



**PLANNING & ZONING**  
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**PLANNING COMMISSION  
& BOARD OF ZONING APPEALS MINUTES**  
**APRIL 20, 2021 | 7:00pm**  
VIRTUAL MEETING\*

**1. CALL TO ORDER**

Chairperson Erik Pedersen called the meeting to order at 7:01 pm.

**2. ROLL CALL**

Commissioners in attendance: Chairperson Erik Pedersen, Secretary Gary Israel, Kirsten Barnes, Marla Canfield, and Vance Garwood. Members Brian Davidson and Tim Hendricks were absent. Staff in attendance: 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 MARCH 16, 2021 MEETING**

*Gary Israel made a motion to approve the minutes of the March 16, 2021 meeting as presented. Motion seconded by Vance Garwood. Motion carried 5/0.*

**4. COMMUNICATIONS**

**A. COMMITTEE & STAFF REPORT**

None.

**B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT**

Mr. Mangus stated that the Community Development department has been busy and receiving development applications at a steady pace.

**5. AGENDA**

**5.1 PRELIMINARY PLAT – REVIEW AND APPROVAL OF THE HODGES SEVENTH SUBDIVISION  
PRELIMINARY PLAT GENERALLY LOCATED AT 309 W. TURNPIKE ROAD, ANDOVER, KANSAS**

Mr. Constantino introduced the agenda item and stated that the applicant is proposing seven duplex dwelling units on approximately 1.69 acres of property. Mr. Constantino stated that the property was rezoned from the SF-1 Single-Family Residential / Low Density District to the MF-2 Attached Single-Family Residential District in December 2020.

Mr. Constantino stated that the Subdivision Committee reviewed and recommended approval of the preliminary plat at their April 13th meeting with the condition that the applicant seek a variance on the 25-foot front setback requirement. Mr. Constantino stated that the applicant has submitted a variance application and the case is expected to be heard at the May 18<sup>th</sup> Board of Zoning Appeals meeting. Mr. Constantino stated that it was requested that the applicant provide staff with a confirmation from Evergy allowing a 15-foot utility easement as opposed to the required 20 feet, and that the applicant has provided correspondence with Evergy confirming their approval. Mr. Constantino stated that any outstanding engineering comments from the City Engineer have been addressed by the applicant.

Phil Meyer of Baughman Company, representing the applicant, stated that he was worked with the City Engineer to address any outstanding comments and has filed a variance per the request of the Subdivision Committee.

*Gary Israel made a motion to approve the Hodges Seventh Addition Preliminary Plat with the condition that the variance application to reduce the setback along W. Turnpike Road from the 25-foot requirement to 15 feet is approved by the Board of Zoning Appeals. Motion seconded by Vance Garwood. Motion carried 5/0.*

## **5.2 PRELIMINARY PLAT – REVIEW AND APPROVAL OF THE SPEYSIDE AT TERRADYNE ESTATES PRELIMINARY PLAT AND PLANNED UNIT DEVELOPMENT PLAN GENERALLY LOCATED AT THE SOUTHEAST CORNER OF N. 159<sup>TH</sup> STREET EAST AND KANSAS TURNPIKE, ANDOVER, KANSAS**

Mr. Constantino introduced the agenda item and stated that the applicant is proposing single-family homes on 28 individual lots on approximately 8.52 acres of property zoned SF-2 Attached Single-Family Residential / Medium Density District.

Mr. Constantino stated that the Subdivision Committee reviewed and recommended approval of the preliminary plat at their April 13th meeting with the conditions that the applicant provide staff with a confirmation from Evergy allowing a 15-foot rear yard utility easement as opposed to the required 20-foot rear yard utility easement and that any outstanding engineering comments regarding drainage be reviewed and confirmed by the City Engineer. Mr. Constantino stated that similar to the previous agenda item, the applicant has provided correspondence with Evergy confirming their approval with the stipulation that a 10-foot utility easement be depicted on Lot 15 of Block A. Mr. Constantino stated that the applicant has depicted the utility easement. Mr. Constantino stated that the City Engineer and the applicant's representative, Phil Meyer of Baughman Company, were unable to connect prior to the meeting.

Mr. Meyer concurred that he was unable to connect with the City Engineer prior to the meeting but has successfully addressed all other outstanding staff comments. Mr. Meyer stated that staff had a comment during their initial review requesting a possible access easement between lots 20 and 21 of Block A so that residents of the development would be able to access the putting green. Mr. Meyer stated that the developer has requested that no such easement be granted citing the ability of residents already having two points of access to the putting green, including a path through the reserve.

Mr. Israel stated that he didn't see a need for the access easement in the interest of privacy for the future homeowners of lots 20 and 21. Mr. Garwood concurred and stated that he thought the residents in the development already had enough access to the putting green.

