

PLANNING COMMISSION MEETING

City of Gardner, Kansas
Tuesday, April 23, 2019
7 p.m.
Gardner City Hall
120 E. Main Street

CALL TO ORDER

The meeting of the Gardner Planning Commission was called to order at 7:00 p.m. on Tuesday, April 23, 2019, by Chairman Austin.

PLEDGE OF ALLEGIANCE

Chairman Austin led the Pledge of Allegiance.

ROLL CALL

Commissioners present:

Chairman Austin
Commissioner Brady
Commissioner Boden
Commissioner Gardenhire
Commissioner McNeer
Commissioner Roberts

Commissioners absent:

Commissioner Simmons-Lee

Staff members present:

Larry Powell, Director, Business & Economic Development
Kelly Drake Woodward, Chief Planner
Michelle Leininger, Principal Planner
Kristie Hatley, Planning Technician
Kelli Broers, City Attorney

There were no members of the public in attendance.

CONSENT AGENDA

1. Approval of the minutes as written for the meeting on March 26, 2019.

Motion to approve the consent agenda made by McNeer and seconded by Boden.

Motion passed 6-0.

REGULAR AGENDA

1. TEXT AMENDMENT

TA-19-01: Hold a public hearing and consider a text amendment to Title 17 Land Development Code of the Gardner Municipal Code, Section 17.01.040 (D) Board of Zoning Appeals regarding membership and quorum.

Ms. Michelle Leininger, Principal Planner, said this amendment was discussed at an earlier meeting and staff now had the Governing Body's approval to move forward. This allows for the Planning Commission (PC) and Board of Zoning Appeals (BZA) to be made up of the same membership. It does not combine the boards; both would have separate meetings with a shared membership. The idea behind it is the BZA met once a year for the last couple years and has had one variance request in the last three years. Its membership is also down to 3 members from 5 with all 3 of the present members reaching the end of their terms this July. Open positions have been difficult to fill with interested and qualified individuals. The process has begun with the legal team with the intent for the BZA meetings to be held one hour prior to the regular PC meeting, as needed. The membership of the Planning Commission would become the membership of the BZA.

The first step in the process is textual changes in the Land Development Code (LDC). The LDC currently has the membership of the BZA as 5 members so that would be changed to 7 to be consistent with the PC membership. Other changes would be to strike "all of whom shall be taxpayers and residents of the City of Gardner, Kansas" for consistency, and the numbers required for a quorum would increase since the membership number increased. These would be the only changes needed in the LDC, and any other changes would be made by ordinance by the Governing Body. Once the amendments are all processed and published along with this textual change, open positions would need to be filled and a BZA meeting held to amend the bylaws. Staff recommends approval of the text amendments.

Public Hearing

No one came forward.

Motion to close the public hearing made by Boden and seconded by Gardenhire.

Motion passed 6-0.

Commission Discussion

Commissioner Gardenhire asked for clarification on the frequency of the BZA meetings at 6pm.

Ms. Leininger replied meetings would be when necessary and not necessarily each month. The BZA would meet only when there is an application for a variance or an appeal of an administrative decision. In the past the BZA met once per year for approving the calendar, minutes and some training.

Commissioner Brady asked if the membership requirement being struck (being a tax payer and resident of the City) was picked up somewhere else because he thought one would need

to be a resident to serve.

Ms. Woodward replied there was a provision that the Planning Commission should have at least one commissioner living outside of the City. This was because there could be cases that involve planning outside the city limits because the area is larger than just the city boundaries. Combining the PC and BZA would then need to have the same membership requirement.

Commissioner Brady wanted to know if that meant someone in Wisconsin could apply to be on the BZA.

Ms. Woodward said the state statute continues on to include one would need to live in a jurisdiction within the planning area. That was a requirement for the Planning Commission, and since the members of the PC would also serve as members of the BZA, the wording would need to be left out of the BZA requirements.

Chairman Austin inquired why the BZA requirements were much more detailed than that of the PC.

Ms. Leininger replied the Gardner Municipal Code includes rules of procedure for each body. Chapter 2 enables the Planning Commission (and details the requirements) and Chapter 17 enables the Board of Zoning Appeals and details the requirements.

Motion made after review of application TA-19-01, a text amendment to Title 17 of the Gardner Municipal Code, Land Development Code, Section 17.01.040 (D) Board of Zoning Appeals, and staff report dated April 23, 2019, the Planning Commission recommends the Governing Body approve the proposed text changes.

Motion made by Gardenhire and seconded by McNeer.

Motion passed 6-0.

Ms. Leininger followed up on Commissioner Brady's question regarding residency and serving on the PC and BZA. She said the members of the Planning Commission shall be qualified electors and residents of the City except for two who may reside outside the corporate limits but within three miles thereof.

Commissioner Brady asked if the elected officers would be the same for both groups.

Ms. Leininger answered they would not need to be the same.

