

**ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS  
Tuesday, October 18, 2011  
Minutes**

1. [Call to order.](#)

2. [Roll call.](#)

Andover City Planning Commission members present were Chairman Quentin Coon, Shane Davis, Ken Boone, Lee Butler and Andrew Hart. Others in attendance were City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus and Administrative Secretary Dayna DuFriend. Members Lynn Heath and John Cromwell were absent.

3. [Approval of the minutes of the September 20, 2011 meeting.](#)

A motion was made by Andrew Hart, seconded by Shane Davis to approve minutes of the September 20, 2011 meeting. Ken Boone abstained from vote. Motion carried 4/0/1.

4. [Communications:](#)

A. [City Council minutes.](#)

B. [Committee and Staff Report.](#)

C. [Potential Residential Development Report.](#)

5. [SU-2011-02- A public hearing on an application to approve a Special Use requested to establish an external storage building and external yard storage for the storage of building products and materials, such as hardware material, lawn and garden products, rental equipment \(not over 17'-0" in height\), and lumber at 642 N. Andover Rd. STAFF: The new owners of the Ace Hardware store wish to expand the product line to include a limited amount of building supplies and some rental equipment. The current store and parking lot only occupy about a third of the subject property. The intends to expand the retail store, add a shipping and receiving area, construct a lean -to structure for building and landscaping material storage, and develop the remainder of the property for open storage of materials and equipment. Staff supports the application as limited by the description in the Special Use application, and the site plan approved the Site Plan Review Committee.](#)

Raymond Dondlinger, Wichita, KS, owner of Williams Ace Hardware and Dale Hermes, Architect for the project were present to represent the application. Mr. Dondlinger explained that the external storage building and yard is mainly for building materials such as lumber, garden products such as mulch and top soil to be protected from the weather and various pieces of homeowner rental equipment.

Chairman Coon asked if the structure would be a pole barn with the same look as the existing building.

Mr. Dondlinger replied that it would be a 3 sided structure with an open face. One end would be enclosed with a pass-through and garage door. The structure would match the existing building.

Lee Butler asked what the size of the structure would be. Mr. Dondlinger stated that it will be 100 ft. x 30 ft. in size and the backend (west) of the building will be the same height as the existing structure.

Shane Davis asked for clarification on the location of the fencing. Mr. Dondlinger explained that the fence will stop at the retail area at the east side of the drive with two drive-through gates.

Chairman Coon asked if there were any further questions.

Arran Leach, 705 Westchester Dr., Andover, property owner east of property was present. Mr. Leach expressed concerned as to how large the extension would be. When he purchased his property he was told that all building was done in this area. Mr. Leach asked for further details regarding the building extension. Les Mangus explained that the zoning is in place for building to be placed on the property up to the easement at the rear of the property with only approval from the Site Plan Review Committee needed.

Mr. Leach said that they would like to see some sort of screening in place. Shane Davis asked what the distance from the lean-to the wall at the back of the property. Les Mangus explained that on the landscape plan it is noted that trees will be placed on the line before the 60ft. utility easement from the wall. From the back of the proposed lean-to building it is approximately 250ft. to the wall.

Lee Butler stated that building could be up to the 60ft. utility easement line and asked Mr. Leach if having the trees as a screening would meet their needs. Mr. Leach agreed that it would.

To summarize, Chairman Coon asked Mr. Leach if he was not opposed the plan. Mr. Leach said no, he just wanted more information.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

SPECIAL USE REPORT \*

CASE NUMBER: SU-2011-02

APPLICANT/AGENT: TND Investments, LLC/ Architectural Innovation LLC

REQUEST: Special Use requested to establish an external storage building and external yard storage for the storage of building products and materials, such as hardware material, lawn and garden products, rental equipment (not over 17'-0" in height), and lumber in the B-3 Central Shopping District. If recommended for approval, additional requirements may be considered to make such a use compatible to the neighborhood.

CASE HISTORY:

LOCATION: 642 N. Andover Rd.

