



PLANNING & ZONING
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**PLANNING COMMISSION
& BOARD OF ZONING APPEAL MINUTES**
JANUARY 21, 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, Brian Davidson, and Lynn Heath. Member Alex Zarchan was absent. Staff in attendance: Jennifer McCausland, City Administrator, Lance Onstott, Assistant City Administrator, Les Mangus, Director of Community Development, and Justin Constantino, Assistant Director of Community Development. A/V services provided by WAV Services.

3. APPROVAL OF THE MINUTES OF THE DECEMBER 17, 2019 MEETING

I, Erik Pedersen, move to approve the minutes of the December 17, 2019 meeting as presented. Motion seconded by Gary Israel. Motion carried 6/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

Mr. Mangus provided a summary of 2019, stating that the City had received over 80 single-family housing permits and over 30 two-family housing permits and that staff anticipates continued development activity.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

I, Gary Israel, move to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Brian Davidson. Motion carried 6/0.

**5. BZA-V-2020-01 – PUBLIC HEARING ON AN APPLICATION FOR VARIANCE ON PROPERTY
GENERALLY LOCATED AT 2935 EAST FLINT HILLS NATIONAL PARKWAY, ANDOVER, KANSAS**

Mr. Mangus stated that the owner of the property has designed a garage and pool house structure that exceeds the 500 square foot maximum for detached accessory structures.

Mr. Onstott stated that the applicant was not in attendance for the meeting. Mr. Onstott stated that the applicant had submitted supplemental information with their application that is available in the meeting packets.

Commissioner Heath asked how many garages would be located on the subject property. Mr. Mangus stated that staff was unaware of any changes to the principal structure.

Chairperson Schnauber noted that the applicant had provided a letter from Flint Hills National Residences in support of the project as part of their application. Chairperson Schnauber asked if the applicant had provided any further written correspondence. Mr. Mangus stated that they had not.

Chairperson Schnauber opened the public hearing at 7:09 pm.

Chairperson Schnauber closed the public hearing at 7:10 pm.

<p>1. The physical surroundings, shape or topography of the property would result in a practical difficulty, as distinguished from a mere inconvenience, for the owner, lessee or occupant.</p>	
STAFF	The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.
BZA	Concur.
<p>2. Granting the variance will result in material detriment or injury to other property or improvements in the neighborhood.</p>	
STAFF	The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.
BZA	Concur.
<p>3. Granting the variance will result in an inadequate supply of light or air to adjacent property, substantially increase traffic congestion, increased fire risk, or substantially diminished property values in the neighborhood.</p>	
STAFF	The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.
BZA	Concur.
<p>4. The request for a variance is not based exclusively on a desire of the owner, lessee, occupant or applicant to make more money out of the property.</p>	
STAFF	The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.
BZA	Concur.

5. The requested variance arises from a condition unique to the property in question, which is not ordinarily found in the same zoning district, and which was not created by any action of the property owner or the applicant.

STAFF The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.

BZA **Concur.**

6. Strict application of the provisions of these Zoning Regulations would result in unnecessary hardship for the owner, lessee or occupant of the land or structures.

STAFF The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.

BZA **Concur.**

7. Granting the variance will not adversely affect the rights of adjacent property owners or residents.

STAFF The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.

BZA **Concur.**

8. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

STAFF The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.

BZA **Concur.**

9. The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.

STAFF The subject lot is 2.7 acres, which provides a substantial area for structures while remaining below the zoning district's maximum allowable lot coverage limit of 30%. Additionally, the large lot size allows for adequate separation from existing and proposed structures to adjoining properties and public streets.

BZA **Concur.**

Having considered the evidence at the hearing and determined that the findings of fact have been found to exist that support all five conditions set out in Subsection 11-106.B2 of the Zoning Regulations and K.S.A. 12-759(e), I, Lynn Heath, move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2020-01 as requested. Motion seconded by Gary Israel. Motion carried 6/0.

Chairperson Schnauber's closing remarks:

A resolution will be prepared and made available to the applicant as soon as reasonably possible but no later than March 6, 2020. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after the Resolution is signed and filed with the Zoning Administrator.

6. BZA-CU-2020-01 – PUBLIC HEARING ON AN APPLICATION FOR CONDITIONAL USE ON PROPERTY GENERALLY LOCATED AT 127 WEST CENTRAL AVENUE AND 405 NORTH ANDOVER ROAD, ANDOVER, KANSAS

Mr. Mangus stated that conditional uses are listed within the zone for a property, and the proposed request is for an outdoor display, which is not permitted outright in the zone.