DISCUSSION ITEMS

1. 2018 PLANNING COMMISSION APPLICATION ACTIVITY RECAP

Ms. Kelly Woodward, Chief Planner, presented a project map showing major activity of projects approved from 2017 through today, including 13 commercial office projects, a civic project, 6 single-family residential subdivisions, 4 multi-family or mixed density residential projects, 2 mixed-use residential/commercial projects and 4 additions or accessory uses/buildings. She then offered more detailed information on the 2018 Planning

Commission activity, including 38 applications/cases representing 18 projects; 14 potential text amendments to the LDC; and 3 amendments to the Comprehensive Plan. The Planning Commission also performed the annual Comprehensive Plan review, reviewed the Capital Improvements Plan, gave input on the parklet design, and reviewed a tax increment finance plan for Main Street Market Place. Projects included:

- Cottages at University Park (Mixed density residential subdivision)
- Gardenwalk (Multi-family residential)
- Gardner Justice Center (Civic facility)
- Gardner Dental (Commercial single-tenant)
- Enterprise Rental (Commercial tenant)
- Gardner Business Center Phases 1 & 2 (Commercial multi-tenant)
- Conestoga Sales Office and Recreational Amenities
- Belfonte Car Wash (Commercial single-tenant)
- Midwest Commerce Center (lighting stipulation change)

Highlights from each project were presented along with a progress report. Updates were also offered on the previous year's projects including the Hampton Inn, Santa Fe Self-Storage expansion, Dairy Queen, First Pointe Urgent Care/Enterprise Rental, Scooters, Bethel Estates No. 4, Midwest Commerce Center Phase II, Plum Creek Manor II, Tuscan Farms 1st plat, Copper Springs IV, and Quail Meadows II.

Commissioner Brady asked about the projected number of new single-family residential for the year.

Mr. Larry Powell, Director of Business & Economic Development, answered he expected between 130 to 150 new homes this year in Gardner. This did not count any new apartment units that may be built. He said there could be a jump in the second six months of the year in items brought before the PC for additional residential units. There have been several developers talking with the City about possible apartment locations.

ADJOURNMENT

Motion to adjourn made by McNeer and seconded by Gardenhire.

Motion passed 6-0.

Meeting adjourned at 7:37 p.m.

PLANNING COMMISSION MEETING

City of Gardner, Kansas
Tuesday, March 26, 2019
7 p.m.
Gardner City Hall
120 E. Main Street

CALL TO ORDER

The meeting of the Gardner Planning Commission was called to order at 7:00 p.m. on Tuesday, March 26, 2019, by Chairman Austin.

PLEDGE OF ALLEGIANCE

Chairman Austin led the Pledge of Allegiance.

ROLL CALL

Commissioners present:

Chairman Austin
Commissioner Boden
Commissioner Gardenhire
Commissioner McNeer
Commissioner Roberts
Commissioner Simmons-Lee

Commissioners absent:

Commissioner Brady

Staff members present:

Larry Powell, Director, Business & Economic Development
Kelly Drake Woodward, Chief Planner
Michelle Leininger, Principal Planner
Bob Case, Planner
Kristie Hatley, Planning Technician
Ryan Denk, City Attorney

There were 11 members of the public in attendance.

CONSENT AGENDA

1. Approval of the minutes as written for the meeting on February 26, 2019.

Motion to approve the consent agenda made by McNeer and seconded by Boden.

Motion passed 6-0.

REGULAR AGENDA

1. PLAZA SOUTH

Located at the northeast corner of S. Gardner Road and W. 188th Street

- a. **Z-19-02 (PDP-19-02):** Hold a public hearing and consider a Rezoning from C-2 (General Business) District to ACP-2 (Activity Center Planned General Business) District and associated preliminary development plan for Plaza South.
- b. **PP-19-03:** Consider a preliminary plat for an approximately 30 acre, 9-lot commercial subdivision.

Chairman Austin asked the Commissioners if they had outside communication with the public on this item. Only Commissioner Gardenhire stated that two members from his office representing the client were present but there was no further discussion with them other than what was being covered at this meeting. He added he had no financial conflicts.

Ms. Kelly Drake Woodward, Chief Planner, presented the rezoning request from C-2 General Business District to ACP-2 Activity Center Planned General Business District. This is the first application under the new planned district tailored for the gateway areas of Gardner. The standards are based on the current C-2 District with deviations and additional requirements applicable per the specific planned zoning district. The request includes two parcels totaling almost 28 acres that are currently agricultural uses and the proposed preliminary development plan accommodating retail/service, office, restaurant, assisted/independent living, lodging, and large assembly uses. The site is undeveloped and unplatted with an existing asphalt trail along S. Gardner Road, on the west side. Primary overhead power lines traverse a portion of the west and entire southern boundary and all utilities are available to the site. Along the entire northern property line is an approximately 270' deep tract used for stormwater detention basins for the Aspen Creek subdivision and overhead power lines. The interchange at I-35 and S. Gardner Road will be reconfigured and the W. 191st Street connection to S. Gardner Road will be eliminated, with the new connection moving north to the W. 188th Street intersection. This will be a key intersection after the improvements were made.

The property is at the confluence of several residential and commercial zoning districts with future multi-family development planned to the west along W. 188th Street. Single family exists to the north separated from the subject parcels by a 270' wide stormwater detention area. Commercial development is planned on all other sides of the parcel. The Regional Commercial Future Land Use area within the subarea plan includes these properties that is anticipated to provide goods and services to those traveling by auto from I-35 and other local connections, and bike/pedestrian circulation. It will also serve patrons visiting the future Olathe Medical Facility to the south. The subarea plan shows W. 188th Street east of S. Gardner Road as a proposed future collector roadway, which is consistent with the proposed infrastructure. This development is also consistent with the Commercial Areas Plan of the Comprehensive Plan by siting buildings to create internal "streets" that are attractive and comfortable for pedestrians and that integrate public trails.

