



**AGENDA**  
CITY OF AUGUSTA  
PLANNING COMMISSION  
December 9, 2019  
8:00am

*“Augusta – Where the metro’s edge meets the prairie’s serenity offering the perfect blend of opportunity and proximity for living, commerce and culture.”*

**A. CALL TO ORDER**

**B. MINUTES**

**1. PLANNING COMMISSION MEETING MINUTES**

Approval of the minutes from the October 14, 2019 and November 18, 2019 Planning Commission meetings.

**a) Planning Commission Motion / Vote**

**C. BUSINESS**

**1. Z2019-14: CONDITIONAL USE PERMIT FOR A PROPOSED ADULT DAY CARE FACILITY OPERATED BY PARADIGM SERVICES, INC. TO BE LOCATED AT 1235 STARKEY STREET**

Consider approval of a Conditional Use Permit allowing an adult day care facility operated by Paradigm Services, Inc. to be located at 1235 Starkey Street contingent upon conformance to the adopted zoning regulations and conditions and restrictions imposed by the Augusta Planning Commission.

- a) Staff Report
- b) Review Golden Factors
- c) **Commission Motion / Vote**

**D. MATTERS FROM / FOR COMMISSION**

- 1. Development inquiry for 308/310 East Main Street from Randy Johnson.

**E. ADJOURN**



## Planning Commission Minutes

October 14, 2019

8:00am

- Members Present:** Connie Thurman; David Bisagno; Nick Hoefgen; Elmer Simon; Jake McClure; Jim Keller
- Members Absent:** Rick Blue
- Staff Present:** Cody Sims, Assistant City Manager  
Susan Smith, Community Development Administrative Assistant
- Visitors Present:** Tammy Wilson; Douglas Marr; Mark McCollom; Toni Tucker; Homer King; Jim Taylor; Mark Sudduth; Amy Lowe

### *Minutes:*

Thurman made a motion to approve the minutes from the September 9, 2019 Planning Commission meeting; Hoefgen seconded the motion. Motion carried without opposition.

### *Business:*

*Development Proposal for Lot 1, Block 1 in the Northridge Subdivision:* Sims provided the staff report to consider approval for the Final Replat, Master Drainage Plan, and zoning district reclassification for Lot 1, Block 1 of the Northridge Subdivision located at SW 60<sup>th</sup> Street and SW Ohio Street Road in the Growth Area. Sims stated the zoning district reclassification was required because the subject lot was five (5) acres to support the development of a church, thereby requiring the Assembly zoning classification. If the Final Replat was approved, the five (5) acre lot would be further subdivided into five (5) one-acre lots for residential development, thereby requiring the zoning reclassification to R-6A. The Final Replat, the Master Drainage Plan, and the zoning district reclassification from A-Assembly to R-6A Rural Residential was presented to the Butler County Board of County Commissioners on September 24, 2019. The Board of County Commissioners voted 5-0 to provide a positive recommendation for approval to the Augusta Planning Commission.

McCollom stated he purchased the Lakes of Northridge in 2004 and said that Phase 1 is almost complete. He said the lot that is zoned for Assembly would be better fit as single lots for the neighborhood. McCollom would also like to extend Northridge Ct to 60<sup>th</sup> Street.

Hoefgen made a motion to approve the Final Replat of Lot 1, Block 1 of the Northridge Subdivision; Simon seconded the motion. Motion carried without opposition.

Hoefgen made a motion to approve the Master Drainage Plan for the Replat of Lot 1, Block 1 of the Northridge Subdivision; Simon seconded the motion. Motion carried without opposition.

Bisagno opened the public Hearing for the Zoning District Reclassification from A – Assembly to R-6A for the replat of Lot 1, Block 1 in the Northridge Subdivision:

Tammy Wilson spoke in support of changing the zoning from Assembly to R-6A Rural Residential. She said that the area didn't need more traffic on Sundays with another Church on the corner.

Douglass Marr said that this is a high quality area, and the subdivision's covenants were not reviewed by the City staff before the meeting. The property in question is excluded from the current covenants, so a person can put anything on the land. Marr stated that the Golden Factors were incomplete because in his estimation they did not take into account the private restrictions in the covenant's and, therefore, the Golden Factors needed to be reevaluated. If someone purchased 2 lots, then there would not be 5 lots available. Marr also would like to have the HOA established. Marr also would like to have the Block 1 Lot 1, 2, 3, 4, 5 renamed.

