



**PLANNING & ZONING**  
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**PLANNING COMMISSION  
& BOARD OF ZONING APPEAL MINUTES**  
**FEBRUARY 18, 2020 | 7:00pm**  
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

[VIDEO LINK](#)

**1. CALL TO ORDER**

Chairperson William Schnauber called the meeting to order at 7:00pm.

**2. ROLL CALL**

Commissioners in attendance: Chairperson William Schnauber, Vice Chairperson Erik Pedersen, Secretary Gary Israel, Marla Canfield, Matthew Rossi, and Alex Zarchan. Member Brian Davidson was absent. Staff in attendance: Lance Onstott, Assistant City Administrator, Les Mangus, Director of Community Development, and Justin Constantino, Assistant Director of Community Development. Jennifer McCausland, City Administrator, arrived late. A/V services provided by WAV Services.

**3. APPROVAL OF THE MINUTES OF THE JANUARY 21, 2020 MEETING**

*I, Erik Pedersen, move to approve the minutes of the January 21, 2020 meeting as presented. Motion seconded by Gary Israel. Alex Zarchan abstained. Motion carried 5/0/1.*

**4. COMMUNICATIONS**

**A. COMMITTEE & STAFF REPORT**

Mr. Mangus welcomed new commissioner Matthew Rossi to the Planning Commission.

**B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT**

Mr. Israel stated that it was reported at the Subdivision Committee meeting on February 11<sup>th</sup>, 2020 that the City of Andover had issued 80 single-family permits and 30 two-family permits in 2019 and has issued 14 single-family and 13 two-family permits to date in 2020. Mr. Mangus stated that the City has received 14 two-family permits as of the date of this meeting.

**5. FINAL PLANNED UNIT DEVELOPMENT – REVIEW OF THE SUMMERLIN ADDITION FINAL PLANNED UNIT DEVELOPMENT PLAN LOCATED EAST OF NORTH 159<sup>TH</sup> STREET EAST AND SOUTH OF EAST 21<sup>ST</sup> STREET, ANDOVER, KANSAS**

Mr. Mangus stated that this Planned Unit Development (PUD) was amended a few months ago to slightly increase the density and add lots. Mr. Mangus stated that the applicant has been through the City preliminary PUD amendment process and has redrafted the final PUD plan. Mr. Mangus stated that the plan has been reviewed by and commented on by the Subdivision Committee, and that those comments have been addressed by the applicant. Mr. Mangus stated that both staff and the Subdivision Committee recommend approval.

*I, Gary Israel, make a motion to approve the Final Planned Unit Development for Summerlin Addition located East of North 159<sup>th</sup> Street East and South of East 21<sup>st</sup> Street, Andover, Kansas. Motion seconded by Erik Pedersen. Motion carried 6/0.*

**6. FINAL PLAT – REVIEW OF THE SANDSTONE MEADOWS 1<sup>ST</sup> ADDITION FINAL PLAT LOCATED AT CORNERSTONE PARKWAY AND NORTH ANDOVER ROAD, ANDOVER, KANSAS**

Mr. Mangus stated that the Planning Commission has seen this property various times throughout the past several months, including annexation, zoning, the preliminary plat, and this being the first phase final plat. Mr. Mangus stated that the Subdivision Committee reviewed this item at their February 11<sup>th</sup>, 2020 meeting in which several staff comments were addressed by the applicant. Mr. Mangus stated that both staff and the Subdivision Committee recommend approval.

Mr. Zarchan asked if there was still supposed to be a cul-de-sac section located at the front of the development. Mr. Mangus said yes.