Mr. Bob Kaplan, 150 N. County Line Road, applicant, stated that the project involves the installation of a parking lot display of a space capsule to be used as an identifier for a tenant space known as the Space Discovery Institute.

Chairperson Schnauber asked if the capsule would be up against the building or if it would be displayed near the street. Mr. Kaplan stated that the capsule would be against the building and would be accommodated by a concrete pad and lighting.

Commissioner Israel asked if the Space Discovery Institute would be open to the public or just schools. Mr. Kaplan responded that the Space Discovery Institute would be free and open to the public.

Commissioner Pedersen asked if there were time parameters that go with a conditional use. Mr. Mangus stated that a conditional use runs with the land, so the capsule would continue from owner to owner in the future and there would be no timeline. Commissioner Israel asked if someone else at a later date could place something different on the pad if the space capsule is removed. Mr. Mangus stated that the conditional use is specifically for a space capsule. Mr. Mangus stated that if the conditional use is vacated for more than six months, its authority goes away.

Commissioner Pedersen asked about the height of the capsule. Mr. Kaplan stated that the capsule is 12 feet high.

Chairperson Schnauber opened the public hearing at 7:32 pm.

Chairperson Schnauber closed the public hearing at 7:32 pm.

1. The proposed conditional use complies with all applicable zoning regulations, including lot size requirements, bulk regulations, use limitations and performance standards, or a concurrent application for variance is in process.

STAFF | The proposed outdoor display complies with the applicable bulk regulations.

BZA | **Concur.**

2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.

STAFF | The outdoor display is well screened or separated from nearby residences, businesses, and public streets.

BZA | **Concur.**

3. The proposed conditional use will not dominate the immediate neighborhood, preventing development and use of neighboring property in accordance with applicable zoning district regulations.

STAFF | The proposed location is screened by the existing commercial building on the south and west, is approximately 400' off of Central Ave.

BZA | **Concur.**

4. Off-street parking and loading areas for the proposed conditional use will be provided in accordance with the standards set forth in Article 6 of the Zoning Regulations.

STAFF | The proposed location does not interfere with the existing parking layout.

BZA | **Concur.**

5. Adequate utility, drainage and other such necessary facilities have been installed, or will be provided by platting, dedications or guarantees.

STAFF | N.A.

BZA | **Concur.**

6. Adequate access roads entrance and exit drives or access control designed to prevent traffic hazards or and to minimize traffic congestions in public streets and roads is available or will be provided by platting, dedications or guarantees.

STAFF | The proposed location does not interfere with the existing parking layout/access

BZA | **Concur.**

Commissioner Israel asked how students will be brought to the location and if bus parking would create issues. Mr. Mangus stated that it is a commercial parking lot that is capable of holding a school bus, although a drop-off would be a better scenario. Commissioner Heath stated that the likely scenario would be buses dropping off one bus at a time.

Chairperson Schnauber asked about the number of items for the Planning Commission to consider and how they differ from item to item. Mr. Mangus stated that because this item is a conditional use it is a different action and thus requires different considerations.

Having considered the evidence at the hearing and determined that the findings of fact have been found to exist that support all six conditions set out in Subsection 11-107C of the Zoning Regulations, I Erik Pedersen, move that the Chairperson be authorized to sign a Resolution granting the conditional use for Case No. BZA-CU-2020-01 as requested. Motion seconded by Lynn Heath. Motion carried 6/0.

Chairperson Schnauber's closing remarks:

A resolution will be prepared and made available to the applicant as soon as reasonably possible but no later than March 6, 2020. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after the Resolution is signed and filed with the Zoning Administrator.

7. BZA-V-2019-02 – APPLICATION TO EXTEND VALIDITY OF THE VARIANCE GRANTED ON PROPERTY GENERALLY LOCATED AT 849 SOUTH ANDOVER ROAD, ANDOVER, KANSAS

Mr. Mangus stated that a variance was granted for the 4,800 square foot accessory structure in July 2019 and that the applicant has not begun the project. The original variance had not been acted upon within 180 days, so the applicant is requesting an extension.

I, Gary Israel, move to extend the extension of 180 days to allow the applicant more time to begin construction on the variance granted for the property generally located at 849 Andover Road. Motion seconded by Lynn Heath. Motion carried 6/0.

I, Gary Israel, move to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Brian Davidson. Motion carried 6/0.

8. Z-2020-01 – PUBLIC HEARING AND RECOMMENDATION ON A CHANGE OF ZONING DISTRICT CLASSIFICATION APPLICATION FROM THE B-2 NEIGHBORHOOD BUSINESS DISTRICT TO THE B-3 RETAIL AND SERVICE BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT 822 NORTH ANDOVER ROAD, ANDOVER, KANSAS

Mr. Mangus stated that the applicant wants to expand their existing business on the subject property but is restricted by the 5,000 square foot maximum required by the B-2 zoning district. Mr. Mangus stated that staff is recommending that a change of zoning to a higher zone would allow for greater square footage but not all of the permitted uses would be compatible with neighboring single-family residences adjacent to the subject property.

