

**NEWTON-NORTH NEWTON PLANNING COMMISSION
REGULAR MEETING
February 4, 2019**

Members present-

Newton: Carl Harris (11-3), Dan Harder (8-0),
Jordan Miller (14-0), James Ontiveros (10-2)

North Newton: Gary Roth (12-2), Tyson Weidenbener (10-4), Joe Slechta (11-3)

Members absent-

Newton: Jay Sommerfeld (5-7), Julie Yoder (12-2)

North Newton:

[Note: attendance-recording period runs from 6-4-18 to 5-31-19]

Staff present:

Newton: Ryan Sellers, City Planner
Mark Jenkins, Building & Zoning Administrator
Christopher Towle, City Attorney

The Newton-North Newton Area Planning Commission met on February 4, 2019 in a regular meeting at the Newton City Hall commission chambers, 201 East 6th Street, Newton, Kansas. At 7:00 p.m., a quorum was present and Chair Harris called the meeting to order.

AGENDA ITEM NO. 1

Consider approval of the January 7, 2019 meeting minutes.

Commissioner Weidenbener moved and Commissioner Roth seconded to approve the minutes as presented. Motion carried, 7-0.

AGENDA ITEM NO. 2

Reconsider, and conduct a public hearing on, an application for a Zoning Amendment request to property owned by Harder Properties LLC, located on S Anderson Ave and Summer Drive, to be rezoned from an R-1 (Single-Family Dwelling District) zoning classification to an R-3 (Multi-family Dwelling District) zoning classification. The property is legally described as: Lots Twenty-one (21) through (40), inclusive, Block Two (2); Lots Twelve (12) through Twenty-two (22), inclusive, Block Six (6); all of Block Seven (7); and Lots One (1) through Four (4), inclusive, of Block Eight (8), Summer Crossing Addition, a Replat of a portion of Fieldstone Subdivision, an Addition to Newton, Harvey County, Kansas.

Ryan Sellers, City Planner, presented the staff report. At the regular meeting of the Planning Commission on December 3, 2018, an application for a zoning amendment was submitted to the Newton-North Newton Area Planning Commission by property owner Harder Properties LLC for property located

along the east side of Anderson Avenue, north of SW 24th Street. The applicant requested a change of zoning district from the current Newton R-1 (Single-Family Dwelling District) zoning classification to an R-3 (Multi-family Dwelling District) classification. The Planning Commission's recommendation for denial was based on two stated factors:

1. The Planning Commission felt that the area requested for the zoning amendment was too large and should be reduced; and
2. The Planning Commission felt everyone that owns property or lives in Summer Crossing Addition should have been notified.

The legal description of the property is:

Lots Twenty-one (21) through (40), inclusive, Block Two (2); Lots Twelve (12) through Twenty-two (22), inclusive, Block Six (6); all of Block Seven (7); and Lots One (1) through Four (4), inclusive, of Block Eight (8), Summer Crossing Addition, a Replat of a portion of Fieldstone Subdivision, an Addition to Newton, Harvey County, Kansas.

This request was partially driven by a potential multi-family, senior (55+) housing development which would take place on approximately 6.74 acres, labeled on the plat map as Lot 40, Block 2. This property is adjacent to the east side of S. Anderson Avenue. The housing development is slated to be single-story buildings faced in brick or stone, and would include a club house with a kitchen, workout facility, library, and office. Staff reported that this proposal was in conformance with zoning code regulations, and the City's long-term land use plans that projects residential or light commercial zoning for this area of town. The proposal was also in conformance with the City's 2011 Housing Market Demand Analysis report that notes the need for additional single and multi-family housing in the southern part of town.

The recommendation of the Planning Commission to deny the requested zoning amendment was then forwarded and received by the Newton City Commission at their regular meeting on January 8, 2019. After deliberations a motion was moved, seconded, and unanimously approved to reject the recommendation of the Planning Commission and to return this matter back to the Planning Commission for further review and comment at their regular meeting on February 4, 2019. The City Commission requested that the Planning Commission address the following specific concerns:

1. The Planning Commission's recommendation that the area to be rezoned is "too large and should be reduced" which implied that a smaller area to be so rezoned would have been acceptable. If so, which portion of the area included in the application would be appropriate for rezoning to an R-3 District?
2. Article 1, Section 1.10-4, A through E, of the zoning ordinances sets forth the specific criteria by which the appropriateness of such zoning amendment is to be determined, as supplemented by additional factors provided by the Kansas Supreme Court in the case of Golden v. Overland Park. The record did not reflect any findings by the Planning Commission as to these criteria, and is requested to provide such findings.

Chair Harris asked the Commission for additional questions from the Commission to staff. Seeing no questions, Chair Harris requested that the applicant Ron Harder, 7021 SE 60th Street, speak. Mr. Harder addressed the three things that steered the conversation at the December meeting. These three items including zoning being a promise, whether more residents should have been notified, and the area

being too big. Mr. Harder also informed the Commissioners that he was willing to concede 15 lots to decrease the rezone area. Several commissioners questioned what would eliminating the 15 lots accomplish.

Chair Harris asked the applicant as to how many existing R-1 lots are available for construction in Newton. Chair Harris closed the applicant portion of the presentation and opened the public hearing. Richard Evangelista, 2022 S. Chestnut, was present to speak during the public hearing. Mr. Evangelista spoke on a verbal promise made to him upon building his house that this area would remain R-1. He also talked about the rezoning increasing traffic in the Summer Crossing Addition. He reiterated the fact that he and a few neighbors were not notified of this rezoning request. He went on to discuss the proposed Redwood Development. Orville Schmidt, 1913 S. Anderson Rd., and Brandon Smith, 2029 S. Chestnut were also present to voice their opposition of this request.

Chair Harris closed the public hearing and asked the commissioners if there were any additional questions. Commissioner Harder asked about an easement located within Block 7. Mark Jenkins informed him that you would not be able to build upon that easement unless vacated which would then have to be approved by the City Commission. Chair Harris requested a motion from the bench. Commissioner Miller moved to approve the zoning amendment request from R-1 to R-3, adopt the staff report from City Planner, Ryan Sellers, adopt the attached findings of fact and found the following factors weighed in support of this recommendation:

- A. Whether the change in classification would be consistent with the intent and purpose of these Regulations, with the City's adopted Comprehensive Plan, and other adopted City policies, plans, programs, ordinances, rules and regulations.
- B. Whether every use that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property located in the immediate vicinity; and whether the subject property is suitable for the uses to which it has been restricted.
- C. Whether adequate sewer and water facilities, and all other needed public services, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified.
- D. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such change or changing conditions; and whether the proposed amendment provides a disproportionately greater loss to the individual landowners relative to the public gain.
- E. Suitability of the property for uses to which it has been restricted
- F. Length of time the subject property has remained vacant as zoned

The following were found to be not applicable:

- A. Whether the proposed amendment would correct an error in the application of these Regulations.
- B. The character of the surrounding neighborhood.

Commissioner Harder seconded this motion. Motion carried, 4-3.

AGENDA ITEM NO. 3

Old business.

No old business was reported.

AGENDA ITEM NO. 4

New business.

No new business was reported.

There being no other business, the meeting adjourned at 8:45 p.m.

Ryan Sellers

Secretary