



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

**PLANNING COMMISSION
& BOARD OF ZONING APPEALS MINUTES**
SEPTEMBER 19, 2023 | 7:00pm
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

1. CALL TO ORDER

Acting chairperson Vance Garwood called the meeting to order at 7:00 P.M.

2. ROLL CALL

Committee members in attendance: Gary Israel, Marla Canfield, David Foley, and Vance Garwood. Chairperson Erik Pedersen was absent. Staff members in attendance: Jenni McCausland, City Administrator; Justin Constantino, Assistant Director of Community Development; and Les Mangus, Director of Community Development. A/V services provided by WAV Services.

3. APPROVAL OF THE MINUTES OF THE AUGUST 15, 2023 MEETING

Gary Israel made a motion to approve the minutes of the August 15, 2023 meeting as presented. Motion seconded by Marla Canfield. Motion carried 4/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

None.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

Mr. Mangus began by stating that so far, building permits are nearly double compared to last year, attributing much of this development to ongoing subdivision projects, specifically naming the Prairie Creek 6th Phase addition.

Mr. Israel asked about developments relating to the Site Plan Review Committee. Mr. Mangus responded by listing several in-progress projects that the Committee has seen, namely Starbucks, Dutch Bros, and the Wesley Emergency Room building.

5 AGENDA

Gary Israel made a motion to recess the planning commission and convene the board of zoning appeals. Motion seconded by Marla Canfield. Motion carried 4/0.

5.1 BZA-V23-0010 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 1 FOOT FROM THE 6-FOOT MAXIMUM FENCE HEIGHT ON THE PROPERTY GENERALLY LOCATED AT 1511 E. FLINT HILLS NATIONAL PKWY., ANDOVER, KANSAS

Acting Chairperson Garwood opened the public hearing at 7:05 P.M.

Mr. Mangus introduced the subject property and explained that the typical maximum fence height is 6 feet in residential areas. Mr. Mangus stated that the applicant is seeking a 3-foot stone wall portion with a 4-foot wrought iron portion on top, and 7-foot stone columns throughout, to constitute the fence. Mr. Mangus described the surroundings of the property, noting that it backs up to a reserve.

Acting chairperson Garwood closed the public hearing at 7:07 P.M.

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 adjacent to an HOA Reserve and the Golf Course.
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	No adverse effects are 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 proposed 7' fence is simply the owner's desire for the scale of the stone wall and fence combined.
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 adjacent to an HOA Reserve and the Golf Course.
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 subject property is adjacent to an HOA Reserve and the Golf Course. The subject property and adjacent properties are large lots with large setbacks from each other.
BZA	Concur.

3.	<p>Granting the variance will not adversely affect the rights of adjacent property owners or residents.</p> <p>STAFF No adverse effects are anticipated.</p> <p>BZA Concur.</p>
4.	<p>The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.</p> <p>STAFF No adverse effects are anticipated.</p> <p>BZA Concur.</p>
5.	<p>The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.</p> <p>STAFF The subject property is adjacent to an HOA Reserve and the Golf Course. The subject property and adjacent properties are large lots with large setbacks from each other. The requested variance for a taller screening fence promotes does not affect the aesthetics or general welfare of the area.</p> <p>BZA 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), Marla Canfield moved that the Chairperson be authorized to sign a Resolution granting the variance for BZA-V23-0010. Motion seconded by David Foley. Motion carried 4/0.

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

5.2 **Z-A23-0003** – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED CHANGE OF ZONING DISTRICT CLASSIFICATION FROM THE B-3 RETAIL AND SERVICE BUSINESS DISTRICT TO THE I-1 INDUSTRIAL AND MXI MIXED INDUSTRIAL / COMMERCIAL DISTRICT FOR THE PROPERTY GENERALLY LOCATED AT 1108 N. ANDOVER RD., ANDOVER, KANSAS

Acting chairperson Garwood opened the public hearing at 7:16 P.M.

Mr. Mangus stated that the subject property was originally platted and zoned to be a combination storefront/industrial area. He explained that the property was rezoned B-3 for a potential buyer's intended use, but the sale did not happen. The current owner wishes to use the property for its original use case, and is thus seeking to revert the zoning change.

Acting Chairperson Garwood closed the public hearing at 7:18 P.M.