Commissioner Pedersen asked if the expansion was going to the east. Mr. Mangus confirmed.

Commissioner Heath asked about the zoning of the surrounding properties. Mr. Mangus stated that the property to the east of the subject property is zoned SF-2 Single Family.

Commissioner Israel asked if this application applies to both the Phase 2 and Phase 3 buildings as shown on the architectural plan. Mr. Mangus stated that the application would remove the limitation on the maximum square footage.

Commissioner Israel asked if there was a regulation stating how much square footage in which the applicant would be limited. Mr. Mangus stated that every zoning district has a maximum lot coverage allowance and that the B-2 zoning district allows 30% lot coverage.

Phil Meyer of Baughman Company, representing the owner, stated that the present owner of the property, Flint Hills Orthopedic, is looking to expand their medical operations on the site and that he is in agreement with staff comments on the report.

Commissioner Pedersen asked if there was enough room on the driveway for two vehicles to pass one another. Mr. Meyer stated that there is an agreement between Flint Hills Orthopedic and the church to the south to share the driveway, including a joint access easement.

Chairperson Schnauber opened the public hearing at 7:49 pm.

Chairperson Schnauber closed the public hearing at 7:50 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 Adequate public facilities are in place.
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 No replatting or dedications are needed.
3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?	STAFF The site plan for the new building expansion would require a screening plan as a part of the Site Plan Review process.
4. What fact-based information in support of or in opposition to the requested zoning change has staff received?	STAFF None at this time.
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.

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

STAFF The property is suitable for its current zoning.

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 No.

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.

STAFF Not all of the permitted uses in the B-3 Retail & Service Business District are compatible with the adjacent single family residential uses.

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?

STAFF No. The new owner simply desires to expand.

PLANNING Concur.

COUNCIL

10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?	
STAFF	Adjacent to the north is a child care facility in the B-2 Neighborhood Business District. Adjacent to the south is a church in the B-2 Neighborhood Business District. Adjacent to the east are single Family residences in the Crescent Lakes PUD. Across Andover Rd. to the west is a single Family residence in the SF-1 Single Family Residential/ Low Density District. All in good condition. A homeowner's association open space landscape buffer exists along the east side of the subject property.
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?	
STAFF	Many of the permitted uses allowed in the B-3 Retail and Service Business District are not compatible with the adjacent existing single family residences. The increased traffic, noise, and hours of operation would be detrimental to the single family residences.
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 Comprehensive Plan Chapter 9 Delivering the Plan recognizes the need to infill the Andover Rd. Corridor and allow higher density and lot coverage.
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	Given the incompatibility of some of the uses permitted in the B-3 Retail & Service Business District Staff recommends approval of the change with the addition of an Arterial Transition Overlay District, which limits the permitted uses to those permitted in the B-2 Neighborhood Business District.
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 | With the addition of the Arterial Transition Overlay District limitations suggested Staff perceives no detriment to the public health, safety, or welfare.

PLANNING | Concur.

COUNCIL |

Commissioner Israel asked about the hours of operation for Flint Hills Orthopedic. Mr. Onstott stated that the hours of operation are Monday through Friday, 8:00 am until 5:00 pm.

Commissioner Davidson asked about the plan for onsite lighting. Mr. Meyer stated that the property would provide standard security lighting. Mr. Mangus stated that Site Plan Review Committee would require one-foot candle standard but the lights could be shut off. Mr. Mangus also stated that there is no limit to the hours of operation in the B-3 zoning district.

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-2020-01 be approved based on the findings of the Planning Commission on findings #8, #9, #10, #11, and #13 as recorded in the summary of this hearing with the following conditions: the approval of the change with the addition of an arterial transition overlay district which limits the permitted uses to those permitted in the B-2 neighborhood business district and also the hours of operation as outlined in the B-2 Neighborhood Business District. Motion seconded by Lynn Heath. Motion carried 6/0.

9. SU-2020-01 – PUBLIC HEARING AND RECOMMENDATION ON A SPECIAL USE APPLICATION RELATED TO THE ESTABLISHMENT OF A CHILD CARE FACILITY ON PROPERTY GENERALLY LOCATED AT 1216 EAST HIGHWAY 54, ANDOVER, KANSAS

Mr. Mangus stated that he had a conversation with the Ms. Bigley, the applicant, and that there may have been a misunderstanding of the condition regarding paving down McCandless Drive to the entrance of the proposed business and that a potential clarification in writing to the applicant may be in order.

