



PLANNING & ZONING
1609 E. CENTRAL AVE.
ANDOVER, KS 67002
316.733.1303

**PLANNING COMMISSION
& BOARD OF ZONING APPEALS AGENDA**
FEBRUARY 21, 2023 | 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, Marla Canfield, David Foley, and Vance Garwood. Member Kirsten Barnes was absent. Staff in attendance: Les Mangus, Director of Community Development. A/V services provided by WAV Services.

3. APPROVAL OF THE MINUTES OF THE JANUARY 17, 2023 MEETING

Vance Garwood made a motion to approve the minutes of the January 17, 2023 meeting as presented. Motion seconded by Marla Canfield. Motion carried 5/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

None.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

None.

5. AGENDA

5.1 Z-SU23-0001 – PUBLIC HEARING AND RECOMMENDATION ON A SPECIAL USE APPLICATION TO ALLOW A SHORT-TERM RENTAL USE ON THE PROPERTY GENERALLY LOCATED AT 513 W. ALLISON STREET, ANDOVER, KANSAS

Chairperson Erik Pedersen opened the public hearing at 7:03 pm.

Mr. Mangus stated that this is the first case addressing short-term rentals since the use was added to the Unified Development Manual (UDM). Mr. Mangus discussed the nature of short-term rental units and stated that the use was added to the UDM to maintain a record of properties where the short-term rental use is allowed.

Mr. Pedersen asked how long the allowance would last should the use be approved by the Planning Commission. Mr. Mangus stated that it would be allowed in perpetuity and would not have an end date.

Mr. Israel asked if the special use permit could be revoked. Mr. Mangus said it could not be revoked without another public hearing. Mr. Israel asked if there was a maximum rental time. Mr. Mangus stated that an occupant could not rent for longer than 30 consecutive days. Mr. Mangus stated that the applicant would have one year to submit the zoning permit after the special use is granted.

Christina Stanton, the applicant, stated that the property is a duplex and currently a long-term rental. Ms. Stanton stated that she wanted to switch to a short-term rental model and plans to give it a try for a year.

Ms. Canfield asked if renters would be parked in the driveway of the residence. Ms. Stanton said yes.

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	The subject property is served with public streets, water, and sewer.
2.	If the special use 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. The subject property is platted and no additional rights-of-way, easements, building setback lines, or access control is needed.
3.	If the special use request was approved, would the subject property need a screening plan for existing or potential uses?
STAFF	No. Screening and buffering would not be required as part of this Special Use application.
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 errors are known to exist.

STAFF & COMMISSION/COUNCIL ITEMS

6.	How suitable or unsuitable is the subject property for its current use?
STAFF	The subject 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 special use request?
STAFF	No.
PLANNING	

COUNCIL	
8.	How reasonably well-suited will the requested special use of the subject property be with the current zoning of nearby properties.
STAFF	The proposed use could be compatible with surrounding uses. The allowance of a short-term rental use would likely result in a more transient environment as the property will be partially utilized for temporary occupancy.
PLANNING	Concur.
COUNCIL	
9.	Has the special use 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 surrounding land uses are primarily residential homes in a neighborhood comprised of single-family detached dwellings.
PLANNING	Concur.
COUNCIL	
11.	Would the proposed special use of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?
STAFF	The proposed short-term rental use would likely result in a more transient environment as the property will be partially utilized for temporary occupancy. The property owner and temporary inhabitants will be subject to City Codes and Ordinances.
PLANNING	Concur.
COUNCIL	

