



PLANNING & ZONING
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**PLANNING COMMISSION
& BOARD OF ZONING APPEALS MINUTES**
APRIL 19, 2022 | 7:00pm
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

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, Marla Canfield, and Vance Garwood. Commissioners Kirsten Barnes and Tim Hendricks were absent. Staff in attendance: Justin Constantino, Assistant Director of Community Development, Lance Onstott, Assistant City Administrator, Chip Jerauld, Building Official, and Mike Roosevelt, Deputy Fire Marshal. A/V services provided by WAV Services.

3. APPROVAL OF THE MINUTES OF THE MARCH 15, 2022 MEETING

Marla Canfield made a motion to approve the minutes of the March 15, 2022 meeting as presented. Motion seconded by Gary Israel. Motion carried 3/0/1. Vance Garwood abstained.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

Mr. Constantino stated that the report contains the draft minutes of the April 5, 2022 Site Plan Review Committee (SPRC) meeting. Mr. Constantino stated that the SPRC reviewed and approved the sign plan and revised landscape plan for the Butler Community College Culinary Arts project and the site plan for the Strickland Brothers 10 Minute Oil Change project located at 301 S. Andover Road.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

None.

5. AGENDA

5.1 Z-2022-01 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED AMENDMENT TO THE VILLAGE CROSSING PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN TO MODIFY THE PERMITTED LAND USES OF PARCEL 3 TO ALLOW FOR THE USE OF A QUICK LUBE OIL CHANGE FACILITY ON THE PROPERTY GENERALLY LOCATED AT 301 S. ANDOVER ROAD, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:05 pm.

Mr. Constantino stated that the subject property is located at Block 2, Lot A of the Village Crossing First Addition. Mr. Constantino stated that the applicant is proposing a text amendment to Parcel 3 of the Village Crossing Preliminary Planned Unit Development Plan to allow for the use of a quick lube oil change facility. Mr. Constantino stated that the Planning Commission originally reviewed the case at the February 15th meeting and recommended approval to the City Council. Mr. Constantino stated that prior to City Council approval, staff recognized that the applicant had submitted a Preliminary PUD Plan document that did not accurately reflect the proper parcel that they were attempting to modify, and the City Council elected to return the agenda item to the Planning Commission at their March 8th meeting. Mr. Constantino stated that the applicant has withdrawn their original application and the City has re-advertised the public hearing with the proper parcel number.

John Chamberlin of Kimley-Horn Engineering, representing the applicant, stated that the description originally provided in the title commitment didn't match the description in the real estate contract and the intended site of the project was moved slightly north of the original parcel. Mr. Chamberlin stated that the project site is in Parcel 3 in Lot 1 and a portion of Lot 2.

Mr. Israel asked if the future oil change facility would be accepting used oil disposal at the site. Mr. Chamberlin stated that they likely would not as there is an internal tank inside the building and a scheduled pick-up service for disposal is anticipated.

Chairperson Pedersen closed the public hearing at 7:11 pm.

STAFF ITEMS

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	Public water, sewer, and streets are available to the subject property.
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	The subject property is currently platted.
3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?	STAFF	Screening fence required per the Site Plan Review Committee Standards
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.

STAFF & COMMISSION/COUNCIL ITEMS

6. How suitable or unsuitable is the subject property for its current zoning?	STAFF	The subject property is an undeveloped parcel in the Village Crossing PUD that is suitable for the current uses allowed by the PUD
	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	The proposed uses are generally in conformance with the Comprehensive Plan and which suggests commercial mixed 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
PLANNING	Concur.
COUNCIL	
10.	What are the current land uses, character and condition of the subject property and the surrounding neighborhood?
STAFF	The subject property is surrounded by the Village Crossing Mixed PUD mixed uses on the north and south, and single family residences on the east and west.
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	No more than existing permitted uses.
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 proposed use is generally in conformance with the Comprehensive Plan suggested mixed uses.
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	Approval as applied for.
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	Staff knows of no loss to public health safety and welfare as a result of the change.
PLANNING	Concur.
COUNCIL	

Gary Israel made a motion to adopt the findings of fact and recommend that the City Council approve Zoning Case Z-2022-01 amending the Village Crossing Preliminary PUD Plan based on findings 6, 8, 10, and 12. Motion seconded by Vance Garwood. Motion carried 4/0.