Chairperson Schnauber asked if a discussion between the City and the applicant should be had prior to the Planning Commission vote. Mr. Mangus said it would probably be best to discuss with the applicant, but the applicant is present at the meeting to seek relief.

Commissioner Israel asked if there had been a traffic study done on the street to know how many people might be using the street. Mr. Mangus stated that the City does not have any traffic analysis for the street.

Commissioner Pedersen asked how far the proposed paving is supposed to go from Highway 54 and where the entrance to the proposed business will be located. Mr. Mangus stated that the Highway 54 Corridor Study suggests that the driveway be 100 feet from the existing right-of-way.

Chairperson Schnauber asked where the proposed driveway is going to be located. Mr. Mangus stated that the City has not yet received a formal site plan application.

Cristi Bigly, applicant, stated that she had met with City staff but was unaware of the requirement that she was required to pave the road. Ms. Bigly stated that she was also unsure of who would be maintaining the road once it is installed.

Chairperson Schnauber opened the public hearing at 8:10 pm.

Ashley Placke, 329 S. McCandless Drive, asked about the possibility of increased traffic and who would maintain the road once installed. Mr. Mangus stated that adequate public improvements do not currently exist for the subject property due to the increase in traffic generated by the proposed business and that the street should be upgraded to a paved surface. Mr. Mangus stated that if the City Council accepted the pavement of the road as a dedication than the City would be responsible for the maintenance because it is a public street.

Mr. David Bigley, applicant, asked if the road needed to be moved back 100 feet due to the Highway 54 Corridor Plan. Mr. Mangus stated that the corridor study requires 100 feet of separation from the highway to the first driveway.

Mr. Bigley asked what kind of paved road would be required. Mr. Mangus stated that a minimum improvement consisting of an asphalt overlay would be considered as a minimum requirement until the proposed freeway is built. Mr. Mangus stated that the paving of the parking lot would be considered when a site plan is submitted by the applicant.

Commissioner Heath asked if the original building on the subject property will be removed once the future right-of-way is built adjacent to Highway 54. Mr. Mangus confirmed that it would. Chairperson Schnauber asked if information pertaining to the building removal was conveyed to the applicant at the initial meeting between the applicant and the City. Mr. Mangus stated that it was.

Mr. Mangus suggested continuing the public hearing at a later date to allow for further discussion between the City and the applicant.

Ms. Bigley stated that her childcare license allows a maximum of 100 children and that she has 50 families total and anticipates 30-35 cars picking up and dropping off at the subject property daily. Mr. Mangus stated that staff anticipates 400 daily trips at the subject property, which includes trips in and out of the subject property during both drop-off and pick-up hours, also including employees.

Ashley Placke, 329 S. McCandless Drive, stated that traffic will also be coming from the north.

Commissioner Davidson asked for clarification regarding the process for extending the public hearing. Mr. Mangus suggested potentially continuing the public hearing to the following meeting in order to meet with the applicant to discuss expectations. Mr. Onstott extended an invitation to the applicants to meet with staff to discuss the issue further. Ms. Bigley expressed interest in meeting with staff to further discuss the issue.

Mr. Mangus suggested that the Planning Commission continue the public hearing to the February Planning Commission meeting and then to continue the public hearing to the March Planning Commission meeting if the applicant has a conflict.

I, Gary Israel, move that case number SU-2020-01 be continued to the next regular meeting on February 18th, 2020 at 7:00 pm. Motion seconded by Lynn Heath. Motion carried 6/0

10. MEMBER ITEMS

Commissioner Gary Israel acknowledged that this was the last meeting of Lynn Heath after serving the residents of Andover as a planning commissioner for roughly 23 years and thanked him for his service. Commissioner Heath stated that he has enjoyed his time and has tried to set an example. Ms. McCausland stated that Commissioner Heath will be replaced by Mr. Matt Rossi assuming that the City Council upholds the Mayor's appointment at the upcoming City Council meeting.

Commissioner Gary Israel mentioned that the Unified Development Manual (UDM) references the brightness of electronic messaging centers and that certain businesses in the community may not be adhering to the standards. Mr. Mangus stated that the City enforces brightness on digital signs and that staff will meet with businesses.

11. ADJOURN

I, Gary Israel, make a motion to adjourn. Motion seconded by Lynn Heath. Motion carried 6/0. Meeting adjourned at 8:31pm.

Respectfully submitted by:

Justin Constantino
Assistant Director of Community Development

Approved on the 18th day of February 2020 by the City of Andover Planning Commission.