SITE SIZE: 2.25 acres

PROPOSED USE:

**ADJACENT ZONING AND EXISTING LAND USE:**

North: B-3 Central Shopping – commercial building

South: B-4 Central Business – strip commercial building

East: R-2 Single Family – single family dwellings

West: R-1 Single Family – single family dwellings

**Background Information:** The subject property currently houses an 8,000 square foot hardware store on about the front 1/3 of the 2.25 acre site.

\* 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

STAFF: The subject property is currently vacant. The new owner intends to expand the product and service line.

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: The subject property is currently served by public water, sewer, and has direct access to a public street via one private driveway on Andover Rd.  
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: The addition of outdoor storage brings concerns of the visibility of stored materials and equipment  
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

STAFF: N.A.

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

X

STAFF: Visibility of stored materials and equipment from the residences adjacent to the east.

X

PLANNING:

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:

X

PLANNING:

COUNCIL:

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

YES NO

STAFF: None at this time.  
PLANNING:  
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 conditioned on the screening as approved by the Site Plan Review Committee.  
X PLANNING:  
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:  
PLANNING:  
COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the special use application, I Andrew Hart, move that we recommend to the Governing Body that Case No. SU-2011-02 be approved for the establishment of an external storage building external yard storage in the B-3 Central Shopping District based on the findings of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Ken Boone. Motion carried 5/0.*

6. VA-2011-04- A public hearing on an petition for the vacation of the Final Planned Unit Development Plan the Village At Flint Hills - First Phase of Riverstone Reserve located within the quarter section southeast of the intersection of Andover Road and SW 130th Street.

STAFF: The developer wishes to vacate the plat that was filed a few years ago, due to the down swing in the housing market. The platted area was never improved with all of the public utilities and streets, but those improvements are guaranteed with bank letters of credit. Between the letters of credit and the increased taxes from being platted lots the developer can't afford the carrying costs while waiting on the housing industry to rebound. Staff supports the petition for vacation as submitted.

Tom Mack, 4104 Plum Tree, Wichita, KS, President of Devlin/Riverstone Inc. the managing member of the Riverstone Development Company was present to represent the application. Mr. Mack explained that this property was platted approximately two years ago with letters of credit being posted at that time. It was at that time, Mr. Mack said, that the residential market for this price range slowed down tremendously. The project was then put on hold pending recovery of the market. Earlier this summer their lender raised their fees for outstanding letters of credit, considerably raising the costs of these letters of credit. The only way to release these letters of credit and save this cost is to vacate the plat, with the intent of returning to the Planning Commission in future to replat this property.

Chairman Coon asked Les Mangus what the zoning for this property would change to. Les Mangus said that the existing zoning will stay in place, only the lines in the plat are being vacated. The PUD stays in place so when they choose to return with another plat they don't go through the zoning process only the platting.

A motion was made by Ken Boone, seconded by Shane Davis to approve petition for the vacation of the Final Planned Unit Development Plan the Village At Flint Hills - First Phase of Riverstone Reserve located within the quarter section southeast of the intersection of Andover Road and SW 130th Street. Motion carried 5/0.

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

A motion was made by Andrew Hart, seconded by Lee Butler to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 5/0.

7. [BZA-CU-2011-01- A public hearing on an application filed by Prairie Creek Homes, LLC, to allow off premise real estate signage on property zoned as the B-6 Business District located at southeast corner of 13th Street and Andover Road.](#)  
[STAFF: The Prairie Creek Subdivision is located at the northeast corner of 13th St. and Prairie Creek Rd. The first phase of single family residential development is under construction and new homes are coming on the market. The Zoning Regulations allow off premises real estate signs by conditional use for those developments that do not have the visibility of being local on major traffic ways. This application meets those conditions. Staff supports the application.](#)

Paul Kelsey, 10225 Firefly Circle, Wichita, KS was present to represent the application. Chairman Coon asked where the signage would be placed. Mr. Kelsey said that due to overhead utilities the sign will have to be set back approximately 60ft. Les Mangus said that it will be 40ft. from the curb on Andover Road and 100ft. from the 13th Street curb. Lee Butler asked for confirmation of the sign dimensions. Mr. Kelsey said the sign will be 8ft.x12ft.