The preliminary development plan shows nine lots totaling about 26.5 acres and includes right-of-way along both S. Gardner Road and W. 188th Street. The development has been planned with private drives functioning and designed as streets that are proposed to be designed to the Local Neighborhood Street design standards and maintained by a private entity. This is a requirement of the subdivision standards, and also supports pedestrian and bicycle mobility as consistent with the Comprehensive Plan. The one-to-four-story buildings total 316,942 sq.ft. of potential development with 723 vehicle and 72 bicycle parking spaces. Currently, the applicant has only two prospective tenants, therefore, a majority of the plans are speculative. However,

when final development plans are brought forward for each lot, this detailed plan must demonstrate that all applicable standards, requirements, and conditions of the preliminary development plan have been met. The final development plans must be in substantial compliance with the approved preliminary development plan, or the preliminary development plan must be revised through this same public process.

The development fronting S. Gardner Road (Lots 1-4) is based on the Arterial Parkway-Boulevard street type and Buffer Edge frontage type. The development fronting W. 188th Street (Lots 5, 6, and 9) are based on the Collector – Activity street type and Terrace frontage type. Lots 7 and 8 are based on the Local – Neighborhood street type and Terrace frontage type. Proposed building types include Small Commercial – Pad Site (Lots 1-6), Large Commercial (Lot 7), and Prominent Civic (Lots 8 and 9). The Open and Civic Space type is trail.

The purpose of the Activity Center Planned District is to encourage a balanced mix of regional- and community-serving uses and amenities near major highway interchanges and along connecting arterial and collector streets; and provide incentives for developments that meet the intent of this district. Specifically, development plans in this planned district should accomplish one or more of the following along and near key commercial corridors:

- Support for multi-modal transportation services
- Improved public realm designs
- Development patterns that provides for compatibility between uses

As for regular planned districts, the Activity Center Planned District allows the Planning Commission to approve departures from standards for blocks, lots, open and civic space types, building type and development standards, frontage type standards, site design, and landscape standards. However, there are some exceptions to allowed deviations that have to do with ensuring standards are met for internal, well-connected circulation patterns and enhanced civic spaces along arterial and collector roadways.

The applicant has provided for well-connected access drives functioning as streets and a new trail with structural amenities along W. 188th Street. There is an existing trail on S. Gardner Road. Particular amenities are intended to be implemented in the Activity Center Planned District, and have been proposed, such as pedestrian and non-motorized connections to existing trails. Other required amenities will be enforced at the final development plan process, including infrastructure to encourage and support public transit and public art, wayfinding signs, historic interpretive signs, or creative landscape amenities in prominent locations.

There were eight deviations requested and staff has recommended four be approved and four be conditions of approval (numbers below correspond with numbering in the staff report). The deviations recommended by staff were:

- Deviation 1. Deviation from the subdivision standards pertaining to block length and area for Lots 1-8, calling for smaller blocks. Staff supports this because the smaller blocks enhance walkability and better achieves the intent of the AC-P district within this future activity node.
- Deviation 5. Lot 9 is designed for the Prominent Civic building type, but does not fall within the lot size range (is larger). The Code allows larger lot sizes as part of a campus plan through the planned development process that considers internal access and circulation with surrounding areas. The applicant has provided for beneficial internal access and circulation that is in alignment with adjacent access points.
- Deviation 6. The Prominent Civic building type standards require a front setback of 20' -50'. Lot 9 is proposed at a 287' setback. The applicant has proposed a community

amenity area on the south side of the property along the W. 188th Street right-of-way as an alternative way to establish a close relationship with the public realm. This area will have park benches, picnic tables with shade structures, butterfly bushes, and limestone fence posts along the walking trail. Staff finds that the proposed amenities establish an acceptable alternative built relationship with the public realm. If approved, the final details will be worked out on the final development plan.

- Deviation 8. Lots 5-9 utilize the Terrace frontage type that requires direct sidewalk connections to the public sidewalk at least every 50'. The applicant has provided 2-3 pedestrian connections per lot. To place these connections every 50' within this context would be unnecessary and potentially unsafe.

Deviations recommended as conditions of approval by staff:

- Deviation 2. A reduction to the open space requirement is requested. The Code provides that the required open space of 12% may be reduced based on a plan through the planned development process that meets or exceeds the intent of the civic open space standards. The existing trail along S. Gardner Road counts toward the open space and an additional trail is proposed to help meet the requirement. This will provide recreation for all ages and connect the commercial uses with existing and planned residential uses nearby. Both Parks and Recreation and Public Works Departments have requested that the trail be constructed of concrete for durability. Trails along the greenway are asphalt, but the City is replacing asphalt trails along the road network with concrete when the opportunity arises.
- Deviation 3. The ownership and management of amenities in sidewalk and access easements needs specification and the applicant has not addressed ownership and management. It is a recommended condition of approval that the applicant must provide for a common area maintenance agreement or property maintenance agreement for all common amenities at time of the first final development plan/final plat applications, including the infrastructure within all access and sidewalk easements.
- Deviation 4. The dedication of the right-of-way (ROW) and public improvements needs approval. The City recently received the traffic study and has not yet reviewed it for approval. Staff recommends it be approved prior to approval of any final development plans.
- Deviation 7. Lots 5-9 are the Terrace frontage type with a standard of 70% required building frontage (70% of lot frontage shall be occupied by a building within 10' – 25' setback range). The Code provides an exception for up to 50% of this requirement through an administrative adjustment provided that active open space and a vertical element is provided. Additionally, there are some utility infrastructure concerns that prevent close building placement along W. 188th Street. However, it is still important to create a comfortable sense of enclosure and interest for pedestrians using the trail system or sidewalk network. Staff recommends that the applicant implement an acceptable vertical element along at least 35% of the front building line, either via a building or other elements such as plantings, or an ornamental wall or fence complimenting the design of the buildings. These amenities will be addressed on the final development plan phase.

