



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

**PLANNING COMMISSION
& BOARD OF ZONING APPEALS AGENDA**
FEBRUARY 20, 2024 | 7:00 P.M.
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

1. CALL TO ORDER

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

2. ROLL CALL

Committee members in attendance: Acting Chairperson Vance Garwood; Clint Teinert; Peter Fox; Gary Israel; and David Foley. Marla Canfield was absent.

Staff members in attendance: Jennifer McCausland, City Administrator; Jolene Graham, Assistant City Administrator; Les Mangus, Director of Community Development; and Connor Boyd, Planning Technician.

3. APPROVAL OF THE MINUTES OF THE JANUARY 16, 2024 MEETING

Gary Israel made a motion to approve the minutes of the January 16, 2024 meeting as presented. Motion seconded by David Foley. Motion carried 5/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

Mr. Mangus stated that Staff had nothing to report at this time.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

None. The Committee was provided with a graph summary of zoning, platting, and Board of Zoning Appeals cases from 2021, 2022, and 2023.

5. AGENDA

5.1 OFFICER AND COMMITTEE NOMINATIONS

Vance Garwood was nominated for the position of Chairperson. Marla Canfield was nominated for the position of Vice Chairperson. Gary Israel was nominated for the position of Secretary. The Committee chose to vote on this slate of nominations simultaneously.

Gary Israel made a motion to accept the nominations for Chairperson, Vice Chairperson, and Secretary. Motion seconded by Clint Teinert. Motion carried 5/0.

Marla Canfield was noted to have previously expressed desire to remain on the Subdivision Committee. Gary Israel did the same. Peter Fox and Clint Teinert both volunteered to join the Subdivision Committee. Chairperson Garwood volunteered to step down from the Subdivision Committee. The Committee once again chose to vote on the entire slate of nominations simultaneously.

Gary Israel made a motion to accept the nominations for the Subdivision Committee. Motion seconded by David Foley. Motion carried 5/0.

5.2 LS24-0002 – REVIEW AND RECOMMENDATION ON AN APPLICATION FOR A LOT SPLIT ON THE PROPERTY GENERALLY LOCATED AT 534 N. PHILLIP STREET, ANDOVER, KANSAS

Mr. Mangus introduced the subject property, and stated that it is a prime candidate for a lot split. He continued that the property features frontage on both Phillip and Boylan, and can be served by utilities along both roads. Mr. Mangus also stated that after the split, both resultant lots would continue to meet the lot area regulations for the zoning district.

Chairperson Garwood mentioned that the Subdivision Committee had reviewed this case last week, and agreed with Staff that it is a perfect example of a property that can be split.

The applicant, Jacqueline Walp, was in attendance. She stated that she wished to build a home to take care of her father on the property.

Chairperson Vance Garwood made a motion to recommend approval of the lot split at 534 N. Phillip Street. Motion seconded by Gary Israel. Motion carried 5/0.

5.3 PRELIMINARY PLAT – REVIEW AND RECOMMENDATION ON THE GREEN MEADOW PROPERTIES ADDITION, GENERALLY LOCATED AT 1904 E. CENTRAL AVENUE, ANDOVER, KANSAS

Mr. Mangus introduced the subject property, explaining that it is a small plat that sections off part of a much larger property for the purpose of constructing a home for a family member of the applicant. He continued that this case had been in review for some time, and Staff comments had been implemented into the plat.

Mr. Israel asked if there was much precedent for small plats in this manner. Mr. Mangus responded that there is, and although this is a somewhat unusually small plat, the presence of nearby utilities made it viable.

Mr. Teinert noted that construction work was being done on the property already. Mr. Mangus replied that repair and cleanup from the tornado was ongoing.

Chairperson Garwood noted that he would be abstaining from the vote, as he has a personal relationship with the applicant.

Gary Israel made a motion to recommend approval of the preliminary plat for the Green Meadow Properties Addition. Motion seconded by David Foley. Motion carried 4/0. Chairperson Vance Garwood abstained.

