



PLANNING & ZONING
1609 E. CENTRAL AVE.
ANDOVER, KS 67002
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PLANNING COMMISSION & BOARD OF ZONING APPEALS MINUTES

JUNE 20, 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, Kirsten Barnes, Marla Canfield, and Vance Garwood. Member David Foley was absent. 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 MAY 16, 2023 MEETING

Vance Garwood made a motion to approve the minutes of the May 16, 2023 meeting as presented. Motion seconded by Kirsten Barnes. Motion carried 5/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

None.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

Mr. Mangus stated that there was an uptick in building permits drawing from the Heritage Second development and Courtyards at Cornerstone. Mr. Mangus stated that commercial activity is brisk, potentially due to the news of the US 54/400 highway expansion.

5. AGENDA

5.1 Z-PUD23-0003 – PUBLIC HEARING AND RECOMMENDATION ON THE ESTABLISHMENT OF THE LAFAYETTE ADDITION PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN ON THE PROPERTIES GENERALLY LOCATED AT THE NORTHWEST CORNER OF W. LAFAYETTE STREET AND N. CHURCH STREET, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:02 pm.

Mr. Mangus stated that the applicant has applied to establish a PUD and will use a common driveway to access six of the lots. Mr. Mangus stated that the proposed lots are approximately 7,000 square feet when 8,500 square feet is the zoning minimum. Mr. Mangus stated that the comprehensive plan calls for infill and diverse housing types.

Michael Edwards of KE Miller Engineering, representing the applicant, introduced himself and stated that they were applying for the PUD because their vision didn't quite meet the City's zoning standards.

Chairperson Pedersen closed the public hearing at 7:07 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 utilities and streets are in place. A minor public water main extension will be required.
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, but replatting would be required to achieve the desired residential density.
3.	If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?
STAFF	Screening and buffering would not be required.
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 property is suitable for the currently permitted uses.
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 more dense single family residential use would provide an opportunity for more affordable homes
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	A transformation of older neighborhoods in the area to higher density homes has begun.
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 older existing single family residential homes.
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 detrimental effects are perceived.
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 supports the offering of a variety of housing types and higher residential density.
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	Staff supports the change 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 sees no harm to the public health, safety, or welfare caused by the proposed change.
PLANNING	Concur.
COUNCIL	

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-PUD23-0003 be approved based on the findings 8, 9, and 12. Motion seconded by Vance Garwood. Motion carried 5/0.

5.2 **Z-A23-0001** – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED CHANGE OF ZONING DISTRICT CLASSIFICATION FROM THE B-3 RETAIL AND SERVICE BUSINESS DISTRICT TO THE B-5 HIGHWAY CORRIDOR MIXED-USE BUSINESS DISTRICT WITH A SPECIAL USE TO ALLOW A HOSPITAL ON THE PROPERTY GENERALLY LOCATED AT 126 W. CLOUD AVENUE, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:16 pm.

Mr. Mangus stated that the subject property has two zoning districts with the northern half of the property zoned B-5 Highway Corridor Mixed-Use Business District and the southern portion of the property zoned B-3 Retail and Service Business District. Mr. Mangus stated that the applicant intends to rezone the southern portion of the property so that the entire property is zoned B-5 and is seeking a special use to allow for a hospital.

Mr. Garwood asked if the proposed building would be set back far enough away from the US 54/400 corridor expansion. Mr. Mangus stated that staff is looking into those details but will have more information at the Site Plan phase. Mr. Israel asked why the northwest corner near the subject property is chopped off. Mr. Mangus stated that it is street right-of-way.

Avery Steed of Fulmer Lucas Engineering, representing the applicant, stated that the property zoning does not allow for a hospital and he agrees with staff that the B-5 zoning district is appropriate here. Mr. Steed walked through the proposed site layout and discussed the building location.

