



PLANNING & ZONING
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**PLANNING COMMISSION
& BOARD OF ZONING APPEALS MINUTES**
DECEMBER 20, 2022 | 7:00pm
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

1. CALL TO ORDER

Chairperson Erik Pedersen called the meeting to order at 7:00 pm.

2. ROLL CALL

Commissioners in attendance: Chairperson Erik Pedersen, Secretary Gary Israel, Kirsten Barnes, Marla Canfield, and Vance Garwood. Staff in attendance: 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 OCTOBER 18, 2022 MEETING

Kirsten Barnes stated that the minutes should be amended to reflect her attendance at the meeting. Gary Israel made a motion to approve the minutes of the October 18, 2022 meeting as presented. Motion seconded by Vance Garwood. Motion carried 5/0/1. Dave Foley abstained.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

Mr. Mangus welcomed Dr. David Foley as the new member of the Planning Commission. Mr. Mangus stated that Dr. Foley brings a wealth of experience after serving on the Site Plan Review Committee for many years.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

Mr. Mangus stated that the City finished about 40% below last year in single-family residential dwelling permits and multi-family permits were down as well. Mr. Mangus stated that there were several contributing factors, including subdivisions closing out and filling up.

Mr. Israel asked how Andover compares to the rest of the state. Mr. Mangus stated that the numbers across the region were mostly down.

5. AGENDA

5.1 FINAL PUD – REVIEW AND APPROVAL OF THE HERITAGE THIRD ADDITION FINAL PLANNED UNIT DEVELOPMENT PLAN GENERALLY LOCATED SOUTHWEST OF DOUGLAS AVENUE AND YORKTOWN PARKWAY, ANDOVER, KANSAS

Mr. Constantino stated that the subject property is generally located southwest of Douglas Avenue and Yorktown Parkway. Mr. Constantino stated that the applicant is proposing 44 total lots on just under 11 acres of property within Parcel 1 of The Heritage PUD Plan. Mr. Constantino stated that water and sewer service for the subject properties will be served by the City of Andover, and that the subject properties will receive access from Yorktown Parkway and Heritage Way. Mr. Constantino stated that the Final PUD complies with the Subdivision Regulations and Preliminary PUD. Mr. Constantino stated that the Subdivision Committee reviewed the Final PUD plan at the December 13th meeting and recommended that the Planning Commission approve the plan.

Brian Lindebak of MKEC Engineering, representing the applicant, stated that he was in agreement with staff comments. Mr. Israel stated that the Final PUD was reviewed by the Subdivision Committee and appears to be in compliance.

Gary Israel made a motion to approve The Heritage Third Addition Final PUD plan and recommend that the Governing Body accept the dedication of land for public purposes. Motion seconded by Kirsten Barnes. Motion carried 6/0.

5.2 Z-VA22-0002 – PUBLIC HEARING AND RECOMMENDATION ON A PETITION FOR A VACATION OF DEDICATED RIGHT-OF-WAY ON THE PROPERTY GENERALLY LOCATED AT 818 N. MCCLOUD CIRCLE, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:06 pm.

Mr. Mangus stated that there was some miscommunication between the owners of the Highlands at Terradyne and Speyside at Terradyne regarding the dedication of the Highlands at Terradyne private street entrance as street right-of-way. Mr. Mangus stated that the developer of the Highlands at Terradyne had an entry gate and fencing installed in what is now McCloud Circle street right-of-way. Mr.

The City Attorney has prepared a license to allow the fence to remain in the right-of-way and the developer desires to vacate the portion of the right-of-way occupied by the private access control gate so that the gate is still in a reserve and not on public street right-of-way.

Mr. Pedersen asked about the staff summary that discusses the City Attorney providing a license. Mr. Mangus stated that some of the fence columns are in the public street right-of-way and that to allow a public improvement in the private right-of-way, the City Attorney prepares a license that allows the private entity to exist in the public right-of-way.

Mr. Israel asked if the license has a time limit. Mr. Mangus stated that the license is indefinite but the public has the right to recall the license. Mr. Mangus stated that if the fence had to be removed, it would be at the HOA's expense. Mr. Israel asked if there were utilities in the area. Mr. Mangus said that there were water and sewer lines in the area.

Cory Shackelford, the applicant, stated that they're seeking the vacation of the small area where the fence columns are located.

Chairperson Pedersen closed the public hearing at 7:17 pm.

Vance Garwood made a motion to approve the petition for a vacation and recommend that the Governing Body grant the vacation of a portion of McCloud Circle street right-of-way while preserving the subject area as a utility easement. Motion seconded by Dave Foley. Motion carried 6/0.

5.3 Z-VA22-0003 – PUBLIC HEARING AND RECOMMENDATION ON A PETITION FOR A VACATION OF RESERVE B ON THE PROPERTY LOCATED WITHIN THE ASPEN CREEK ADDITION, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:18 pm.