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, sewer, & water 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	Yes. Site Plan Review Committee Standards 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 subject property was zoned for "store front" industrial when it was platted many years ago. The owner changed the zoning district classification to suit a potential buyer that didn't go through. The original split zoning of the property is suitable & comparable to surrounding properties.
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	

<p>8. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>The subject property was zoned for “store front” industrial when it was platted many years ago. The owner changed the zoning district classification to suit a potential buyer that didn’t go through. The original split zoning of the property is suitable & comparable to surrounding properties.</p> <p>Concur.</p>
<p>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?</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>The subject property was zoned for “store front” industrial when it was platted many years ago. The owner changed the zoning district classification to suit a potential buyer that didn’t go through. The original split zoning of the property is suitable & comparable to surrounding properties.</p> <p>Concur.</p>
<p>10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>The surrounding land is a mixture of commercial and industrial uses on the east side of Andover Rd. and commercial and single-family residences on the west side of Andover Rd.</p> <p>Concur.</p>
<p>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?</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>No. The proposed uses would be similar to surrounding uses.</p> <p>Concur.</p>
<p>12. How would the requested zoning change conform with the City’s Comprehensive Plan and other adopted master plans and policies.</p> <p>STAFF</p>	<p>The current 2024-2033 Comprehensive Plan Future Land Use map proposes “Neighborhood Corridor” Placetype, which provides for a mix of small scale commercial uses and mixed residential uses.</p>

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 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, Gary Israel moved that the Planning Commission recommend that case Z-A23-0003 be approved based on the findings 6, 8,10, and 12. Motion seconded by David Foley. Motion carried 4/0.

5.3 Z-A23-0004 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED CHANGE OF ZONING DISTRICT CLASSIFICATION FROM THE B-2 NEIGHBORHOOD BUSINESS AND SF-1 SINGLE FAMILY RESIDENTIAL / LOW DENSITY DISTRICT TO THE MXN NEIGHBORHOOD TRANSITION / MIXED USE DISTRICT WITH A SPECIAL USE TO ALLOW FOR A MICROBREWERY WITH OUTDOOR PATIO SEATING ON THE PROPERTY GENERALLY LOCATED AT 545 N. ANDOVER RD., ANDOVER, KANSAS

Acting chairperson Garwood opened the public hearing at 7:27 P.M.

Mr. Mangus introduced the subject property and stated that it currently contains an old, former residential building. Mr. Mangus stated that the applicant's intends to use the property as a taproom and brewery, and explained that the applicant plans to use the unused rear section of the property for outdoor patio seating. Mr. Mangus stated that the surrounding properties are a mix of residential and commercial lots, and that the Comprehensive Plan would allow for the proposed use.

David Wilson, a resident who owns the property behind the subject property, asked two questions: first, Mr. Wilson inquired if the zoning change would affect tax considerations for the neighborhood; and second, Mr. Wilson asked if a fence would be installed in the rear of the subject property to screen it from nearby lots.

Mr. Mangus expressed that he was not aware of any resultant changes to the property tax situation in the overall neighborhood as a result of this zoning change. He continued by explaining that the Site Plan Review Committee

would require certain screening for the property. Mr. Constantino stated that a six foot wall fence would be installed along with landscaping.

Mr. Israel asked about noise and operating hour requirements. Mr. Mangus referenced the existing noise ordinance and the current City code for operating hours.

Acting Chairperson Garwood closed the public hearing at 7:37 P.M.

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, sewer, & water 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 not platted

3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?

STAFF Yes. Site Plan Review Committee Standards 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 subject property with a single-family residence was zoned for neighborhood business uses and has had several past users. The applicant desires to use the property for a small scale microbrewery with outdoor patio seating, which keeps within the intent of allowing small scale uses near single-family uses.

PLANNING Concur.

COUNCIL

7.	<p>Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the zoning change request?</p> <table> <tr> <td data-bbox="250 205 402 268">STAFF</td><td data-bbox="402 205 1526 268">No.</td></tr> <tr> <td data-bbox="250 268 402 331">PLANNING</td><td data-bbox="402 268 1526 331">Concur.</td></tr> <tr> <td data-bbox="250 331 402 415">COUNCIL</td><td data-bbox="402 331 1526 415"></td></tr> </table>	STAFF	No.	PLANNING	Concur.	COUNCIL	
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PLANNING	Concur.						
COUNCIL							
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PLANNING	Concur.						
COUNCIL							
9.	<p>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?</p> <table> <tr> <td data-bbox="250 987 402 1039">STAFF</td><td data-bbox="402 987 1526 1039">No.</td></tr> <tr> <td data-bbox="250 1039 402 1102">PLANNING</td><td data-bbox="402 1039 1526 1102">Concur.</td></tr> <tr> <td data-bbox="250 1102 402 1203">COUNCIL</td><td data-bbox="402 1102 1526 1203"></td></tr> </table>	STAFF	No.	PLANNING	Concur.	COUNCIL	
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COUNCIL							
10.	<p>What are the current land uses, character and condition of the subject property and the surrounding neighborhood?</p> <table> <tr> <td data-bbox="250 1312 402 1375">STAFF</td><td data-bbox="402 1312 1526 1375">The surrounding land is a mixture of commercial uses on the east side of Andover Rd. and commercial and single-family residences on the west side of Andover Rd.</td></tr> <tr> <td data-bbox="250 1375 402 1438">PLANNING</td><td data-bbox="402 1375 1526 1438">Concur.</td></tr> <tr> <td data-bbox="250 1438 402 1560">COUNCIL</td><td data-bbox="402 1438 1526 1560"></td></tr> </table>	STAFF	The surrounding land is a mixture of commercial uses on the east side of Andover Rd. and commercial and single-family residences on the west side of Andover Rd.	PLANNING	Concur.	COUNCIL	
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PLANNING	Concur.						
COUNCIL							
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STAFF	Yes. The proposed use has the potential to introduce the noise and lighting of the outdoor patio seating into surrounding residential uses.						
PLANNING	Concur.						
COUNCIL							

