

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, August 16, 2016
Minutes**

1. [Call to order.](#) 00:03:10

Chairman Brian Lindebak called the meeting to order at 7:04 p.m.

2. [Roll call.](#) 00:03:21

Planning Commission members present were Chairman Lindebak, Lynn Heath, Mike Warrington, Kirsten Bender and Tyson Bean. Member William Schnauber was absent.

Staff in attendance: Director of Public Works Les Mangus, City Administrator Mark Detter, Administrative Assistant Dayna DuFriend and City Council Liaison Phil White.

A/V: Craig Brown

3. [Approval of the minutes of the July 19, 2016 meeting.](#) 00:03:36

A motion was made by Mike Warrington, seconded by Kirsten Bender to approve the minutes of the July 19, 2016 meeting. Motion carried 5/0.

4. [Communications](#) 00:04:09
 A. [Committee and Staff Report.](#)
 B. [Potential Residential Development Report.](#)

5. [Z-2016-02- Public hearing on an application for change of zoning district classification from the present B-1 Office Business District to the R-4 Multiple-Family Residential District on the south side of Central Avenue between 159th Street and North Greenvalley Dr., Andover, Kansas.](#) 00:05:02

Les Mangus explained that this zoning change request must be in place and precede the special use request.

Aaron Thornock, applicant, was present to represent the application.

Mr. Thornock explained that he currently owns several other assisted living facilities, specializing in smaller home-like facilities. They would like to build a couple of 20 room, L-shaped facilities on this site. These types of structures fit well in residential areas.

Chairman Lindebak asked if there was a plan for the orientation of structures on this lot.

Mr. Thornock presented conceptual drawings to the Planning Commission.

Tyson Bean asked where the applicants other facilities were located.

Mr. Thornock replied that he has two facilities in Salt Lake City, Utah. After doing market research they like this area.

Mike Warrington asked if there is a need in Andover for this type of facility.

Les Mangus stated that in the market analysis done with the Comprehensive Development Plan it was noted that there was not a very wide variety of housing selection. The majority of housing available is typical suburban single-family residential homes.

Chairman Lindebak opened the public hearing for public comments.

The following email was received by Les Mangus and Dayna DuFriend from Gary Dunnegan and the Chateauroux HOA Tuesday, August 16, 2016.

Dayna DuFriend

From: garylee@northstarautoglass.com
Sent: Tuesday, August 16, 2016 12:39 PM
To: Les Mangus; Dayna DuFriend
Cc: pvoth@foulston.com; 'Shelly Dunnegan'
Subject: proposed zoning changes for property located directly East of Kutter Pet Care

Good morning!

I am Gary Dunnegan, Chateauroux neighborhood HOA president, and on behalf of the neighborhood, submit the following written input for Andover Planning Commission review and consideration regarding its 8/16 meeting agenda items for both a zoning change and a special use request regarding a proposed assisted living facility on land located just North of the Chateauroux neighborhood. For clarity – these comments provide several of the neighborhood homeowners’ collective input and responses to the proposal. The neighborhood felt it would be helpful to the planning commission to deliver a homeowner group collective response as much as possible. However, these comments are not intended to exclude or speak for any individual Chateauroux homeowner who wishes to provide individual input to the Planning Commission. Additionally, because tonight is the Andover USD’s meet-your-teacher night, many of our neighborhood residents had conflict to attend tonight’s meeting in person.

Our neighborhood applauds the applicant for a willingness to invest in our Andover community. We are in favor of the change of proposed use as a compatible use with our neighborhood and the area, subject to and conditional on this new use being built and operated in a manner to not (1) burden the neighborhood homeowners, (2) negatively affect home values, or (3) negatively affect the quality and character of this area of Andover.

To alleviate compatibility problems, the following building and site layout and operations terms should be implemented as conditions to approval of the applicant’s request. Alternatively, planning commission approval could be tabled for a meeting or two while our neighborhood would be willing to coordinate directly with the applicant to review proposed plans to alleviate compatibility issues. To date, our neighborhood has not received for review any: (1) rear building elevations, or (2) a site plan or other “overhead” view to understand the relative size of the proposed large single building on the site, and to understand the overall layout and design of the site as it would impact the neighborhood on the site’s rear and sides.

1. Locate trash dumpsters, truck delivery/loading areas, and ambulance loading areas, in the front to minimum the loud extra noise & lights (including late & early & weekends) of those types of vehicles from the Chateauroux lots; and noise of dumpster use. For example, our neighborhood’s experience with the office building property adjacent to the neighborhood is the trash truck is very noticeable. We assume an assisted living facility would have much more frequent trash, delivery, ambulance and other traffic.
2. Site all parking in the front of the building, to minimize vehicular traffic noise and lights affecting Chateauroux lots. Particularly because presumably employees, and maybe even visitors, will come/go during evening, night and early morning hours.
3. Exterior lighting on back & sides: design and locate to avoid any impact on Chateauroux lots.
4. Signage on the building or along Central: design and locate to avoid any impact on or review from Chateauroux lots.