Ms. Woodward continued with staff findings using the review criteria for the rezoning.

1. Character of the neighborhood – generally undeveloped, and the proposed plan creates improved road and trail connections that integrate well with existing development.

2. Compatibility of the proposed uses – the development will be well-buffered from the adjacent residential uses and will provide beneficial goods and services for the neighborhood.
3. Suitability for development under current restrictions – the property is currently zoned C-2 (General Business) District, and the rezoning request is to a planned district based on this C-2 District. The prescribed Regional Commercial future land use designation provides that the properties could be zoned for even more intense commercial uses. The request is to rezone to the Activity Center Planned District which is designated for areas near the I-35 interchanges. The proposed uses are compatible with the intent of the ACP-2 district and this request brings the property more in alignment with the Comprehensive Plan (and associated subarea plan) than the current restrictions.
4. Impact of the removal of the restrictions on the area – this rezoning to the ACP-2 District further limits deviations that can be requested. Removal of the restrictions will not detrimentally affect nearby property, and should enhance it.
5. Length of time vacant as zoned – the property remains vacant under the current zoning. This request is intended to provide some assurances to prospective buyers of what they can build.
6. Relative gain under current restrictions – The applicable development standards remain the same under current and proposed zoning, but the proposed zoning provides for enhanced amenities more supportive of the gateway context. The net impact is perceived by staff to be positive as related to economic development and public welfare.
7. Staff recommendation – Staff recommends approval with conditions.
8. Consistency with the Comprehensive Plan – Staff has found the request to be consistent with the Comprehensive Plan and the *I-35 and Gardner Road Interchange Subarea Plan*.
9. Impact on the capacity/safety of the public realm – The proposed development provides for greater connections of the public utility and street infrastructure. Stormwater and traffic impacts are still being evaluated, therefore conditions of approval regarding these improvements are recommended. The public improvement plans are required to be approved before the final plat is released for recording.

The staff findings using the review criteria for the preliminary development plan were then presented.

1. The plan improves on base standards –It provides for some additional public space amenities at the streetscape to mitigate greater building setbacks. This would not have been accomplished through the strict application of the base zoning district. The proposed development plan improves multi-modal connections and walkability with smaller blocks.
2. Impact of flexibility on the community versus the applicant – The improved streetscape amenities will further encourage walkability and promote public health, safety, and welfare in this southern gateway as the area continues to grow.
3. Impact of flexibility on meeting the intent of the standards – The base C-2 zoning district intent is to provide retail, service and employment uses that contribute to the overall vitality and mix of uses of these areas at strategic locations. The development proposes a beneficial mix of regional- and neighborhood-serving uses that may provide for residential living within walking distance of essential goods and medical services along a designated transit route and near major highway systems.
4. Sound planning and design principles – The plan meets most development regulations that are based on sound planning and urban design principles, and where deviations are requested, mitigating solutions have been proposed or recommended.

The development is consistent with adopted community plans. Staff recommends approval of both the rezoning and preliminary development plan.

Public Hearing

Mr. Judd Clausen, Phelps Engineering, civil engineers and surveyors for the project, thanked Ms. Woodward for the in-depth staff report. He said there was much creativity involved in the design of the project with thought put into the road and sidewalk locations and the uses of the entire site. He felt the activity center could be called a “flexible and opportunity center” and the overall design was a great compromise for all involved. The City got much of the items they were looking for in their UDO requirements and design characteristics required in this proposed zoning district. The opportunity for a new church for the community and promising retail tenants would bring new development to the area. It would also benefit by completing W. 188th Street.

Motion to close the public hearing made by McNeer and seconded by Gardenhire.

Motion passed 6-0.

Commission Discussion

Commissioners Boden, Gardenhire and Roberts praised the development and growth and support the deviations and recommendations.

Commissioner Simmons-Lee asked about the main access to the site.

Mr. Larry Powell, Director of Business & Economic Development, replied the City was in the process of improving the intersection of W. 188th Street and S. Gardner Road and would have a signal installed. The main road through the site from the church to the south end would be a private road without signals.

Commissioner McNeer thanked Ms. Woodward for her work on the presentation and agreed this project would make a great front door to Gardner.

Motion made after review of applications Z-19-02 and PDP-19-02 for Plaza South (property located at the northeast corner of S. Gardner Road and W. 188th Street, (Tax IDs CF221436-2001 and CF221436-2011), a rezoning from C-2 (General Business) District to ACP-2 (Activity Center Planned General Business) District according to the associated preliminary development plan dated 3/15/19, received 3/21/19, and staff report dated March 26, 2019, the Planning Commission recommends the Governing Body approve the applications as proposed, provided the following conditions are met:

- 1. The trail along W. 188th Street shall be constructed of concrete.**
- 2. The applicant shall provide for a common area maintenance agreement or property maintenance agreement for all common areas at time of the first final development plan/final plat applications, including the infrastructure within all access and sidewalk easements.**
- 3. All easements shall be approved prior to approval of any final development plan/final plat.**

4. **The stormwater plan and traffic study shall be approved prior to approval of any final development plan.**
5. **Lots 5, 6, 7, 8 and 9 – To better meet the intent of the required building frontage within this development context, shall include an acceptable vertical element along at least 35% of the front building line, either via a building, plantings, or an ornamental wall or fence complimenting the design of the buildings.**

Motion made by Gardenhire and seconded by Boden.