McCullom stated that he would make an amendment to the current Covenants to include the Final Replat of Lot 1 Block of the Northridge Subdivision.

Sudduth spoke about how nice and well thought out the Northridge Subdivision area is in Butler County.

Sims provided a response to Marr's interpretation of the Golden Factors and stated the subdivision's covenants, conditions, and restrictions are a private agreement between property owners and the developer, and are not a publicly approved or enforced document. The Golden Factors take into consideration public restrictions identified in the Comprehensive Plan, Zoning Regulations, and the Subdivision Regulations, as well as observations of the environment around the proposed site. Compliance and enforcement of subdivision CCRs is a civil matter. Sims also reminded the Planning Commissioners that they were tasked with reviewing the Final Replat of Lot 1, Block 1 of the Northridge Subdivision, and that there are two different plats for the Northridge subdivision. Sims stated, pursuant to Kansas law, there is a fourteen (14) day protest period that starts on Tuesday, October 15, 2019 at 8AM and runs until October 28, 2019 at 5:00PM. The Final Replat and zoning district reclassification will be presented to the City Council for final approval on November 4, 2019.

Amy Lowe spoke about having drainage issues in her area at Northridge. Lowe said that she has contacted the City of Augusta, Butler County, and Mark McCullom's office to try and find what the elevations should be in the area, and has not had any luck. She said that the old stuff needs fixed before any new houses get built. Jake McClure spoke and said that his business did the streets in Northridge and that Goedecke Engineering did the inspections. However, McClure did not have the plans.

Toni Tucker voiced that she was concerned opening of Northridge Ct to 60<sup>th</sup> St would add more traffic, especially on Sundays through the neighborhood. She said that there was one HOA meeting, but McCullom was a not in attendance.

Jim Taylor expressed his concern of the drainage and wanted to object to more addition out in the Lakes of Northridge. He said there was no representation for the homeowner's in the HOA.

Bisagno closed the Public Hearing.

Bisagno read the Golden Factors.

Keller made a motion to approve the Zoning District Reclassification from A- Assembly to R-6A Rural Residential; Simon seconded the motion. Motion carried without opposition.

*Adjourn:*

Hoefgen made a motion to adjourn at 9:25am; McClure seconded the motion. Motion carried without opposition.

/s/Susan Smith, Secretary

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## Planning Commission Minutes

November 18, 2019

8:00am

Special Meeting

**Members Present:** David Bisagno; Rick Blue; Elmer Simon; Jim Keller; Nick Hoefgen; Jake McClure; Connie Thurman

**Members Absent:**

**Staff Present:** Cody Sims, Assistant City Manager  
Susan Smith, Community Development Administrative Assistant

**Visitors Present:** Karen Berry; Ron Reavis; Mike Rawlings

### *Business:*

*Proposed Floodplain Management Ordinance Pursuant to 44 CFR Section 60.3 (d) - Regulatory Floodway Identified, K.S.A 12-766, and K.A.R. 5-44-1 through 5-44-7:* Sims provided the Staff report and recommended approval to the Augusta City Council the proposed Floodplain Management Ordinance establishing new development standards within flood prone areas for the City of Augusta. Sims explained the Floodplain Management Ordinance was required because new Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) data was produced by FEMA. The new FIRM and FIS data will go into effect on January 22, 2020. The City of Augusta is required to have an updated Floodplain Management Ordinance approved by the City and the Chief Engineer of the Kansas Department of Agriculture – Division of Water Resources before that day. If not, the City will be suspended from the National Flood Insurance Program (NFIP), which could impact existing or future mortgages for property in which the lender requires flood insurance.