5.2 FINAL PLANNED UNIT DEVELOPMENT – REVIEW AND APPROVAL OF THE COURTYARDS AT CORNERSTONE FINAL PLANNED UNIT DEVELOPMENT PLAN GENERALLY LOCATED AT THE NORTHWEST CORNER OF E. 21ST STREET AND N. ANDOVER ROAD, ANDOVER, KANSAS

Mr. Constantino stated that the applicant is proposing 58 total lots on approximately 21.87 acres of property currently zoned SF-3 Single-Family Residential / Zero Lot Line District and located within the Cornerstone Addition Preliminary PUD plan. Mr. Constantino stated that the Final PUD was recommended for approval by the Subdivision Committee and originally approved by the Planning Commission in November 2021. Mr. Constantino stated that the applicant has submitted a revised plan to straighten the side lot lines of several properties that originally had a Z-shape intended to accommodate three-car garages. Mr. Constantino stated that water and sewer service for the subject properties are currently served and will continue to be served by the City of Andover and the subject properties will receive access from W. 21st Street.

Chairperson Pedersen asked if the lot line change was the summation of the changes. Mr. Constantino said yes and that approximately seven lots were affected.

Jason Gish of MKEC Engineering, representing the applicant, stated that he worked with City staff and the Deputy Fire Marshal Roosevelt to add platter’s text regarding a section of pavement in the alley in the center block that will be made 20 feet wide to meet the distance of the lots in the center.

Mr. Garwood asked if the homes on the north side and some on the west side would have garages in the rear with access from the alley. Mr. Gish said yes and that another phase of the project would likely have more of that concept. Mr. Garwood asked if Reserve D would be used as green space. Mr. Gish stated that the reserve would contain a clubhouse and pool and potential pickle ball courts.

Mr. Israel asked if Deputy Fire Marshal Roosevelt had any additional comments. Mr. Roosevelt stated that he met several times with the developer to discuss the best way to appropriately serve the rear-access alley within the constraints of the fire code and has come to a good solution represented in the plan.

Vance Garwood made a motion to approve the Courtyards at Cornerstone Final PUD plan and recommend that the Governing Body accept the dedication of land for public purposes. Motion seconded by Gary Israel. Motion carried 4/0.

Gary Israel made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Erik Pedersen. Motion carried 4/0.

5.3 BZA-V22-0002 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 516 SQUARE FEET FROM THE 300 SQUARE FOOT MAXIMUM FLOOR AREA OF AN ACCESSORY STRUCTURE ON THE PROPERTY GENERALLY LOCATED AT 1651 HEATHER LAKE COURT, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:25 pm.

Mr. Constantino stated that subject property is located in Block 1, Lot 5 of the Heather Lakes Subdivision and is zoned SF-2 Single-Family Residential / Medium Density District. Mr. Constantino stated that the applicant is seeking a variance of 516 square feet from the 300 square foot maximum floor area of an accessory structure for the purpose of constructing an 816 square foot accessory structure on the property. Mr. Constantino stated that staff knows of no reason not to grant the requested variance pending the outcome of the public hearing.

Mark Banowetz, the applicant, stated that he would like to construct a garage 34 feet deep and 24 feet wide on a concrete slab with a stem wall. Mr. Banowetz said that the garage would be a 10-feet tall all-wood structure. Mr. Banowetz said that his neighbor to the north has the same size garage and would look almost identical.