*I, Alex Zarchan, make a motion to approve the Final Plat for the Sandstone Meadows 1<sup>st</sup> Addition Final Plat located at Cornerstone Parkway and North Andover Road, Andover, Kansas. Motion seconded by Matthew Rossi. Motion carried 6/0.*

**7. Z-2020-02 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED AMENDMENT TO THE GREEN VALLEY GREENS PLANNED UNIT DEVELOPMENT TO CHANGE THE EXISTING PARCEL 16 UNDERLYING ZONING DISTRICT CLASSIFICATION FROM R-4 MULTIPLE-FAMILY RESIDENTIAL DISTRICT TO THE MXR MULTIPLE-FAMILY/MIXED RESIDENTIAL DISTRICT GENERALLY LOCATED AT 800 W. HIGHWAY 54, ANDOVER, KANSAS**

Mr. Mangus stated that the property is currently zoned R-4 Multi-Family but the PUD overlay limits the use of the property to a church and those accessory uses associated with the church, including a senior center, child care center, and educational facilities. Mr. Mangus stated that the applicant is looking for relief from the limited scope of permitted uses in the PUD.

Representing the applicant, Jason Gish, MKEC Engineering, Inc., stated that the subject parcel is part of a larger PUD that has been amended multiple times over several decades. Mr. Gish stated that the applicant has notified property owners within 500 feet of the PUD and 200 feet outside of the PUD. Mr. Gish stated that zoning along US-54 is set-up for commercial uses and that the subject property is located in a transitional zone, which allows for multi-family in close proximity to single-family housing. Mr. Gish stated that the proposed uses are appropriate for what is called the “lifestyle corridor” in the corridor study that calls for additional types of residential opportunities. Mr. Gish stated that the previous project proposed for the subject property included a large church with seating for roughly 700 people, and thinks that the currently proposed project will be a more compatible use. Mr. Gish stated that the project will have architectural controls and screening, site lighting management, and buffer requirements that include evergreen and deciduous trees. Mr. Gish displayed a preliminary landscape buffering plan and stated that it was the applicant’s intent to install two deciduous trees, two ornamental trees, and two evergreen trees every 100 lineal feet along the north edge between the currently platted backage road, including additional trees on the south side of the proposed backage road, stating that they are proposing almost three times as many trees as is required by the Unified Development Manual (UDM). Mr. Gish stated that the distance of the property line to the building face would be 230 feet. Mr. Gish displayed examples of potential architectural renderings of the apartment buildings as well as a sidewalk concept plan.

Mr. Pedersen asked where the two-story and three-story apartments would be located on the plan. Mr. Gish stated that the PUD limits the density of the project and that he foresees two-story apartments located closer to

the existing two-story single-family residential properties while the three-story apartments could potentially be located closer to US-54.

Mr. Pedersen asked if the term "backage road" means one lane each way. Mr. Gish stated that the road would be one lane each way with a turn lane located in the middle of the road subject to final design.

Matthew Rossi asked the applicant what types of trees they intend to plant along the landscape buffer. Mr. Gish stated that the trees would likely be in the 2" caliper range with a height between 12'-14' on a deciduous tree and 8' on an evergreen tree.

Alex Zarchan asked what the density of the project would be if everything was limited to a two-story building. Mr. Gish stated that he had not run that exercise.

Chairperson Schnauber opened the public hearing at 7:39 pm.

Michael Coble, 239 S. Onewood Drive, stated that he did not want to see multi-family units built on the subject property due to traffic congestion and speeding concerns and would like to know where the access points of the development will be located.

Darrin Deutscher, 813 W. Sandwedge Court, stated that the expansion of US Highway 54 was 20 to 30 years from being built. Mr. Deutscher stated that there would be 200 cars per day cutting through his neighborhood because the proposed backage road only connects at Onewood Drive and does not connect anywhere else.

Kristin Bond, 512 W. Jamestown Court, stated that the property in question will be served by Sunflower Elementary and that more than 50 additional children will be going to the school if the apartments are built and that the school cannot handle the capacity.

Titus Cordero, 813 S. Sunset Circle, stated that due to the construction of apartments near his property, his children had to relocate to a different elementary school. Mr. Cordero stated that there were already several rental units available in Andover. Mr. Cordero also mentioned that since the apartments were built near his property, the one grocery store located in Andover has nothing on the shelves.

Ernestine Russell, 338 S. Chippers Court, stated that the value of her property would decrease due to the construction of nearby apartments. Ms. Russell stated that there would also be additional noise due to traffic and that emissions from the vehicles would kill 2/3rds of the people in the neighborhood. Ms. Russell also discussed the importance of buffering and ingress/egress.