Sims presented the proposed Floodplain Management Ordinance that meets the minimum requirements established by FEMA and the Kansas Department of Agriculture – Division of Water Resources. Sims also included all recommended additional standards for the Planning Commission's consideration, which included: Standards for Agricultural Structures, Standards for Accessory Structures, Standards for Critical Facilities, Standards for Hazardous Materials, Standards for Cumulative Improvement, Standards for Temporary Structures, and Higher Standards for Freeboard. Sims noted in the past, the City has adopted the minimum standards required by FEMA; however, some additional recommended standards would provide staff better clarification when working with property owners on development projects located within special flood hazard areas. Sims also shared KDA-DWR recommends increasing freeboard requirements from one (1) foot above base flood elevation to two (2) feet above base flood elevation. The higher standard of freeboard helps further mitigate risk associated with flooding. While there are higher construction costs up front, the higher standards of freeboard provide the property owner with a 40% reduction in annual flood insurance premiums on new or substantially improved structures. Sims also shared the number of properties impacted by a special flood hazard area has been substantially reduced since the enhanced levee was certified by the U.S. Army Corps of

Engineers. Since higher standards of freeboard only pertains to new or substantially improved structures, and the only properties located within the special flood hazard area are owned by the City in the Meadowview Acres buyout area, questions centered on how much citizens would even value from the added regulations. The proposed Floodplain Management Ordinance only pertains to property located within the City of Augusta. All properties located outside of the city limits, including within the growth area, are regulated by Butler County's adopted floodplain regulations.

Bisagno opened the Public Hearing.

No one addressed the planning commission. A couple of questions were asked by the planning commissioners. Sims answered their questions.

Bisagno closed the Public Hearing.

Keller made a motion to approve the proposed Floodplain Management Ordinance excluding the Standards for Agricultural Structures, and Higher standards for Freeboard; Blue seconded the motion. Motion carried with opposition from Thurman and Hoefgen.

*Adjourn:*

Hoefgen made a motion to adjourn at 9:29am; Simon seconded the motion. Motion carried without opposition.

/s/Susan Smith, Secretary

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**CITY OF AUGUSTA  
PLANNING COMMISSION  
AGENDA REPORT**

Meeting Date: December 9, 2019  
 Department: Community Development  
 Submitted By: Cody Sims, Assistant City Manager  
 Prepared By: Cody Sims, Assistant City Manager  
 Agenda Title: **Z2019-14: Conditional Use Permit for a Proposed Adult Day Care Facility Operated by Paradigm Services, Inc. to be Located at 1235 Starkey Street**

**RECOMMENDED ACTION:**

Review Golden Factors; Approve a Conditional Use Permit allowing an adult day care facility operated by Paradigm Services, Inc. to be located at 1235 Starkey Street contingent upon conformance to the adopted zoning regulations and the following conditions:

1. **PERMITTED USE.** The use permitted for the Conditional Use Permit shall be limited to adult day care services for individuals with intellectual disabilities and their caretakers.
2. **HOURS OF OPERATION.** Permitted use of the property for adult day care services shall be limited to business hours beginning at 8:00am and ending no later than 4:00pm, Monday – Friday.
3. **LICENSES & PERMITS.** No construction or any other activities shall commence on any portion of the tract of land without the proper licenses and/or permits from the City of Augusta or other appropriate governmental units.
4. **SUNSET.** This permit shall be in full force and effect throughout the duration of Paradigm Services, Inc.’s permitted operation provided the site remains in compliance with these conditions and restrictions, as well as all applicable local, state, and federal laws, rules, and regulations. If, at any time, Paradigm Services, Inc. terminates the adult day care use of the property, as permitted with this Conditional Use Permit, no additional use shall take over the property, unless in explicit compliance with the adopted zoning regulations for the City of Augusta, Kansas.

5. **REVOCATION & EXPIRATION.** This Conditional Use Permit shall qualify for expiration and/or revocation as follows:

- a. The Conditional Use Permit shall become null and void within 180 days of the date of approval if not exercised. The Conditional Use Permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished.
- b. If the building permit or use is abandoned or discontinued for a period of 180 days, it may not be re-established unless authorized by the Board of Zoning Appeals upon appeal.
- c. A Conditional Use Permit may be revoked if the applicant fails to comply with the imposed conditions, restrictions and safeguards imposed herein.

**ANALYSIS:**

Paradigm Services, Inc. has submitted a request for a Conditional Use Permit to utilize the property located at 1235 Starkey Street for an adult day care facility. The site is proposed to accommodate individuals with intellectual disabilities and their caretakers. It will operate during business hours of 8:00am to 4:00pm Monday through Friday. The property is zoned *R -1 Residential* and, as such, the adult day care use is not a use that is allowed by right.