Mr. Israel asked how the garage would be accessed. Mr. Banowetz said that a driveway approximately 12 feet wide on the right side of the property would provide access. Mr. Israel asked if the garage would be painted the same color as the house. Mr. Banowetz said that he has a brick home with gray eaves and that he would try to match the color of his neighbor’s garage.

Chairperson Pedersen closed the public hearing at 7:33 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 a 0.54-acre lot. The large parcel provides adequate space while allowing adequate separation from nearby residences.
BZA	Concur.

<p>2. Granting the variance will result in material detriment or injury to other property or improvements in the neighborhood.</p> <p>STAFF</p> <p>BZA</p>	<p>No detriment and/or injury to other property or improvements is anticipated.</p> <p>Concur.</p>
<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> <p>STAFF</p> <p>BZA</p>	<p>The subject property is a 0.54-acre lot. The large parcel provides adequate space while allowing adequate separation from nearby residences. No adverse effects are anticipated.</p> <p>Concur.</p>
<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> <p>STAFF</p> <p>BZA</p>	<p>The applicant has declared the intended use to be a detached garage as an accessory residential use.</p> <p>Concur.</p>

SPECIFIC CONDITIONS TO BE MET:

<p>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.</p> <p>STAFF</p> <p>BZA</p>	<p>The subject property is a 0.54-acre parcel. The large parcel provides adequate space while allowing adequate separation from nearby residences.</p>
<p>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.</p> <p>STAFF</p> <p>BZA</p>	<p>The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.54-acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35%.</p>
<p>3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.</p> <p>STAFF</p>	<p>The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.54-acres, which provides a substantial area for</p>

	accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35% and providing adequate separation from adjacent neighbors.
BZA	Concur. Mr. Israel added that the adjacent property owner has almost the exact same style of garage.
4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.	
STAFF	The subject property is a 0.54-acre parcel. The large parcel provides adequate space while allowing adequate separation from nearby residences.
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 0.54-acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35% and providing adequate separation from adjacent neighbors.
BZA	Concur.

Mr. Israel asked if there was a Homeowners Association for the property. Mr. Banowetz said no.

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), Gary Israel made a motion to authorize the Chairperson to sign a resolution granting the variance for case BZA-V22-0002. Motion seconded by Erik Pedersen. Motion carried 4/0.

Gary Israel made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Vance Garwood. Motion carried 4/0.

6. MEMBER ITEMS

Mr. Israel asked about the City's employee appreciation event on April 16th. Mr. Constantino stated that the event went well and was well attended. Mr. Constantino thanked the City staff for organizing the event.

Mr. Pedersen asked about the recent BASE Grant award received by the City. Mr. Constantino stated that the City of Andover received two grant awards totaling \$8.5 million from the State of Kansas – one grant for \$4 million for the US 54/400 backage road and one grant for \$4.5 million for the extension of Yorktown Parkway to 13th Street.

Mr. Pedersen asked if the projects had been budgeted. Mr. Onstott stated that the City had not identified funding for the projects but the City has been looking for opportunities to fund these projects.

Mr. Garwood asked if the extended Yorktown Road was going to go to the east edge of Crescent Lakes. Mr. Onstott stated that the City had some conceptual alignments that were created with a traffic analysis of the area three to four years ago but will be researched in greater detail once preliminary engineering begins.

Ms. Canfield stated that the business awards lunch for the Kansas Department of Commerce was held in Andover at Butler Community College and it was the largest event in the state with 93 attendees. Ms. Canfield said that Andover businesses were very well represented and the Chamber of Commerce did a great job coordinating the event.

7. ADJOURN

Erik Pedersen made a motion to adjourn the meeting. Gary Israel seconded the motion. Motion carried 4/0. The meeting was adjourned at 7:45 pm.

Respectfully submitted by:

Justin Constantino, AICP
Assistant Director of Community Development

Approved on the 21st day of June 2022 by the City of Andover Planning Commission.