Motion passed 6-0.

Mr. Robert Case, Planner, presented **PP-19-03**, a request for approval of a Preliminary Plat consisting of 28.58 acres of vacant property located at the northeast corner of S. Gardner Road and W. 188th Street. The applicant is proposing to subdivide the property into nine lots. The lots are undeveloped and unplatted property with primary overhead power lines located on the south, west, and north sides. Existing utilities include an 18" water main located along the west right-of-way of S. Gardner Road, gravity and force main sewers along the east and south side of the proposed subdivision and an 8" natural gas line along the east property line of the proposed subdivision. S. Gardner Road and W. 188th Street right-of-way will be dedicated at the final platting stage and easements will allow for vehicle and pedestrian movement throughout the development. Staff had found the application generally consistent with the Comprehensive Plan and the plat in compliance with the Land Development Code. A preliminary stormwater management plan was submitted but not yet approved. The City is waiting for a traffic impact study to be submitted for approval.

Commission Discussion

Chairman Austin requested clarification on the preliminary plat document with the zoning designation of AC-P and asked if they should be designated ACP-2 instead.

Ms. Woodward replied the ACP-2 was the more proper designation for this rezoning. The LDC uses the AC-P and the number 2 was added so that it was clear the zoning was based on the C-2 District. The AC-P was not incorrect.

Motion made after review of application PP-19-03, a preliminary plat for 28.58 acres located at the northeast corner of Gardner Road and 188th Street, a preliminary plat dated March 21, 2019, and staff report dated March 26, 2019, the Planning Commission approves the preliminary plat with the following conditions:

1. **Approval of the Traffic Impact Study and Stormwater Management Plan by the City of Gardner Public Works Department.**

Motion made by McNeer and seconded by Boden.

Motion passed 6-0.

DISCUSSION ITEMS

1. ACTION SUMMARY

Summary of action by the Governing Body on the February 26, 2019 Planning Commission recommendations.

Mr. Powell thanked the PC for their volunteerism and said several of them expressed a desire to discuss the City Council's comments concerning the February 26th Planning Commission meeting. He stated he was presenting a summary of items staff had discussed internally after reviewing the comments and recording of the meeting. In regards to comments made by the City Council during public meetings, he has asked that in general, concerns the Council members have with any committee, commission, or board be addressed to the City Administrator and then brought to the attention of the appropriate staff or board. He was not asking for their silence on items brought to them by the public or observed in person or while viewing a live stream cast. This was regarding concerns expressed over their perceived idea of the actions of the Planning Commission at the referenced meeting. Meetings of the Governing Body and Commissions are open to the public and not generally the best forums to examine issues or differences of opinion regarding one another. Statements made in the paper that were not accurate will be handled by the Public Information Office of the City. When the Planning Commission reviews an application and questions staff or the applicant in a public meeting, all questions should be for clarification or for additional information. Once an answer was received, it was to be accepted without personal editorializing.

The job of the PC is to review the staff report and the recommendations contained, and balance that information against the request of the applicant. If there are deviations or adjustments, these are either recommended or set out by the applicant or staff. A decision is made based on the facts presented. The impact of projects on neighborhoods is perceived differently by the people living there than by the developers. Emotions will be high in these meetings. The PC's decisions are based upon the applicant's ability to meet the given standards. The Planning Commission is not in the business of designing or modifying the applicant's plan or body of work. When staff requests plan revisions during the review process, these requests are based on Code requirements. Once a plan is presented to the PC, all are assured that the plan either meets Code requirements or is approvable with allowable deviations or conditions of approval. Otherwise staff will recommend denial. All applications are evaluated according to review criteria contained in the Land Development Code. The discretionary review of the PC must be grounded in findings of fact, not speculation. Any request made of the applicant or condition of approval must be grounded within the intent of the adopted standards. The PC has some discretion over Code deviations and less over Code requirements. Situations that meet Code requirements are not always popular with all parties, but the overall community benefits must be of primary concern in a decision to approve or deny.

He asked for questions from the Planning Commission of which there were none.

Mr. Powell stated the process of combining the Planning Commission and the BZA is being reviewed. This would help to streamline meeting times and to aid in keeping positions filled within both boards.

ADJOURNMENT

Motion to adjourn made by Boden and seconded by McNeer.

Motion passed 6-0.

Meeting adjourned at 7:57 p.m.



Planning Commission

MARCH 26, 2019

<u>Name</u>	<u>Address</u>
Rick Gerber	17935 S Moonlight
CHRIS BEN	15311 W 109th LENEXA
Judd Claussen	1270 N. Winchester Olathe
NATHAN HEADLY	1270 N. Winchester Olathe
Allison Moran	8005 W 110 th St. Ste 150 Overland Park
Dick Stephens	8005 W 110 th ST O.P. KS
Mulvan Guy	166 - Gardner
Rocky Gupler	Car Pool Car Wash

PROJECT NUMBER / TITLE: TA-19-01: Text amendment regarding the Board of Zoning Appeals membership and quorum

PROCESS INFORMATION

Type of Request: Text Amendment

Date Initiated: April 1, 2019 by the Gardner City Council

REQUESTED ACTION

Recommend approval of the proposed text amendment to revise the membership and quorum counts for the Board of Zoning Appeals.