5. Design and maintain the building back & sides, plus landscaping, to be as aesthetically compatible with the neighborhood as the front, and verify no design features are contemplated along the back (eg, large patio) that might lead to excess noise.
6. To alleviate many above-described topics, a sufficient buffer fence or wall, berm, or landscaping (or combination) should be included in the site design and maintenance along the back & sides of the site. Sufficient means of a design and height that eliminates or minimizes the assisted living site improvements from the view of the Chateauroux lots, taking into account the topography and the view lines from the Chateauroux residences.
7. Site drainage plan to cause all additional or faster (due to increased ground hard-surfaced & roof areas) surface water runoff to run in a direction that the drainage would not impact the Chateauroux residences' current drainage at all. The residences already have a drainage problem along the North side of the Chateauroux development that affects all back yards, and it is imperative that this development not negatively impact Chateauroux drainage in any way.

Sincerely,

Gary Dunnegan,
Chateauroux neighborhood HOA president

Patricia Voth-Blankenship, Chateauroux homeowner, explained that the Chateauroux neighborhood wants to support this proposed use if it will be good for the community. They have two items of concern; 1. Having a protective overlay identifying the permitted use for assisted living purposes. 2. A collective list of site concerns for the property to be reviewed by the Site Plan Committee.

Chairman Lindebak asked if this was a consensus with the applicants' proposal.

Mr. Thornock replied that they do not have a problem with listing assisted living as the permitted use in a protective overlay and they are happy to work with the Chateauroux HOA on the site criteria during the planning process.

Lynn Heath asked the applicant if they would consider expanding the project and make one of buildings a nursing home.

Mr. Thornock stated that they would be willing to look at that being a third building in the project.

Chairman Lindebak noted that accurate terminology with a clear definition of what that means will be needed. With the constraints on the property being a flood plain and a gas pipe line there would be issues in trying to develop a larger development.

Les Mangus added that the density for the R-4 zone would only allow 37 units for the amount of acreage listed on the application. There would only be room for two buildings of approximately 18 units each and there would be no room for a skilled care as suggested. The protective overlay is only designed to set limits within the permitted uses.

Lynn Heath asked if the other assisted living facilities in Andover were in R-4 zoning.

Les Mangus answered that they are all zoned R-4.

Matt Cartwright, MJC Architecture, 450 N. County Line Rd, Wichita, explained that their building sets low to the FEMA zone and the build-up of surrounding properties has affected the flow of storm water. He is encouraging the applicant to work with design closely for storm water. He asked when Andover would begin reviewing projects in regards to federal requirements. He also asked about fencing requirements.

Les Mangus said that the water quality post construction standards are in process of being developed. This property is more than one acre, so it will be reviewed. There is an encroachment of the regulated flood plain and the flood way. Screening and buffering criteria used by the Site Plan Committee requires a landscape buffer between R-4 and B-1.

Chairman Lindebak pointed out that he is confident that these issues and concerns will be reviewed by staff and the Site Plan Committee.

Chairman Lindebak closed the public hearing 7:31 p.m. and asked the Planning Commission members if any of them had received any ex parte verbal or written communications prior to this hearing which they would like to share at this time.

There were no ex parte communications.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT *

CASE NUMBER: **Z-2016-02 / SU-2016-01**

APPLICANT/AGENT: **NAK Development, LLC**

REQUEST: **Proposed rezoning amendment requesting a change of zoning from the present B-1 Office business District to the R-4 Multiple-Family Residential District.**

CASE HISTORY:

LOCATION: **South side of Central Avenue between 159th Street and Greenvalley Dr., Andover, Kansas.**

SITE SIZE: **±2.58 acres**

PROPOSED USE: **For the construction of multiple dwelling units for the elderly and handicapped.**

ADJACENT ZONING AND EXISTING LAND USE:

- North: B-1 Office Business & R-2 Single-Family Residential
- South: B-1 Office Business & R-1 Single-Family Residential
- East: R-1 Single-Family Residential
- West: B-1 Office Business

Background Information:

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their 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

X 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: B-1 Office Business 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: The Comprehensive Plan has identified an overabundance of vacant properties zoned for business uses.
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: Public water and streets are in place and adequate. A sanitary sewer extension is necessary to serve the property.
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: Site plan review would be required.
X PLANNING:
COUNCIL:

9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?

YES NO

X STAFF: There are no properties currently zoned to accommodate the proposed use in the area.
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 proposed use would provide additional jobs and alternative housing opportunities.

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: Staff perceives no detriment to the neighborhood from the down zoning of the property.

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: The proposed use is located along an arterial street and would provide a buffer between existing business uses and single family residences.