Chairman Coon asked if there were any additional questions.

**ANDOVER BOARD OF ZONING APPEALS**

**Agenda Item No. 5**

For October 18, 2011

**CONDITIONAL USE REPORT**

CASE NUMBER: BZA-CU-2011-01

APPLICANT/ AGENT: Prairie Creek Homes, LLC / Paul Kelsey

REQUEST: A conditional use to allow off premise real estate signage on property zoned as the B-6 Business District.

CASE HISTORY: The Prairie Creek Subdivision is located at the northeast corner of 13<sup>th</sup> St. and Prairie Creek Rd. The first phase of single family residential development is under construction and new homes are coming on the market. The Zoning Regulations allow off premises real estate signs by conditional use for those developments that do not have the visibility of being local on major traffic ways.

LOCATION: Proposed sign location - 13<sup>th</sup> St. and Andover Road, Southeast corner

SITE SIZE: 60,220 square feet.

**ADJACENT ZONING AND EXISTING LAND USE:**

North: B-3 Central Shopping District.

South: B-6 Business District.

East: I-1 industrial District.

West: B-2 Neighborhood District.

**NOTE:** This report is to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing in order to decide whether a conditional use as an exception should be granted with the evidence and reworded as necessary to

reflect the Board of Zoning Appeals 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.

**BACKGROUND INFORMATION:** The applicant desires the advertising visibility of placing an off premises real estate sign along Andover Rd. for the development under construction one mile east.

**HAS THE APPLICANT SUBMITTED STATEMENTS ATTACHED TO THIS REPORT COMPLYING WITH SECTION 10-108A 1-4?** Yes  No

If no, provide explanation: \_\_\_\_\_

**IN WHAT ZONING DISTRICT(S) IS THE CONDITIONAL USE REQUESTED EXPRESSLY AUTHORIZED TO BE PERMITTED?**

Any Zoning District

**DOES THE EVIDENCE SUPPORT THE CONCLUSION THAT:**

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.  
*The proposed sign complies with the bulk regulations for a real estate development sign. YES*
2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.  
*The proposed location is in an industrial/commercial neighborhood. YES*
3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
  - a. The location, nature, size and height of building, structures, walls and fences on the site; and
  - b. The nature and extent of landscaping and screening on the site.  
*The proposed location is in an industrial/commercial neighborhood at the intersection of two major traffic routes with high traffic volumes. YES*
4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.  
*Not applicable.*
5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.  
*Not applicable*

6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.

Not applicable.

**SAMPLE MOTIONS:**

To Approve a Conditional Use:

Having considered the evidence at the hearing for Case No. BZA-CU-\_\_\_\_ 2011 -01 and determined that the findings of fact in the conditional use report support the conclusions which are necessary for granting a conditional use as set out in Section 10-108C of the Zoning Regulations. I Lee Butler, move that the Chairperson be authorized to sign a Resolution granting the conditional use as requested. Ken Boone seconded the motion. Motion carried 5/0.

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

A motion was made by Andrew Hart, seconded by Ken Boone to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.

8. Consideration of an amendment to the Comprehensive Development Plan for the Andover Area, Kansas 2003-2013 to include the US 54/400 Corridor Study.

Consider the adoption of the US-54 Corridor Study as an amendment by reference for informational purposes and call for a public hearing during the Planning Commission meeting November 15, 2011.

A motion was made by Andrew Hart, seconded by Shane Davis to approve consider the adoption of the US-54 corridor Study as an amendment by reference for informational purposes and call for a public hearing during the Planning Commission meeting November 15, 2011. Motion carried 5/0.

9. Member items.

A motion was made by Ken Boone, seconded by Andrew Hart to adjourn. Motion carried 5/0.

Respectfully Submitted by

Dayna DuFriend

Administrative Secretary

Approved this 15th of November, 2011 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.