BACKGROUND / HISTORY

The city is looking at the efficiency of its boards and commissions and the difficulty in having interested persons in serving on such boards and commissions. Currently the Planning Commission (PC) has a full membership of seven members and the Board of Zoning Appeals (BZA) is down to three from five members. Kansas State Statute requires that if an entity has an adopted/approved comprehensive plan and zoning/subdivision code, there shall be a PC and BZA. However, it is permitted for those two bodies to be of the same membership as long as separate meetings are held (open and closing of each meeting before another is opened). Since the adoption of the *Land Development Code* in 2016, the BZA has heard one variance application. Additionally, they have met once a year to approve a calendar of meetings, appoint a chair and vice-chair, and for training. In contrast, the PC has monthly interaction with the Code.

At the April 1, 2019 Governing Body meeting, they initiated the process to combine the membership of the Planning Commission and the Board of Zoning Appeals. The process to make this change involves changes to the *Gardner Municipal Code, Title 17 Land Development Code*, an ordinance adopted by the Governing Body, and changes to the Board of Zoning Appeals By-Laws. The changes to the *Land Development Code* shall be processed through the Planning Commission, which includes a public hearing and recommendation by the Commission to the Governing Body. The changes to the LDC are minimal and include the number of members in the Board of Zoning Appeals and the number of members required for a quorum. Currently the BZA has a membership of five members. In order for the memberships of the two bodies to be the same, one of them will have to change. The PC has full membership until May 31st. The BZA has two of five positions open and the remaining three member's terms expire July 31st. Staff finds that it is more appropriate to change the membership number of the BZA to seven to match the PC. Then if the membership increases, the number constituting a quorum to take action at a meeting will also need to increase from three to four. The other removed portion of a sentence in this section is proposed to be removed to be consistent with the PC. Please see the attached draft changes where the words struck through are to be deleted and those underlined are to be added.

The BZA meetings are anticipated to be moved to be on the same date as the PC meetings and be held at 6 pm, prior to the PC meeting. At their first meeting, the By-Laws will have to be revised.

ATTACHMENTS

- I. Draft text changes

ACTIONS

Per Section 17.03.010 (G) of the *Gardner Land Development Code*, a review body may recommend the following actions:

1. Recommend approval of the application.
2. Recommend approval of the application with modifications to lessen or mitigate a potential impact from the proposed application.
3. Recommend denial of the application.
4. Continue the application to allow further analysis. The continued application shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

EFFECT OF DECISION

Amendments to the Land Development Code, Title 17 of the Gardner Municipal Code, shall be approved by the Governing Body in the form of an ordinance.

RECOMMENDATION

Staff recommends approval of the text amendments to the Land Development Code regarding the Board of Zoning Appeals.

Recommended Motion:

After review of Application TA-19-01, a text amendment to Title 17 of the Gardner Municipal Code, Land Development Code, Section 17.01.040 (D) Board of Zoning Appeals, and staff report dated April 23, 2019, the Planning Commission recommends the Governing Body approve the proposed text changes.

17.01.040 Administration

A. **Staff.** The following City staff positions are responsible for administering specific aspects of this Code:

1. *Business and Economic Development Director.* The Business and Economic Development Director (Director) is the principal interpretation and enforcement officer under these regulations, and may consult with any other department or relevant outside agencies in order to coordinate their plans, policies and programs that impact the Comprehensive Plan. The Director shall make all final interpretation decisions and any final administrative decisions referred to the Director under the procedures and standards of these regulations.

2. *City Engineer.* The City Engineer shall be the person serving in the position of City Engineer and is responsible for reviewing the engineering design, construction, operation and maintenance of all public improvements specified under these regulations. The City Engineer shall advise the Director on any technical specifications and engineering designs that impact implementation of the Comprehensive Plan, and may make any final administrative decisions referred to the City Engineer under the procedures and standards of these regulations.

B. **Planning Commission.** The Planning Commission is the appointed body of the City responsible for all long-range and comprehensive planning, as well as review, recommendations and decisions on implementation of the Comprehensive Plan. In addition to other general planning authority by statute, local ordinance, or bylaws, the Planning Commission shall have the specific review responsibilities and final administrative decisions referred to the Planning Commission under the procedures and standards of these regulations.

C. **Governing Body.** The Governing Body is the elected body of the City responsible for all legislative decisions that affect implementation of the Comprehensive Plan. In addition to other general authority authorized by law, the Governing Body shall have the appeal authority and final decision authority referred to the Governing Body under the procedures and standards of these regulations.

D. **Board of Zoning Appeals.** The Board of Zoning Appeals of the City of Gardner, Kansas, is hereby continued in accordance with the provisions of K.S.A. 12-759.

1. *Membership.* The Board shall consist of five-seven members, ~~all of whom shall be taxpayers and residents of the City of Gardner, Kansas,~~ who will serve at the appointment of the Mayor by and with the consent of the Governing Body. A member may be removed by the Mayor with the consent of the Governing Body, for cause upon written charges filed with the Secretary of the

Board and after a public hearing is held to consider the written charges. All members of the Board shall serve without compensation.

2. *Term.* A member shall be appointed to serve a term of three years on the Board from the date of his/her appointment, except where a member is appointed to serve the unexpired term of a vacated membership, in which event the member shall serve for the balance of the unexpired term.

3. *Officers.* The members of the Board shall elect from their membership a Chairman and shall appoint a Secretary, each of whom shall serve for a term of one year from the date of their election or appointment by the Board.

4. *Rules of Procedure.* The Board shall adopt rules of procedure in accordance with the authority conferred by K.S.A. [12-759](#).