*Gary Israel made a motion to approve the Speyside at Terradyne Estates Preliminary Plat with the condition that the applicant address any outstanding City Engineer comments pertaining to drainage. Motion seconded by Marla Canfield. Motion carried 5/0.*

*Gary Israel made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Kirsten Barnes. Motion carried 5/0.*

## **5.3 BZA-V-2021-03 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE ON PROPERTY GENERALLY LOCATED AT 844 S. DAISY LANE, ANDOVER KANSAS**

Chairperson Pedersen opened the public hearing at 7:20 pm.

Mr. Mangus stated that the subject property is located in a neighborhood of one-acre lots and that the applicant has two lots totaling approximately 1.91 acres. Mr. Mangus stated that there are several large accessory structures in the neighboring area and that the proposed accessory structure still provides adequate separation from surrounding properties. Mr. Mangus stated that the proposed accessory structure combined with the existing principal structure would result in approximately 6.8% lot coverage, which falls under the maximum allowable lot coverage of 30%.

Corey Bevan, the applicant, stated that he would be constructing a detached storage garage. Mr. Bevan stated that existing framework and footings exist for the structure that has never been built.

Mr. Garwood asked about the exterior building material. Mr. Bevan stated that the proposed building will match the existing structure on the property and will overall be slightly shorter in height.

Chairperson Pedersen closed the public hearing at 7:27 pm.

**DOES THE EVIDENCE DEMONSTRATE THAT:**

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.	
	STAFF	The subject property is 1.91 acres, which provides a substantial area for accessory 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. No additional traffic is expected as the intended use is personal storage.
	BZA	Concur.
2.	Granting the variance will result in material detriment or injury to other property or improvements in the neighborhood.	
	STAFF	No detriment and/or injury to other property or improvements is anticipated.
	BZA	Concur.
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.	
	STAFF	The subject property is 1.91 acres, which provides a substantial area for accessory 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. No additional traffic is expected as the intended use is personal storage.
	BZA	Concur.
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.	
	STAFF	The applicant has declared the intended use to be personal storage as an accessory residential use.
	BZA	Concur.

**SPECIFIC CONDITIONS TO BE MET:**

1.	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 minimum lot size for the SF-1 Single-Family Residential/Low Density District is 20,000 sf. The subject property is substantially larger at 83,100 sf., which provides substantial area for accessory structures while not affecting adjacent property owners.
	BZA	Concur.
2.	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 intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 1.91 acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 30%.
	BZA	Concur.
3.	Granting the variance will not adversely affect the rights of adjacent property owners or residents.	
	STAFF	The minimum lot size for the SF-1 Single-Family Residential/Low Density District is 20,000 sf. The subject property is substantially larger at 83,100 sf., which provides substantial area for accessory structures while not affecting adjacent property owners.
	BZA	Concur.
4.	The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.	
	STAFF	The subject property is 1.91 acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage 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 will not be opposed to the general spirit and intent of these Zoning Regulations.	
	STAFF	The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 1.91 acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 30%. The large lot will allow for all required setbacks to be adhered to.
	BZA	Concur.

*Having considered the evidence at the hearing and determined that the findings of fact have been found that support all five conditions set out in Subsection 11-106.B.2 of the Zoning Regulations and K.S.A. 12-759(e), Vance Garwood made a motion to authorize the Chairperson to sign a resolution granting the variance for case BZA-V-2021-03. Motion seconded by Gary Israel. Motion carried 5/0.*

#### **5.4 BZA-CU-2021-01 – PUBLIC HEARING ON AN APPLICATION FOR A CONDITIONAL USE ON PROPERTY GENERALLY LOCATED AT 429 N. ANDOVER ROAD, ANDOVER KANSAS**

Chairperson Pedersen opened the public hearing at 7:20 pm.

Mr. Mangus stated that several businesses in the area have expanded over the past few months and there have been frequent changes to many business models due to the pandemic. Mr. Mangus stated that one of the long-term tenants of Andover Square is Andover Wine & Liquor located at the east end of the shopping center adjacent to Andover Road. Mr. Mangus stated that the liquor store operator desires to add a drive-through window on the east elevation of the building, and that staff and the Site Plan Review Committee are supportive of the modification.

Mr. Israel asked if the Site Plan Review Committee (SPRC) discussed the use of bollards are either end of the building. Mr. Mangus stated that there was some concern whether an errant car would potentially hit either the building or the bollard.

Matt Cartwright of MJC Architecture, representing the applicant, stated that the SPRC has requested that the applicant provide a striped drive and show connectivity to the south to 3<sup>rd</sup> Street. Mr. Cartwright said that the primary goal was to avoid any conditions that would result in a backup on Andover Road. Mr. Cartwright stated that the current location of the dumpster would have to be moved to the west. Mr. Cartwright stated that a rectangular “no parking zone” has been added to their revised rendering near the northeast side of the subject property.

Mr. Cartwright stated that the new striped lines will be two feet away from the edge of the structure and have an angle cut that allows vehicles to approach the building closer. Mr. Cartwright stated that they have two bollards on the face of the preliminary plan of the building with a continuous rail that protects the building from vehicles.