<p>12. How would the requested zoning change 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 2024-2033 Comprehensive Plan Future Land Use map proposes "City Center" Placetype, which provides for a mix of larger scale goods, services, dining, entertainment, and multifamily residential uses.</p> <p>Concur.</p>
<p>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?</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>Approval with limited hours of 7 a.m. to 11 p.m. for the outdoor patio seating and screening/buffering per the Site Plan Review Committee Standards.</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 zone to the requested zone?</p> <p>STAFF</p> <p>PLANNING</p> <p>COUNCIL</p>	<p>Staff perceives no detriment to the public health, safety, or welfare with adequate limited hours of operation and screening/buffering.</p> <p>Concur.</p>

Mr. Israel asked a question regarding required licenses for the intended use of the property. Mr. Mangus explained that even if the applicant never obtains a liquor license, any land use in the MXN zoning district is allowable.

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-A23-0004 be approved based on the findings 6, 8,10, and 12, with the condition that the outdoor seating not be used after 11 P.M. Motion seconded by David Foley. Motion carried 4/0.

5.4 Z-A23-0002 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED CHANGE OF ZONING DISTRICT CLASSIFICATION FROM THE A-1 AGRICULTURAL TRANSITION DISTRICT TO THE SF-2 SINGLE FAMILY RESIDENTIAL / MEDIUM DENSITY DISTRICT FOR THE PROPERTY GENERALLY LOCATED AT 2004 S. 159TH ST. E., WICHITA, KANSAS

Acting chairperson Garwood opened the public hearing at 7:46 P.M.

Mr. Mangus stated that the Planning Department is unsure when the subject property was subdivided away from the larger adjoining farm tracts. He continued that the current owner is seeking to resolve the current nonconformance of the property to its zoning classification- the A-1 zoning district has a minimum lot size of 5 acres, and the subject property is approximately 0.4 acres.

The applicant, Mr. Barry Bobbitt, was in attendance. Mr. Bobbitt explained his desire to have the zoning classification updated to reflect the current use.

Acting chairperson Garwood closed the public hearing at 7:52 P.M.

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 facilities are available adjacent to the property. Public sewer is some distance from 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 not platted
3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?	STAFF	No.
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 small size of the subject property make it unsuitable for agricultural uses normally found in the A-1 Agricultural Transition District.
	PLANNING	Concur.
	COUNCIL	Concur.
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 applicant desires to clear the legal nonconforming zoning status of the property. The small size of the subject property make it unsuitable for agricultural uses normally found in the A-1 Agricultural Transition District. The SF-2 District standards are more compatible with the small parcel.
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	The applicant desires to clear the legal nonconforming zoning status of the property.
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 is generally large lot suburban 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.
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 2024-2033 Comprehensive Plan Future Land Use map proposes "Traditional Neighborhood" Placetype, which provides for primarily single-family homes.
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 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, Gary Israel moved that the Planning Commission recommend that case Z-A23-0002 be approved based on the findings 6, 8, and 12. Motion seconded by David Foley. Motion carried 4/0

6 MEMBER ITEMS

Ms. Canfield extended her thanks to Mr. Lance Onstott for his exemplary service to the City of Andover and wished him luck in his new professional endeavors.

7 ADJOURN

Acting chairperson Garwood made a motion to adjourn the meeting. Motion seconded by David Foley. Motion carried 4/0. The meeting was adjourned at 8:00 P.M.

Respectfully submitted by:

Connor Boyd
Planning Technician

Approved on the ____ day of ____, 2023 by the City of Andover Planning Commission.