5. *Meetings.* Meetings of the Board shall be held at the call of the Chairman, and whenever ~~three~~ four or more members of the Board request the Chairman to summon a meeting of the Board, the Chairman shall call a meeting. The Secretary of the Board shall keep minutes of its proceedings and official actions, and shall keep records of its examinations and findings, and shall file the same in the office of the Board or such other public place within the City where public records are filed. The presence of ~~three~~ four members of the Board shall constitute a quorum for transacting business and the concurring vote of at least ~~three~~ four members of the Board shall be necessary to effect a ruling of the Board.

6. *Powers and Duties.* The Board shall administer the following matters under the procedures and standards of these regulations:

- a. Appeals of administrative decisions;
- b. Variances; and
- c. Any other exceptions or relief specifically referred to it under the procedures and standards of these regulations. (Ord. 2518 § 2 (LDC § 1.04))

PROJECT NUMBER / TITLE: Recap of 2018 Planning Commission activities

REQUESTED ACTION

A Year in Review – celebrate a job well done!

BACKGROUND / HISTORY

The following is a summary of Planning Commission activities for 2018.

The Commission approved the following projects/applications:

1. **Cottages at University Park** (mixed density residential subdivision)
 - a. Preliminary Plat – 33.6 acres, 91 residential lots, 160 units
 - b. Final Plat (1st plat) – 7.6 acres, 16 residential lots
 - c. Final Development Plan – 7.6 acres, 16 lots, 44 units
2. **Gardner Justice Center** (civic facility for police and courts)
 - a. Final Development Plan – 15.2 acres, 1 lot/building
3. **Gardner Business Center** (commercial flex space and storage)
 - a. Preliminary Plat – 12.19 acres, 4 commercial lots
 - b. Final Plat (1st plat) – 1.9 acres, 1 commercial lot
 - c. Final Development Plan Lot 1 – 1.91 acres, 1 lot/commercial flex building
 - d. Final Plat (2nd plat) – 1.9 acre, 1 commercial lot
 - e. Final Development Plan Lot 2 – 1.9 acres, 1 lot/commercial flex building
4. **Olathe Health Urgent Care Gardner** (medical office)
 - a. Preliminary Plat – 2.7 acres, 1 commercial lot
 - b. Final Plat – 2.7 acres, 1 commercial lot
 - c. Site Plan – 2.7 acres, 1 lot/commercial building
 - d. Site Plan (revised) – 2.3 acres, 1 lot/commercial building
5. **Willow Chase V** (duplex residential subdivision)
 - a. Final Plat – 4.38 acres, 11 residential lots, 22 units
6. **Gardner Dental** (medical office)
 - a. Final Development Plan – 1.4 acres, 1 lot/commercial building
7. **Conestoga Sales Office and Rec Area** (mobile home park improvement)
 - a. Final Development Plan – approx. 5.2 acres, recreational improvements and sales office
8. **Main Street Market Place** (commercial development)
 - a. Preliminary Plat – 19 acres, 6 commercial lots
 - b. Final Plat – 19 acres, 6 commercial lots
 - c. Site Plan (Price Chopper) – 7.18 acres, 1 lot/commercial building
9. **Mid America Bank** (commercial development)
 - a. Final Development Plan – 0.9 acres, 1 lot/commercial building
10. **Symphony Farms IV** (single-family residential development)
 - a. Preliminary Plat – 12.8 acres, 43 residential lots
 - b. Final Plat – 12.8 acres, 43 residential lots
11. **Valero Gas Station** (commercial development)
 - a. Site Plan – 0.69 acres, building addition

12. **Belfonte Car Wash** – (car wash)
 - a. Preliminary Plat – 2.49 acre, 1 commercial lot
 - b. Final Plat – 2.49 acre, 1 commercial lot
 - c. Site Plan – 2.49 acres, 1 lot/building

The Commission recommended that the Council approve the following projects/applications (and Council complied with the recommendation):

1. **Cottages at University Park** (mixed density residential subdivision)
 - a. Rezoning 33.6 acres from RP-2 (Planned Two-Family Residential) District to RP-3 (Planned Garden Apartment) and RP-4 Planned Mixed-Density Residential Districts **(Ord. 2570)**
 - b. Preliminary Development Plan – 33.6 acres, 160 dwelling units (single-family, duplex, 4-plex) **(Ord. 2570)**
2. **Warren Place** (event spaces)
 - a. Rezoning 1.65 acres from R-5 (Apartment) and C-1 (Central Business) Districts to CP-1 (Planned Central Business) District **(Ord. 2575)**
 - b. Preliminary Development Plan – 1.65 acres (4 parcels), renovate and reuse a historic chapel, single-family home, and event hall **(Ord. 2575)**
3. **Garden Walk of Gardner** (potential apartments)
 - a. Rezoning 9.41 acres from CP-2 (Planned General Business) District to R-3 (Garden Apartment) District **(Ord. 2573)**
4. **Gardner Justice Center** (civic facility for police and courts)
 - a. Preliminary Development Plan – 15.2 acres, 1 lot/building **(Ord. 2579)**
5. **Gardner Business Center** (commercial flex space and storage)
 - a. Rezoning 12.19 acres from C-3 (Heavy Commercial), R-2 (Two-Family Residential) and R-M (Residential Manufactured and Mobile Home) Districts to CP-3 (Planned Heavy Commercial) District **(Ord. 2581)**
 - b. Preliminary Development Plan – 12.19 acres, 2 commercial flex buildings and personal and commercial outdoor storage **(Ord. 2581)**
6. **Midwest Commerce Center** (sales and distribution center)
 - a. Preliminary Development Plan (revised for lighting stipulation) – **(Ord. 2583)**
7. **Olathe Ford RV** (expansion of outdoor RV storage)
 - a. Rezoning 23.4 acres from A (Agriculture) and C-3 (Heavy Commercial) Districts to M-1 (Restricted Industrial) District **(Ord. 2586)**
8. **Enterprise Rental** (office)
 - a. Conditional Use Permit (car rental with outdoor storage – heavy) **(Ord. 2594)**