Jessica Raub, 810 W. Sandwedge Court, stated that multi-family complexes do not add value to the community. Ms. Raub stated that apartments increase crime and decrease the community value and that the development will bring in people not committed to the community. Ms. Raub stated that she could not read the applicant presentation due to the small font. Lance Onstott, Assistant City Administrator, stated that the presentation was formatted properly but that the City was experiencing technical issues with the display. Mr. Onstott stated that the City would be able to provide physical copies of the applicant presentation to members of the public upon request.

Brian Cox, 232 S. Duffers Court, stated that the PUD restrictions currently support the infrastructure that is in place and that the restrictions should not be lifted. Mr. Cox asked if the traffic loads within the corridor study have been revised and if additional property to the east would need to be annexed to connect the proposed street. Mr. Cox stated that the project would result in lost tax revenue.

Brian Eidem, 419 Concord Court, stated that he purchased his property next to the subject property because he expected the property to be developed as residential and requested that the Planning Commission takes buffering into consideration.

Santiago Torres, 349 S. Pitchers Court, stated that the applicant is proposing a street where several neighborhood children play and that he wants to see the sun and the clouds from his property, not neighboring buildings. Mr. Torres stated that additional cars in the neighborhood will bring noise and unsafe conditions.

Allen Winter, 412 Williamsburg Court, asked the audience if there were any residents in attendance that were in favor of the PUD amendment and stated that the Planning Commission has the responsibility to look out for current residents and not future residents. Mr. Winter stated that the applicant is requesting relief to make their investment more profitable at the expense of the current residents. Mr. Onstott stated that the Planning Commission may not legally consider the attendance at a public forum when considering a land use application. Mr. Onstott stated that the Planning Commission may consider comments made from the public at the podium, but may not consider comments made from the gallery.

Julie Armstrong, 333 S. Pitchers Court, asked if the entrance to the development would be gated. Ms. Armstrong stated that the development would contribute to school overcrowding and that Andover's public school ratings would suffer as a result of the development being approved. Ms. Armstrong stated that special needs students would not have the resources needed, and that lower school ratings would result in decreased property values.

Elizabeth Tamas, 329 S. Pitchers Court, stated that she purchased her property with the knowledge that the subject property could potentially develop into a church. Ms. Tomas stated that the addition of an access road and lack of a barrier would result in unsafe conditions for her children.

Chad Armstrong, 333 S. Pitchers Court, stated that other resources would be impacted by this development, including law enforcement and the nearby grocery store, and asked if the subject property has been paid for or if that is still pending. Chairperson Schnauber stated that the question was not for the Planning Commission to answer.

Todd Duggins, 425 W. Jamestown Street, stated that he was concerned with traffic congestion caused by the development.

Mary Lee Armstrong, 425 W. Jamestown Street, stated that she was concerned about the number of cars on the streets and said that her mailbox was smashed.

Jayme Lint, 943 W. Threewood Court, stated that renters do not maintain their properties as well as homeowners. Ms. Lint asked if there was a study done addressing what rentals do to property values because homeowners pay their taxes and support the community and doesn't think that renters will support the community.

Mark Malinauskas, 523 W. 2<sup>nd</sup> Street, stated that there would be increased traffic in the neighborhood should the development be approved.

Richard Tyler, 717 West Point Court, stated that there would be increased traffic in the neighborhood should the development be approved. Mr. Tyler asked if the local police department has done a study on increased crime as it relates to new multi-family development. Chairperson Schnauber stated that the question would have to be asked of the City Council as the Planning Commission's responsibility is to consider land use. Chairperson Schnauber stated that the public would have the opportunity to address their concerns with the City Council. Mr.

Tyler stated that he was also concerned about access regarding the development. Mr. Tyler stated that he worked almost nine years for AT&T doing installations in apartment complexes and that 30% of the residences had drug users.

