential Cedar Park 4th Addition

South: Butler County unoccupied Agriculture

East: R-2 single family residential future Cedar Park Addition

West: Sedgwick County unoccupied Agriculture

Background Information: The applicant intends to build offices for other companies that he owns.

* 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: Subject Property: R-2 Single-Family Residential; North R-2 Single-Family Residential Cedar Park 4th Addition; South: Butler County unoccupied Agriculture; East: R-2 Single-Family Residential future Cedar Park Addition; West: Sedgwick County unoccupied Agriculture.

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: Subject Property: R-2 Single-Family Residential; North R-2 Single-Family Residential Cedar Park 4th Addition; South: Butler County unoccupied Agriculture; East: R-2 Single-Family Residential future Cedar Park Addition; West: Sedgwick County unoccupied Agriculture.

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

STAFF:

X PLANNING:

COUNCIL:

4. Would the request correct an error in the application of these regulations?

YES NO

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: Improved access and public utility availability.

X

PLANNING: Growth of the City.

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 are nearby for reasonable extension.

X

PLANNING:

COUNCIL:

7. Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?

YES NO

X

STAFF:

X

PLANNING:

COUNCIL:

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

YES NO

X

STAFF:

X

PLANNING:

COUNCIL:

9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
- YES NO

 STAFF: Vacant land is available, but not in the immediate area.
 PLANNING: Vacant land of this size is not available with a B-1 zoning classification. There is also no land currently zoned B-1 in the immediate area.
 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:
 PLANNING:
 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: Minimal affect on other property in the neighborhood.
 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: Pg. 8-9 GENERAL DEVELOPMENT PATTERN suggests "Planned Unit Development's (PUD's) as allowed by the City's zoning regulations, provide for the mixing of land uses in a planned fashion."
 PLANNING:
 COUNCIL:
15. What is the support or opposition to the request?
- YES NO

 STAFF: None at this time
 PLANNING: No opposition noted.
 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

X STAFF: Approval as applied for.
 X 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:
 X PLANNING:
 COUNCIL:

CONDITIONS:

Platting: That all of 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.

John Cromwell made a motion to recommend approval of case Z-2008-08 by the City Council, subject to the condition of platting based on findings 5, 6, 7, 10, 11, 13 and 14. Lynn Heath seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

VA-2008-07- A Public Hearing on a petition for a vacation of a portion of the controlled access area of Lot 3, Block 2, The River at Andover.

VA-2008-07

From Les Mangus' Memo: This petition for vacation of a portion of the Andover Road access control arises from the contract purchaser's, Spangles, desire to construct a right-in only driveway from Andover Road into the property located between the Valero station and Cloud Avenue south of US 54. When the plat was drawn up a single large tenant, bank, pharmacy, etc., was proposed for the lot, but the current configuration splits the large lot into two smaller parcels that best accommodate fast food restaurants. The City traffic engineering consultant has advised that the right-in only should have little or no affect on the southbound flow of traffic on Andover Road, in lieu of using Cloud Avenue or the joint use driveway with the Valero Station. Staff recommends approval of the vacation limited to a right-in only configuration.

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained when the River at Andover was platted, the lot adjacent to Andover Road and Cloud Avenue between Cloud Avenue and the Valero station was planned to be one large lot designed to house a bank, pharmacy or other large user. It was platted with complete access control to Andover Road except for a joint access with the Valero station. The joint access road was built as part of the Andover Road improvements. Since that time the developer has acquired Spangles as a tenant, who wants only the south half of the property and is asking for a right-in only break in the access control. He continued by saying he spoke with Traffic Engineering Consultants, City Engineer Mike Thompson, City Planning Consultant Bickley Foster and Mike Moriarty at KDOT and three out of four have recommended approval of a right-in only drive as it would have no ill effect on the stream of the through traffic.

Byron Stout asked for the reasoning behind the one disapproval. Les Mangus said Mike Thompson of Poe & Associates, the company who platted the property, recommended the access control remain as platted.

Lynn Heath asked if a right turn lane could be added to prevent stopping the flow of the two lane traffic. Les Mangus said because of the short distance between the right-in only and the right-in-right-out at the Valero there would not be enough taper distance. Lynn Heath said he would just like to see half of the distance from the Valero to the right-in drive dedicated to a turning lane. Les Mangus explained the taper dimension has to be the miles per hour of the speed limit times the number of feet in width you move the traffic over. A 12 foot lane at 40 miles per hour would require a 480 foot taper.

John Cromwell asked if a traffic light would be installed at Cloud Avenue and Andover Road. Les Mangus said yes, it is in engineering and will be installed this spring.

Chairman Coon asked if an applicant was present. Dave Dooman CFO of Spangles was present to represent the application.

Jan Cox asked how the traffic would be routed internally. Dave Dooman said traffic would be routed with signage.

Developer Hal McCoy informed the Commission the initial reason for the driveway between the convenience store and the River at Andover property was that the convenience store was going to be landlocked. It should not be considered a major traffic generator. He added, as the land developer, he highly supports a nice curved right-in entrance at the proposed location.