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 proposed use provides alternative housing for the elderly and handicapped.

X PLANNING:
COUNCIL:

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

YES NO

STAFF: None at this time.

PLANNING: None at this time.

COUNCIL:

16. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation?

YES NO

STAFF: The Zoning Administrator knows of no reason not to make satisfactory findings granting the change unless evidence at the hearing would indicate otherwise.

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:

X PLANNING:
COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I, Mike Warrington move that we recommend to the Governing Body that Case No. Z-2016-02 / SU-2016-01 be **approved** to change the zoning district classification from the B-1 Office Business District to the R-4 Multiple-Family Residential District based on the findings of 1 – 17 by the Planning Commission as recorded in the summary of this hearing. And that the following conditions be attached to this recommendation; creating a protective overlay district limiting the permitted use to “Multiple dwelling units for the elderly and handicapped”. Motion seconded by Lynn Heath. Motion carried 5/0 .*

Les Mangus read the following:

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 September 13, 2016 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. August 30, 2016 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.

6. [SU-2016-01- Public hearing on an application to approve a Special Use request to allow multiple dwelling units for elderly and handicapped for the purpose of an assisted living facility with reduced parking spaces on south side of Central Avenue between 159th Street and North Greenvally Dr., Andover, Kansas.](#)

00:46:55

Chairman Lindebak opened the public hearing for public comments.

Patricia Voth-Blankenship, Chateauroux homeowner, referred to the same concerns as previously expressed.

Les Mangus added that the email from the Chateauroux HOA will be attached to the Planning Commission minutes and will also be forwarded on to the Site Plan Review Committee when a plan is presented for their review.

Chairman Lindebak closed the public hearing at 7:49 p.m.

Chairman Lindebak suggested using the same 17 Factors and Findings deliberation for SU-2016-01 as that of Z-2016-02 and asked if the Planning Commission members would agree.

All members agreed.

ANDOVER CITY PLANNING COMMISSION

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West: B-1 Office Business

Background Information:

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their 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:

2. 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

X STAFF:
PLANNING:
COUNCIL:

3. 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: B-1 Office Business District
COUNCIL:

4. 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: The Comprehensive Plan has identified an overabundance of vacant properties zoned for business uses.
X PLANNING:
COUNCIL:

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

YES NO

X STAFF:
X PLANNING:
COUNCIL:

9. 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:

10. 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: Public water and streets are in place and adequate. A sanitary sewer extension is necessary to serve the property.

X PLANNING:
COUNCIL:

11. 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:

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

YES NO

X STAFF: Site plan review would be required.
X PLANNING:
COUNCIL:

19. 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: There are no properties currently zoned to accommodate the proposed use in the area.
X PLANNING:
COUNCIL:

20. 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 proposed use would provide additional jobs and alternative housing opportunities.
X PLANNING:
COUNCIL:

21. Is the subject property suitable for the current zoning to which it has been restricted?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

22. 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: Staff perceives no detriment to the neighborhood from the down zoning of the property.

X PLANNING:
COUNCIL:

23. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO

X STAFF: The proposed use is located along an arterial street and would provide a buffer between existing business uses and single family residences.

X PLANNING:
COUNCIL:

24. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO

X STAFF: The proposed use provides alternative housing for the elderly and handicapped.

X PLANNING:
COUNCIL:

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

YES NO

STAFF: None at this time.
PLANNING: None at this time.
COUNCIL:

26. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation?

YES NO

STAFF: The Zoning Administrator knows of no reason not to make satisfactory findings granting the change unless evidence at the hearing would indicate otherwise.

X PLANNING:
COUNCIL:

27. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by **not** approving the request?

YES NO

STAFF:
X PLANNING:
COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I, Mike Warrington move that we recommend to the Governing Body that Case No. SU-2016-01 be **approved** to change the zoning district classification from the B-1 Office Business District to the R-4 Multiple-Family Residential District based on the findings of 1 – 17 by the Planning Commission as recorded in the summary of this hearing. And that the following conditions be attached to this recommendation; creating a protective overlay district limiting the permitted use to “Multiple dwelling units for the elderly and handicapped”. Motion seconded by Lynn Heath. Motion carried 5/0 .*

A motion was made by Lynn Heath, seconded by Tyson Bean, to approve SU-2016-01 as presented for multiple dwelling units for the elderly and handicapped for the purpose of an assisted living facility. Motion carried 5/0.

7. Member items.

00:50:47

Tyson Bean thanked the HOA for their attendance and support of local businesses.

Chairman Lindebak added that public input makes the jobs of the Planning Commission more meaningful.

8. Adjourn.

00:51:20

A motion was made by Mike Warrington, seconded by Tyson Bean, to adjourn at 7:52 p.m. Motion carried 5/0.

Respectfully Submitted by

Dayna DuFriend
Administrative Assistant

Approved this 20th day of September, 2016 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.