Chairperson Pedersen closed the public hearing at 7:24 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 streets, water, & sewer facilities are available adjacent to the 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	Site Plan Review Committee Standards and Approval apply.
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 property is suitable for its current zoning, but has two zoning district classifications.
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 subject property is adjacent to the US-54/400 Highway. The access and visibility to the highway would be beneficial to potential users.
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	Yes. The area is developing into a higher density lifestyle mixed use corridor.
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 has mixed uses, with a variety of commercial uses.
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	The potential exists to introduce emergency vehicles and sirens in the area.
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 current 2014-2023 Comprehensive Plan Future Land Use map proposes "Lifestyle Corridor" land use. The proposed 2024- 2033 Comprehensive Plan suggests a "City Center" place type, which "provides a concentration of commercial activity".
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	
<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 zone to the requested zone?</p>	
STAFF	Staff perceives no detriment to the public health, safety, or welfare
PLANNING	Concur.
COUNCIL	

Having considered the evidence at the hearing and the factors to evaluate the application, Marla Canfield moved that the Planning Commission recommend that case Z-A23-0001 be approved based on the findings 8, 9,10, and 12. Motion seconded by Erik Pedersen. Motion carried 4/0.

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

5.3 BZA-V23-0007 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 13 FEET FROM THE 25-FOOT REAR-YARD SETBACK FOR THE PURPOSE OF CONSTRUCTING A BUILDING ADDITION ON THE PROPERTY GENERALLY LOCATED AT 321 E. PINE MEADOW COURT, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:31 pm.

Mr. Mangus stated that the owner of the subject property intends to construct a substation home addition, deck, and swimming pool and is seeking a variance to reduce the 25-foot minimum rear-yard setback. Mr. Mangus stated that the lot is unusual due to its large size and the fact that it backs up to a homeowner's reserve.

Mr. Israel asked if there was anything located in the reserve such as utilities. Mr. Mangus said he doesn't think so and the utilities should likely be contained within the easement across the rear of the lot.

Chad Bryan of Southwestern Remodeling, representing the applicant, stated that the utilities are indeed contained within the easement. Mr. Israel asked if any trees would be removed. Mr. Bryan said no and that trees would actually be added to the property.

Chairperson Pedersen closed the public hearing at 7:40 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 22,324 s.f. lot abutting a 50' homeowner's green space reserve. The large parcel and adjacent reserve provide adequate space while allowing adequate separation from nearby residences.
BZA	

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 22,324 s.f. lot abutting a 50' homeowner's green space reserve. The large parcel and adjacent reserve provide adequate space while allowing adequate separation from nearby residences.
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 a covered terrace and pool equipment room.
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 subject property is a 22,324 s.f. lot abutting a 50' homeowner's green space reserve. The large parcel and adjacent reserve provide 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 building setback limitations is to assure adequate separation from adjacent neighbors. The subject property is a 22,324 s.f. lot abutting a 50' homeowner's green space reserve. The large parcel and adjacent reserve provide adequate space while allowing adequate separation from nearby residences.
BZA	Concur.

<p>3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.</p> <p>STAFF</p> <p>BZA</p>	<p>The intent of building setback limitations is to assure adequate separation from adjacent neighbors. The subject property is a 22,324 s.f. lot abutting a 50' homeowner's green space reserve. The large parcel and adjacent reserve provide adequate space while allowing adequate separation from nearby residences.</p> <p>Concur.</p>
<p>4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.</p> <p>STAFF</p> <p>BZA</p>	<p>The subject property is a 22,324 s.f. lot abutting a 50' homeowner's green space reserve. The large parcel and adjacent reserve provide adequate space while allowing adequate separation from nearby residences.</p> <p>Concur.</p>
<p>5. The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.</p> <p>STAFF</p> <p>BZA</p>	<p>The intent of building setback limitations is to assure adequate separation from adjacent neighbors. The subject property is a 22,324 s.f. lot abutting a 50' homeowner's green space reserve. The large parcel and adjacent reserve provide adequate space while allowing adequate separation from nearby residences.</p> <p>Concur.</p>

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), Kirsten Barnes moved that the Chairperson be authorized to sign a Resolution granting the variance for BZA-V23-0007. Motion seconded by Gary Israel. 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

Staff and the Planning Commission thanked member Kirsten Barnes for her service and wished her the best of luck in the future.

7. ADJOURN

Gary Israel made a motion to adjourn the meeting. Erik Pedersen seconded the motion. Motion carried 4/0. The meeting was adjourned at 7:48 pm.

Respectfully submitted by:

Justin Constantino, AICP
Assistant Director of Community Development

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