Torrey Pitchford, 314 W. Concord Court, stated that he was concerned with the font size of the presentation. Mr. Pitchford stated that the applicant only discussed the positives of the project and wanted to know more details about the plan. Mr. Pitchford stated that he was opposed to the plan.

Dennis Howard, 331 S. Chippers Court, stated that he moved to the City of Andover for the school system and that he does not want to live behind an apartment complex.

Darrin Deutscher, 813 W. Sandwedge Court, stated that the applicant should bring in a plan detailing their own access from US-54 and not be reliant on access from Onewood Drive or the proposed backage road.

Mark Malinauskas, 523 W. 2<sup>nd</sup> Street, stated that he had a question about traffic flow but could not remember it.

Brian Cox, 232 S. Duffers Court, recommended that if the Planning Commission approves the conditions that the conditions contain modifications, including a buffer containing a 6' berm and 8' stone retaining wall to the north.

Ernestine Russell, 338 S. Chippers Court, stated that the proposed three-story buildings will allow apartment residents to view into neighboring residents' backyards and into their windows.

Jason Gish, MKEC Engineering, Inc., stated that the property was already platted and he is requesting to make an adjustment to the PUD that would allow for a multi-family use. Mr. Gish stated that public concerns regarding overcrowding in schools is hypocritical in that the members of the public do not want additional children in their schools. Mr. Gish stated in that it is the responsibility of the school system to accommodate additional children. Mr. Gish stated that the applicant has rights to develop the subject property and that issues such as traffic are part of the platting process and that the subject property has already been platted. Mr. Gish stated that it was unlikely that the members of the public opposed to the project were single-family homeowners after graduating from school and that it was shameful to assume that renters are less important. Mr. Gish apologized for the small text and stated that he was happy to answer any further questions. Mr. Gish stated that the applicant has proposed landscaping and screening requirements that go above and beyond what the City of Andover code requires. Mr. Gish stated that a multi-family development will generate more tax revenue than a tax-exempt church. Mr. Gish stated that single-family home vehicle trips per day are greater than multi-family home vehicle trips per day.

Chairperson Schnauber asked Director of Community Development Les Mangus if he had received any written communications. Mr. Mangus said no.

Chairperson Schnauber closed the public hearing at 8:41 pm.

1. 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 if the change in zoning were approved?

STAFF      The subject property is currently platted and provisions for adequate public water, sewer, and streets have been made.

2. If the zoning change request was approved, would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights-of-way, easements, building setback lines, or access control?

STAFF     The subject property is currently platted with adequate road rights of way dedications made for the future backage road and US-54/400 freeway improvements. However, the current access controls on Onewood Dr. do not reflect those required by the US-54/400 Corridor Study.

3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?

STAFF     A landscape buffer consisting of planting materials, berms, walls, or fences is required between the proposed MXR uses and the existing SF-2 single family uses by the Site Plan Review Standards Table of Required Landscape Buffers.

4. What fact-based information in support of or in opposition to the requested zoning change has staff received?

STAFF     Staff has received verbal commentary from nearby neighbors that the proposed use for apartments is not compatible with the existing single family residential neighborhood and could have an effect on property values. However, no fact based evidence has been submitted.

5. If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?

STAFF     No error is known to exist.

**STAFF & COMMISSION/COUNCIL ITEMS**

6. How suitable or unsuitable is the subject property for its current zoning?

STAFF     The subject property is suitable for the existing permitted use for a church and related accessory uses.

PLANNING     Concur.

COUNCIL

7. Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the zoning change request?

STAFF     Yes. The subject property has been undeveloped because its sole permitted uses have been limited to a church and related accessory uses.

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| PLANNING | Concur. |
| COUNCIL  |         |

8. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.

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| STAFF | In comparison to the existing permitted use as a church and related accessory uses the proposed multiple family uses would be similar in building scale, potential traffic trip generation at peak times, lighting, noise, activity, etc. particularly if the existing related accessory uses of a senior center, child care center, educational facilities and recreational uses were to have been developed. The subject property has good access to the highway both presently and in the future freeway condition. |
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| PLANNING | Concur. |
| COUNCIL  |         |

9. Has the zoning change been requested because conditions in the area of the subject property have changed or are changing? If so, what is the nature and significance of these conditions?