Dave Dooman asked Les Mangus for his opinion of a right-in-right-out entrance if the Cloud Avenue entrance was eliminated. Les Mangus said all of the comments he received regarding the right-in entrance were positive as long as it was right-in only. There was not support for another right-in-right-out location so close to the joint access.

Chairman Coon commented that the right-in entrance on Cloud Avenue seems to go against everything they have been told about drives next to an intersection. Les Mangus said staff would like to see the entrance as far west of Andover Road as possible, but in this case will work because it is a right-in only and will not have cross or merge traffic because right-in only is free flowing. Byron Stout said he felt the southern most parking stall could cause a problem with the entrance. Les Mangus said the entrances and parking stalls are issues to be worked out by the Site Plan Review Committee.

Chairman Coon opened the Public Hearing at 7:58 p.m. With no public input, Chairman Coon closed the Public Hearing at 7:58 pm.

Byron Stout made a motion to recommend approval of the vacation by the City Council limited to right-in only. Dan Beck seconded the motion. Chairman Coon asked if there was further discussion. There was none. Motion carried 6/0.

Review and Approve the Final Planned Unit Development Plan of the Andover Farm Office at Cedar Park.

Review and
Approve the Final
Planned Unit

From Les Mangus' Memo: The proposed plan re-plats a portion of the Andover Farm at Cedar Park 3rd Addition to create the office business lot, which was the subject of the previous case. Staff recommends approval.

Development Plan of the Andover Farm Office at Cedar Park.

Les Mangus said the only change needed is Susan Renner to Deputy City Clerk on the signature page instead of City Clerk.

Mr. Meyer informed the Commission he would make the change. He continued by saying he had no new information to added, but would answer any questions the Commission might have. The Commission had no further questions.

Lynn Heath made a motion to approve the Final Planned Unit Development Plan of Andover Farm Office at Cedar Park with open items being resolved between the applicant and Les Mangus. Byron Stout seconded the motion. Chairman Coon asked if there was any further discussion. Chairman Coon asked about the issue of restrictive covenants. Les Mangus explained City Regulations suggest the developer should provide a draft copy of the restrictive covenants. They are rarely received as it is seldom the developers have written them at the platting stage. Lynn Heath asked if it is a City or State requirement. Les Mangus said it is a City requirement. Jan Cox asked if the covenants are enforced. Les Mangus said they are enforced through the district court, but enforcement depends on the strength of the homeowners association. He continued by saying the modern day covenants are enforced more then the older ones because the newer subdivisions have an active board since they own common property, giving them a reason to meet and enforce the codes. Motion carried 6/0.

Butler County Case RZ-09-01- A recommendation to the Butler County Planning Commission on a request for a change in zoning classification from the AG-40 to the Rural Residential on (25 +/-) acres located at SW 120th and SW Meadowlark Road.

Butler County Case RZ-09-01

From Les Mangus' Memo: A recommendation to Butler County Planning Commission on a request for a change in zoning classification from the AG-40 to the Rural Residential on (25+/-) acres located at SW 120th and SW Meadowlark Road is the result of the applicant's desire to sell a portion of his property to an adjacent neighbor while maintaining access to SW 120th Street for the parent parcel. The proposed configuration is exempt from the Andover Subdivision Regulations, but is in conflict with the Butler County Zoning Regulations minimum lot width for the zoning classification because it creates a flag lot. The Butler County Zoning Administrator has expressed the opinion that the minimum lot width nonconformity can be waived by the Butler County Planning Board. Staff recommends a recommendation of approval contingent on a waiver of the minimum lot width requirement.

Chairman Coon asked Les Mangus for staff Comments. Les Mangus explained the application concerns a sale of property between two adjacent property owners, but creates a lot that is separated. If Butler County were to follow their regulations to the letter this would create a lot that does not meet their minimum lot frontage, but Butler County Planning Director Rod Compton has said they intend to waive the minimum standard in this case because what is essentially a driveway leads back to a much larger parcel.

Chairman Coon asked if an applicant was present. Candace Stables, seller, and Josh Kilian, buyer, were present to represent the application.

Mr. Kilian explained he will be buying 7.6 acres to the west of both properties from Mr. and Mrs. Stables. His current property is divided from the property he hopes to purchase by a private drive creating a flag lot. He is proposing to change the zoning from AG-40 to Rural Residential.

Lynn Heath asked the reason for the purchase of the additional land. Mr. Kilian said he wanted to own more land and have the opportunity to own one third of the pond on the property.

Lynn Heath asked how far this property was from the City limits. Les Mangus said it is three quarters of a mile to the west to the east corner of Flint Hills.

Lynn Heath made a motion to recommend approval of Butler County Case RZ-09-01 by the Butler County Planning Commission. John Cromwell seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

Member Items: John Cromwell reminded everyone to RSVP for the City of Andover’s Employee Appreciation Party.

Member Items:

Lynn Heath asked Les Mangus if anyone had been found to fill the two vacant positions on the Planning Commission/Board of Zoning Appeals. Les Mangus said no and any suggestions should be forwarded to the Mayor.

John Cromwell made a motion to adjourn the meeting at 8:18 p.m. Byron Stout seconded the motion. Motion carried 6/0.

Adjourn

Respectfully Submitted by

Kandace Hunt
Administrative Secretary

Approved this 20th day of January 2009 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.