<p>12. How would the requested special use conform with the City's Comprehensive Plan and other adopted master plans and policies.</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>The current Comprehensive Plan does not specifically address short-term rentals. The Unified Development Manual (UDM) allows for short-term rentals as a special use for no more than 30 consecutive days per renter.</p> <p>Concur.</p>
<p>13. Do any professional persons knowledgeable on conditions that affect this special use request have information or recommendations to provide, which would be helpful in its evaluation?</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>The applicant has indicated that their intent is to use one unit in the duplex as a short-term rental and may convert the other unit to a short-term rental in the near future. The special use permit allows for the short-term rental use on the entire property.</p> <p>Concur.</p>
<p>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 use to the requested use?</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>The applicant desires to maximize the use of their property by providing a short-term rental option for transient guests. The property owner and temporary inhabitants will be subject to City Codes and Ordinances.</p> <p>Concur.</p>

Mr. Israel asked if the Planning Commission could cap the special use to one year. Mr. Mangus said yes. Mr. Garwood stated that he would prefer to give the applicant the flexibility to continue the short-term rental use after one year.

Having considered the evidence at the hearing and the factors to evaluate the application, Gary Israel moved that the Planning Commission recommend that case Z-SU23-0001 be approved based on the findings 8, 10, and 11. Motion seconded by David Foley. Motion carried 5/0.

Gary Israel made a motion to adjourn the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Erik Pedersen. Motion carried 5/0.

5.2 BZA-V23-0001 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 700 SF FROM THE 500 SF MAXIMUM FLOOR AREA OF AN ACCESSORY STRUCTURE, EXCEEDING THE AGGREGATE TOTAL FLOOR AREA OF ALL ACCESSORY BUILDINGS AND STRUCTURES OF 1853 SF BY 97 SF, AND EXCEEDING THE ACCESSORY STRUCTURE’S MAXIMUM PERMITTED GROSS FLOOR AREA OF 1000 BY 950 SF ON THE PROPERTY GENERALLY LOCATED AT 800 S. RUTH AVENUE, ANDOVER, KANSAS

Chairperson Erik Pedersen opened the public hearing at 7:29 pm.

Mr. Mangus stated that this is an older neighborhood that was annexed into the City during the 1980s. Mr. Mangus stated that the subject property is 1.1 acres and is located in a neighborhood where accessory structures and buildings are commonplace and that the neighborhood has a bit more of a rural character.

Matt Kraft, representing Connie Turner, the applicant, stated that he was the property manager. Mr. Kraft stated that they have worked on cleaning up the property, having removed trees and the existing accessory structure. Mr. Kraft stated that the new structure would replace the removed accessory structure and would be 10-foot off the side yard property line. Mr. Kraft stated that the structure would have a bronze roof and two-tone color with aprons on the front and back.

Chairperson Pedersen closed the public hearing at 7:37 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 1.1-acre lot. The large parcel provides adequate space while allowing adequate separation from nearby residences.
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 a 1.1-acre lot. The large parcel provides adequate space while allowing adequate separation from nearby residences. No adverse effects is anticipated.
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 an accessory garage structure.

BZA	Concur.
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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 subject property is a 1.1-acre parcel. The large parcel provides adequate space while allowing adequate separation from nearby residences.

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 1.1-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 intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 1.1-acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 30% 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 1.1-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 proposed accessory structure combined with the existing accessory structures on the subject property remain below the zoning district's maximum allowable lot coverage of 30% and provides adequate separation from adjacent neighbors.

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-V23-0001. Motion seconded by David Foley. Motion carried 5/0.

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

6. MEMBER ITEMS

Mr. Garwood asked if there was any new information involving the trees being removed from the Cornerstone neighborhood. Mr. Mangus stated that there was miscommunication on behalf of the contractor and they are working to replace trees that have been removed.

Mr. Israel asked about fire station progress. Mr. Mangus stated that they are making great progress and hope to have the project completed this year.

7. ADJOURN

Erik Pedersen made a motion to adjourn the meeting. Erik Pedersen seconded the motion. Motion carried 5/0. The meeting was adjourned at 7:49 pm.

Respectfully submitted by:

Justin Constantino, AICP
Assistant Director of Community Development

Approved on the 18th day of April 2023 by the City of Andover Planning Commission.