Mr. Mangus stated that The Developer of the Aspen Creek Subdivision deeded the subject area in Reserve "B" to the adjacent owner, Mr. Dan Taylor, many years ago. Mr. Mangus stated that the separate ownership of the subject area has been a point of discussion between the Aspen Creek Homeowner's

Association and Mr. Taylor for many years and that the HOA doesn't feel it should have to provide insurance for the subject area and Mr. Taylor doesn't feel he should be subject to the rules, regulations, and covenants in effect for Reserve "B".

Chairperson Pedersen closed the public hearing at 7:22 pm.

Vance Garwood made a motion to approve the petition for a vacation and recommend that the Governing Body grant the vacation of a portion of the plat of Aspen Creek, an Addition to Andover legally described as "The South 145.2 feet of the West 300 feet of the East Half of the Northeast Quarter of the Northwest Quarter of Section Numbered 32, Township 27 South, Range Numbered 3 East of the 6th P.M., in Butler County, Kansas now platted as a portion of Reserve Lettered "B". a portion of the plat while preserving the subject area as a utility easement. Motion seconded by Gary Israel. Motion carried 6/0.

Gary Israel made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Kirsten Barnes. Motion carried 6/0.

5.4 BZA-V22-0009 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 980 SQUARE FEET FROM THE 300 SQUARE FOOT MAXIMUM FLOOR AREA OF AN ACCESSORY STRUCTURE ON THE PROPERTY GENERALLY LOCATED AT 408 W. BALES STREET, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:24 pm.

Mr. Mangus stated that the subdivision contains larger lots that was platted with lot sizes in the half acre range and were typically larger because they were allowed to have septic systems. Mr. Mangus stated that the lots today are on City sewer. Mr. Mangus stated that the applicant owns two of these lots which make up a little over three quarters of an acre. Mr. Mangus stated that the two lots are considered one zoning parcel because they are under the same ownership.

Mr. Israel asked what would happen is the homeowner wanted to sell off the lot with the accessory structure and no primary structure. Mr. Mangus stated that the accessory structure would always have to be subordinate to the primary dwelling unit.

Jon Ramsdell of 408 W. Bales, the applicant, stated that he has a job trailer that he hopes to house inside the storage unit. Mr. Ramsdell stated that the shed would be metal with a 2-foot overhang and two, 10-foot doors.

Chairperson Pedersen asked where the access driveway would be located. Mr. Ramsdell stated that he currently accesses the area using the current driveway or could utilize the grass. Chairperson Pedersen asked about the height of the building. Mr. Ramsdell said it would have 12-foot ceilings. Mr. Mangus stated that the future driveway would require a driveway approach permit.

Chairperson Pedersen asked if there would be utilities to the building. Mr. Ramsdell stated that the building would have electricity.

Francis Merrian of 701 S. Daisy Lane asked about the building height. Mr. Ramsdell stated that the building would have 12-foot side walls and be about 14 feet high.

Chairperson Pedersen closed the public hearing at 7:36 pm.

DOES THE EVIDENCE DEMONSTRATE THAT:

<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> <p>STAFF</p> <p>BZA</p>	<p>The subject property is a 0.8-acre lot. The large parcel provides adequate space while allowing adequate separation from nearby residences.</p> <p>Concur.</p>
<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 0.8-acre lot. The large parcel provides adequate space while allowing adequate separation from nearby residences. No adverse effects is 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 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 0.8-acre parcel. The large parcel provides adequate space while allowing adequate separation from nearby residences.</p> <p>Concur.</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>The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.8-acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35%.</p>

BZA	Concur.
3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.	
STAFF	The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.8-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.
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 0.8-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 0.8-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.

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.B2 of the Zoning Regulations and K.S.A. 12-759(e), Gary Israel moved that the Chairperson be authorized to sign a Resolution granting the variance for BZA-V22-0009. Motion seconded by Erik Pedersen. Motion carried 6/0.

Gary Israel made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Kirsten Barnes. Motion carried 6/0.

5.5 2023 PLANNING COMMISSION AND BOARD OF ZONING APPEALS SCHEDULE

Mr. Constantino stated that the City of Andover Planning Commission and Board of Zoning Appeals (BZA) holds regular meetings on the third Tuesday of each month at 7:00 pm at Andover City Hall.

Gary Israel made a motion to approve the 2023 Planning Commission and Board of Zoning Appeals meeting agenda. Motion seconded by Dave Foley. Motion carried 6/0.

6. MEMBER ITEMS

Mr. Israel asked for an update on the lodge. Mr. Mangus stated that the City has commissioned a consultant to give a report on the future of all park facilities, including the future of the lodge.

Mr. Garwood asked if there were any updates on the two recent rezoning cases, including the restaurant by the trail. Mr. Constantino stated that the City has not received any further applications for the properties.

Mr. Israel asked about an update on the Southern Hills Subdivision. Mr. Constantino stated that staff is still working with Rural Water District #5 who is consulting with their engineering group to determine a solution.

7. ADJOURN

Gary Israel made a motion to adjourn the meeting. Kirsten Barnes seconded the motion. Motion carried 4/0. The meeting was adjourned at 7:52 pm.

Respectfully submitted by:

Justin Constantino, AICP
Assistant Director of Community Development

Approved on the 17th day of January 2023 by the City of Andover Planning Commission.