The Commission recommended that the Council deny the following projects/applications:

1. **Fairfield Farms** (mixed density residential development)
 - a. Rezoning 42.4 acres from R-1 (Single-Family Residential) District to R-4 (Mixed Density Neighborhood) District **(application was withdrawn before it went to Council)**

The Commission recommended approval of the following text amendments (and Council complied with recommendation except as noted):

- TA-18-01 **(Ord. 2584)** – Reconcile Comprehensive Plan future land uses and Zoning districts
- TA-18-02 **(Ord. 2584)** – Access location and spacing

- TA-18-03 & TA-18-04 (**Ord. 2584**) – Temporary signs
- TA-18-05 (**Ord. 2587**) – Activity Center Planned District
- TA-18-06 (**Ord. 2584**) – Medium size trees
- TA-18-07 (**Ord. 2584**) – Use and building type standards
- TA-18-08 (**Ord. 2584**) – Temporary freestanding sign height
- TA-18-09 (**Ord. 2587**) – Residential fences
- TA-18-10 (**Ord. 2587**) – Nonconforming lots
- TA-18-11a – Garage limits for duplexes (**remanded back to PC for further consideration in Comprehensive Plan review process**)

The Commission recommended denial of the following text amendments (all remanded back to PC for further consideration in Comprehensive Plan review process):

- TA-18-11b – Access width limits for Suburban Yard frontage type
- TA-18-11C – Hardscape for Suburban Yard frontage type
- TA-18-12 – Street trees

The Commission recommended approval of the following Comprehensive Plan amendments (all adopted by Council as recommended):

- **CPA-18-01 (Ord. 2574)** – Amendments associated with the adoption of the Gardner Main Street Corridor Plan and Main Street Corridor Market Analysis
- **CPA-18-02 (Ord. 2582)** – Amendments associated with the adoption of the I-35 & 175th Street Interchange Subarea Plan
- **CPA-18-03 (Ord. 2596)** – Amendments to revise the Capital Improvements Element (CIE)

Other Commission actions:

- Annual review of the Comprehensive Plan and initiation of amendments to address 28 necessary items.
- Found that the 2019-2023 Capital Improvement Program is in general conformance with the Comprehensive Plan.
- Reviewed the parklet community input survey and offered design input.
- Found that the Redevelopment TIF Project Plan for Main Street Market Place, Project Area 1, was consistent with the Comprehensive Plan.

Project Status: 2017 approvals

- Hampton Inn – nearing completion
- Santa Fe Self-Storage expansion – complete, issued Certificate of Occupancy
- Dairy Queen – complete, issued Certificate of Occupancy
- Multi-Tenant Commercial Building (First Point Urgent Care and Enterprise Rental) – nearing completion, issued Temporary Certificate of Occupancy
- Scooters – complete, issued Certificate of Occupancy
- Bethel Estates No. 4 – constructing public improvements and buildings
- Midwest Commerce Center Phase II – nearing completion, issued Temporary Certificate of Occupancy
- Plum Creek Manor II – public improvements complete and homes under construction
- Tuscan Farms – approved development agreement and awaiting approval of public improvement plans for Phase I

- Copper Springs IV – public improvements complete and homes under construction
- Quail Meadows II – public improvements complete and homes under construction

Project Status: 2018 approvals

- Cottages at University Park – phase I public improvement plans approved, awaiting payment of excise tax and recording of plat
- Gardner Justice Center – nearing completion
- Gardner Business Center Phase 1 – building permit issued
- Olathe Health Urgent Care Gardner – building permit issued
- Willow Chase V – public improvement plans approved, awaiting payment of excise tax and recording of plat
- Gardner Dental – building permit issued
- Main Street Market Place – development agreement approved, awaiting approval of public improvement plans for Phase I Price Chopper
- Mid America Bank – building permit issued
- Symphony Farms IV – awaiting public improvement plan approval from KDHE then recording of plat
- Valero Gas Station – plat recorded and plans under review
- Belfonte Car Wash – awaiting FAA approval, plans under review

STAFF APPROVALS

Please be aware of the cases that have been reviewed and approved administratively (by staff) through the simplified process enabled by the Land Development Code.

- ***Administrative Plat***
 - University Park No. 2 (12 duplex splits)
 - Copper Springs III Detention (Replat)
 - Concrete Strategies (Lot combination)
 - Steuber Lakehouse Expansion (Lot combination)
 - Genesis Farms Addition No. 2 (Duplex split)
- ***Administrative Site Plan***
 - SMJ International (wireless facility eligible facility request)
 - King of Kings Church (building addition)
 - Coleman (parking expansion)
 - Crown Castle (wireless facility eligible facility request)
 - SMJ International/Verizon (wireless facility eligible facility request)
 - SMJ International/T-Mobile (wireless facility eligible facility request)
 - SMJ International/Sprint (wireless facility eligible facility request)
- ***Administrative Adjustment***
 - 4 duplexes for Craig Brett Homes
 - 1 duplex for Dan Hecke
 - 1 detached house for Martens Family Builders

We greatly appreciate your time and effort on the Planning Commission and look forward to a busy 2019!