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| STAFF | Yes. The potential user of the church and related accessory uses has abandoned their plans and sold the subject property. |
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| PLANNING | Concur. |
| COUNCIL  |         |

10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?

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| STAFF | The subject property is adjacent to US-54/400 on the south with commercial uses in older structures on the south side of the highway. Surrounding the property on the northwest, north, and northeast are single family residences in good condition separated from the subject property by platted streets and a reserve. Adjacent to the west of the subject property is a two-family residential development. Adjacent to the east is a vacant parcel and a single family residence directly abutting the highway. |
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| PLANNING | Concur. |
| COUNCIL  |         |

11. Would the proposed zoning change of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?

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| STAFF | In comparison to the existing permitted use as a church and related accessory uses the proposed multiple family uses would be similar in building scale, potential traffic trip generation at peak times, lighting, noise, activity, etc. particularly if the existing related accessory uses of a senior center, child |
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care center, educational facilities and recreational uses were to have been developed. The proposed use would likely not produce the large peaks of activity associated with the currently permitted church, but rather have a more consistent pattern.

PLANNING Concur.

COUNCIL

**12. How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.**

STAFF

The future land use map in the Comprehensive Plan depicts the subject property to be in the US-54/400 Lifestyle Corridor and refers to the US-54/400 Corridor study which states "The intersections of US 54/400 and Onewood Drive and US 54/400 and Yorktown Road are proposed to be mixed use residential. In addition, there are several other blocks designated mixed use residential in the area – between the YMCA facility and the commercial mixed use along Prairie Creek Road. This designation allows for 6 to 20 dwelling units per acre in two to five story buildings with 50 to 70 percent lot coverage. Retail and community services should be on the ground floor with a mix of residential uses above. To accommodate changing market conditions, both horizontal and vertical mix of uses are encouraged. For a detailed map of proposed land use please see Figure 26."

PLANNING Concur.

COUNCIL

**13. Do any professional persons knowledgeable on conditions that affect this zoning change request have information or recommendations to provide, which would be helpful in its evaluation?**

STAFF

The approved site plan for the proposed 51'-3" tall church building first phase, which covered only about 40% of the +/-12-acre property, included seating for 878 occupants, a 196 stall parking lot with 25' tall light poles, and provisions for future additions with an additional 245 parking spaces. The planned senior center, child care facility, educational facility, and recreational uses could have potentially filled the remainder of the site with uses that could operate 7 days a week, including evenings, generating a combined volume of traffic in the hundreds of trips in the peak hours.

The proposed 20 dwelling units per acre multiple family residential development could potentially yield up to a maximum of 236 dwelling units in three story buildings up to 45 feet in height with 2 parking spaces per dwelling unit required. Activities would similarly occur 7 days a week. The applicant has provided language in the proposed Planned Unit Development amendment text, which provides for the required landscape buffer in addition to the separation provided by the backage road street and screening reserve.

When comparing the proposed multifamily residential development to the existing permitted church and related accessory uses the effects on the surrounding area seem very similar:

1. Both uses have the potential to generate significant peak hour traffic, but are well suited to access US-54/400.



2. Both uses have the potential to be large buildings, 45 feet in height or greater, which incidentally could have the effect of reducing US-54/400 traffic noise
3. Both uses require large areas for parking.
4. Both uses further the goal of the Comprehensive Plan to extend a backage road providing local traffic access between Onewood Dr. and Andover Rd. off of the highway system.

Staff relies heavily on the Comprehensive Plan, including the attached US-54/400 Corridor Study, which suggest that the subject property is suited for mixed use residential at densities of up to 20 dwelling units per acre in buildings up to five stories in height in supporting the proposed amendment.

PLANNING Concur.

COUNCIL

**14. How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety and welfare, if there is a change from the current zone to the requested zone?**

STAFF There has been no evidence presented to Staff that would indicate any loss or gain to the public health, safety, or welfare resulting from the proposed change as compared to the existing permitted uses.