Mr. Pedersen asked if there was a potential to have a fourth car in the queueing line running south along the building as opposed to 3<sup>rd</sup> Street. Mr. Cartwright stated that he believes there will be less conflict once customers recognize that they are supposed to enter from 3<sup>rd</sup> Street.

Chairperson Pedersen closed the public hearing at 7:55 pm.

#### **SPECIFIC CONDITIONS TO BE MET:**

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 drive-through complies with the applicable bulk regulations, and a site plan is approved pending approval of the conditional use.
BZA	Concur.

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

STAFF	The proposed drive-through facility is well 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 approximately 400' off of Central Ave. in an area with modestly high traffic counts. The traffic generated by the proposed drive-through facility should not have a substantial effect on traffic or the outward appearance of the building so as to dominate the immediate neighborhood.
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 revises the number of parking spaces available and the general circulation of the east end of the existing parking layout. However, adequate spaces remain, and the revised circulation plan will have little effect on the remainder of the tenants parking.
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 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 exit drives. However, the traffic circulation pattern is being revised to minimize traffic circulation conflicts and the potential for conflicts with Andover Rd. traffic.
BZA	Concur.

*Having considered the evidence at the hearing and determined that the findings of fact have been found that support all five conditions set out in Subsection 11-107.C of the Zoning Regulations and K.S.A. 12-759(e), Vance Garwood made a motion to authorize the Chairperson to sign a resolution granting the conditional use for case BZA-CU-2021-01. Motion seconded by Gary Israel. Motion carried 5/0.*

## 5.5 BZA-V-2021-02 – PUBLIC HEARING ON AN APPLICATION FOR A CONDITIONAL USE ON PROPERTY GENERALLY LOCATED AT 2035 N. ANDOVER ROAD, ANDOVER KANSAS

Chairperson Pedersen opened the public hearing at 8:01 pm.

Mr. Mangus stated that the subject property is an existing location with adequate parking. Mr. Mangus stated that unlike the previous case, the applicant has not presented to the SPRC but that is something that can be worked out with the construction plans.

Brett Dueser of Icon Structures, representing the applicant, stated that the owner of Jumpstart is seeking the installation of a drive-through window on the south side of the building and that there will be a bollard to protect the building. Mr. Dueser stated that there will be a handrail at the end of the sidewalk near the entry.

Mr. Pedersen asked if the proper direction to enter the drive through was from west to east. Mr. Dueser said yes.

Mr. Israel asked if he had to go around the building if he was entering the site from Andover Road. Mr. Dueser said that there would be room to access the drive through from Andover Road but that it would be ideal to drive around the building. Mr. Dueser said that signage and/or striping have been discussed to direct traffic around the building.

Mr. Pedersen asked if there was a fence to the west of the building or if the building just opened to an empty field. Mr. Dueser stated that the area to the west is an open field.

Mr. Garwood stated that the south gas pump is a diesel pump and that he has driven around the back of the building several times and that there is a substantial amount of room behind the building.

Chairperson Pedersen closed the public hearing at 8:12 pm.

### SPECIFIC CONDITIONS TO BE MET:

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 drive-through would require analysis of the required parking spaces for the convenience store.
BZA	Concur.
2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.	
STAFF	The proposed drive-through facility is well 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 approximately 250' off of W. 21 <sup>st</sup> St. and Andover Rd. in an area with modestly high traffic counts. The traffic generated by the proposed drive-through facility should not have a substantial effect on traffic or the outward appearance of the building so as to dominate the immediate neighborhood.	
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 revises the number of parking spaces available and the general circulation of the south end of the existing parking layout. A revised parking and circulation plan will have to be approved by the Site Plan Review Committee.	
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 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 exit drives. However, the traffic circulation pattern would have to be revised to minimize traffic circulation conflicts and the potential for conflicts with 21 <sup>st</sup> St. & Andover Rd. traffic.	
BZA	Concur.	

*Having considered the evidence at the hearing and determined that the findings of fact have been found that support all six conditions set out in Subsection 11-107.C of the Zoning Regulations and K.S.A. 12-759(e), Gary Israel made a motion to authorize the Chairperson to sign a resolution granting the conditional use for case BZA-CU-2021-02 on the condition that a traffic circulation plan is approved by the Site Plan Review Committee. Motion seconded by Vance Garwood. Motion carried 5/0.*

*Gary Israel made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Kirsten Barnes. Motion carried 5/0.*

## 6. MEMBER ITEMS

None.



## 7. ADJOURN

*Marla Canfield made a motion to adjourn the meeting. Motion seconded by Gary Israel. Motion carried 5/0. The meeting was adjourned at 8:20 pm.*

Respectfully submitted by:

Justin Constantino, AICP  
Assistant Director of Community Development

Approved on the \_\_\_\_ day of \_\_\_\_ 2021 by the City of Andover Planning Commission.