***Proposed changes to the site:***

1. Remove existing playground and fencing and replace with new playground and new fencing.
2. Add new trash enclosure in existing parking area on the west side of the property along Johnson Street.
3. No new signage will be added to the site.
4. New addition to the existing building that will add four (4) offices and a new roof on the south side of the structure.
5. New parking lot on the south side of the building will consist of 14 regular parking spaces and one (1) ADA parking space. The new parking lot will be accessible from Johnson Street and Starkey Street.
6. Existing gravel parking lot on the west side along Johnson Street to remain and will be reconfigured/regraded to provide six (6) parking spaces and location for a new trash enclosure.



7. All existing residential lights on building will remain. New can lights will be added to new covered entry which downlight the entry only. No light poles will be added to parking area. All fixtures will be selected to prevent light trespass beyond the property line.

All of the proposed changes to the site are aligned with the requirements of the zoning and subdivision regulations, with exception item no. six (shown in red text at the bottom of sheet 2). Section 1201 of the zoning regulations requires the following:

*1201.1           General. There shall be provided at the time of erection of any main building or at the time such buildings are altered, enlarged, converted or increased in capacity minimum off-street parking space with adequate provision for ingress and egress by standard-sized vehicles in accordance with the requirements of this chapter. All parking spaces shall be of hard surface (concrete or asphalt) unless otherwise provided herein.*

As denoted on the face of the site plan, the proposed project will reconfigure/regrade and add new gravel to the existing parking area along Johnson Street. In order to be compliant with the zoning regulations, the existing parking area will need to be improved to a hard surface parking area consisting of either concrete or asphalt if it will be retained for a dedicated parking area. This improvement will also benefit solid waste collection and minimize potential future damage to private property due to the heavy weight of the refuse collection trucks.

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**Zoning Administrator Approval Date:**           12-04-2019  
**Attachments** (*list in packet assembly order*):

1. *Proposed Site Plan for 1235 Starkey Street*
2. *Golden Factors for 1235 Starkey Street*



# The Golden Factors

**Meeting Date:** 12/9/2019

**Applicant Name:** Paradigm Services, Inc.

**Property Address:** 1235 Starkey Street

**Current Zoning Classification:** R1 - Single-Family Dwelling

**Proposed Zoning Classification:** R1 - Single-Family Residential

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In 1978, the Supreme Court of Kansas handed down a decision in *Golden v. City of Overland Park* that established the basis for considering and reaching a decision on zoning changes and Conditional Use Permits. The decision should be made based on the evidence submitted and the factors considered. The eight *Golden Factors* emerged from this case and have become institutionalized in the consideration of zoning changes in Kansas.

The factors must be considered by the Planning Commission and Governing Body in order to determine whether granting or denying a zoning change, including a Conditional Use Permit, was reasonable. It is not necessary that findings on all of the factors be favorable to approve or be unfavorable to deny the zoning change or Conditional Use Permit. Also, not all the factors carry the same weight and the weight may vary from case to case.

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**1. The character of the neighborhood:**

*The character of the neighborhood is low-density single-family residential.*

**2. The zoning and uses of property nearby:**

*The zoning of nearby property is R-1, R-1A and R-2A. All land uses surrounding the subject property are used for residential purposes.*

**3. The suitability of the subject property for the uses to which it has been restricted under its existing zoning:**

*The current zoning classification of the subject property is R-1: Single-Family Dwelling. Any use outside of residential will require action by the Planning Commission.*

**4. Extent to which removal of the restrictions will detrimentally affect nearby property:**

*The zoning district classification is not changing; therefore, restrictions will not be removed from the property that would detrimentally affect nearby property. In support of the Conditional Use Permit, additional conditions and restrictions are being proposed in*



## The Golden Factors

*an effort to preserve the character of the neighborhood and the residential use of surrounding properties.*

**5. Length of time the subject property has remained vacant as zoned:**

*According to Butler County records, the Assembly use of the property for the former church ended in April 2014. Since that time, the most recent use of the property has been for a child day care facility. The property was purchased by the current owner in June 2019.*

**6. Relative gain to the public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners:**

*Staff anticipates minimal gain to the public health, safety and welfare, as well as minimal hardship on other individual landowners.*

**7. Recommendation of professional staff:**

*Professional staff recommends approval of the Conditional Use Permit in accordance with the conditions and restrictions imposed by the Planning Commission.*

**8. Conformance with the Comprehensive Plan:**

*The Comprehensive Plan recognizes the future land use of the subject property and surrounding area to remain residential.*