PLANNING Concur.

COUNCIL

Mr. Israel stated that the Planning Commission was unable to address every potential issue raised by the public associated with the project and that the responsibility of the Planning Commission is to review changes to the zoning and make a recommendation to the City Council.

Mr. Zarchan asked if the Planning Commission were to consider height restrictions on the apartment buildings, is that something that the Planning Commission can require now as opposed to during the site plan review. Mr. Mangus stated that the Planning Commission could make whatever conditions that they see fit.

Mr. Zarchan asked if the Planning Commission needed any additional information to consider the public hearing at a later date. Mr. Pedersen asked what the continuation would look like and if there would be additional communications between staff and the applicant during that time. Mr. Mangus stated that he was unaware of any additional information that could be provided by the applicant should the public hearing be continued to a later date. Mr. Mangus stated that the Planning Commission had the ability to add verbiage to their recommendation in regards to the restriction of building height as it relates to the distance between the existing single-family homes and the proposed development.

Mr. Rossi asked the applicant if they had considered a wall in lieu of vegetation due to the length of time that it would take for the vegetation to mature. Mr. Gish stated that screening could include fencing but that improvements could be made through landscaping. Mr. Gish stated that it was the intent of the applicant to have a more open concept and that if there was desire for additional screening to the north then that is something that can be discussed.

Mr. Zarchan stated that he was concerned with the traffic impact on Onewood Drive considering that there is no stoplight located at that intersection. Mr. Zarchan asked at what point a traffic study would be considered for that area. Mr.

Mangus stated that he disagrees with members of the public that stated that the US-54 highway expansion would never happen as the project is listed in the highway bill and is currently being considered by the state legislature. Mr. Mangus stated that the expansion is the second highest ranked transportation improvement in the Wichita metropolitan area, and that all indications are that it will be included in the 10-year highway bill for construction as a freeway. Mr. Mangus stated that the US-54 highway expansion has been a high priority of the Wichita Area Metropolitan Planning Organization (WAMPO), the Wichita area Chamber of Commerce Transportation Coalition, and the Kansas Department of Transportation. Mr. Mangus stated that the improvements will begin with a study showing how the work will be phased, and that the new Secretary of Transportation has stated that new projects will be adopted on a two-year cycle.

Mr. Rossi stated that potential restrictions on building height could be combined with adding berms to the landscaping requirements. Mr. Mangus stated that landscaping language was included in the existing PUD and that the Planning Commission has the ability to give the Site Plan Committee landscaping recommendations.

Mr. Zarchan asked if the original PUD had this section as a multi-family development. Mr. Mangus stated that the PUD was adopted in 1980 and there have been over 30 amendments over the years, including several regarding the subject parcel, at one time being multifamily residential mixed with single-family residential, then later being larger commercial establishments frequently seen along highway corridors. Mr. Mangus stated that when the church submitted their application that there was a 45-foot height limitation but that the underlying zoning of the property is multi-family.

*Having considered the evidence at the hearing and the factors to evaluate the application, I, Gary Israel, move that we recommend to the Governing Body that Case No. Z-2020-02 be approved based on the findings of the Planning Commission on findings: 7,8,9,10,12, and 13 as recorded in the summary of this hearing, and that the following conditions be attached to this recommendation:*

- The applicant will work with the Site Plan Committee on screening, which might include a berm, a wall, or a portion of a wall along the north side and a restriction to two-story on the north and west sides of the property at a distance of 200 feet measured from the adjacent single-family residential property along Onewood Drive.*

*Motion seconded by Erik Pedersen. Motion carried 6/0.*

## **8. MEMBER ITEMS**

## **9. ADJOURN**

*I, Gary Israel, make a motion to adjourn. Motion seconded by Erik Pedersen. Motion carried 6/0. Meeting adjourned at 9:15 pm.*

Respectfully submitted by:

Justin Constantino  
Assistant Director of Community Development

Approved on the 19<sup>th</sup> day of May 2020 by the City of Andover Planning Commission