5.4 Z-PUD24-0001 – PUBLIC HEARING AND RECOMMENDATION ON THE REDBUD PRELIMINARY PUD, GENERALLY LOCATED AT 1539 N. ANDOVER ROAD, ANDOVER, KANSAS

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

Mr. Mangus stated that this project is for a proposed café near the Redbud Trail, seeking relief from regulations regarding setbacks and landscaping for the zoning district. He continued that the property is located in the Andover Original Town, which features many nearby buildings that feature nonstandard setbacks and landscaping.

Mr. Teinert asked when the original plat for the property would have been filed. Mr. Mangus answered that it was likely sometime in the 1880s, when lots were split into “piano keys” and purchased as groups for development. He continued that the lot used to feature a corner convenience store, among other uses over the years.

Jay Cook with Baughman Co. was in attendance, representing the applicant. He stated that Mr. Mangus’ introduction was accurate, and that the applicant is seeking to establish a meeting place near the trail to promote pedestrian access and walkability.

Mr. Israel noted that this case had been brought before the Subdivision Committee multiple times at different stages of development, in order to negotiate the requested zoning modifications and ensure that the property fits

with its surroundings. He also noted that there had been some previous discussion regarding signage on the building, which would be under the purview of the Site Plan Review Committee.

Mr. Teinert asked if the building would feature a wall sign on the façade, as the proposed lot does not allow for a monument sign. Mr. Cook replied that yes, wall signage would be employed. Mr. Cook added that the proposed plan would allow the building to abut the street right-of-way, which would still leave the normal buffer distance of 20 feet to Andover Road. He stated that monument signs cannot be placed in the City right-of-way, so wall signs are the only option.

Chairperson Garwood closed the public hearing at 7:29 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 facilities are in place and adequate.

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 platted and dedications have been made to minimum half street width on Andover Rd.

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 is required. The PUD proposed a modified standard with increased plantings in lieu of setback

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.

PLANNING Concur.

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| 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 | With the proposed screening and buffering the proposed use will be well suited for the location. |
| 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 popularity of the Redbud Trail and addition of the Redbud Trail Park have changed the dynamic of the area, bringing hundreds of users to the trail daily. |
| PLANNING | Concur. |
| COUNCIL | |
| 10. | What are the current land uses, character and condition of the subject property and the surrounding neighborhood? |
| STAFF | The current land uses in the area are widely mixed from single-family residences to retail and service businesses, and a large public-school campus. |
| 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 proposed use will increase the traffic, lighting, activity, etc. over the current vacant lot, but not noticeably increase the effects of the uses currently permitted. |
| PLANNING | Concur. |
| COUNCIL | |

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| 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 suggests a Neighborhood Center Place Type, which includes smaller retail and service uses adjacent to the Trail Oriented Corridor. |
| 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 presented. |
| 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 | No detriment to the public health, safety and welfare is perceived. |
| PLANNING | Concur. |
| COUNCIL | |

Having considered the evidence at the hearing and the factors to evaluate the application, Chairperson Vance Garwood made a motion that the Planning Commission recommend that case Z-PUD24-0001 be approved based on findings 8, 9, and 12. Motion seconded by Gary Israel. Motion carried 5/0.

5.5 **Z-SU24-0001 – PUBLIC HEARING ON AN APPLICATION FOR A SPECIAL USE PERMIT TO ALLOW FOR SHORT-TERM RENTALS ON THE PROPERTY GENERALLY LOCATED AT 855 N. SPEYSIDE CIRCLE, ANDOVER, KANSAS**

Chairperson Garwood opened the public hearing at 7:36 P.M.

Mr. Mangus stated that the property is owned by the applicant, who also manages the Terradyne Country Club, and who wishes to install a short-term rental to allow for use of the golf course in the development.

Mr. Israel asked how “short-term” is defined by the City. Ms. McCausland and Mr. Mangus answered that short-term rentals must be rented for no more than 30 days at a time.

The applicant, Scott Welsh, was in attendance. He stated that the rental will not be an AirBNB or VRBO-type rental, but will only be open to members of the country club and those who are sponsored by members, as well as prospective members who wish to evaluate the country club before joining.

Mr. Israel asked if bookings and housekeeping for the rental would be handled internally by Terradyne. Mr. Welsh answered that yes, bookings and housekeeping would be handled internally.

Mr. Welsh asked about the Transient Guest Tax associated with the property. Ms. McCausland answered that she would have to speak with the City's legal team and Department of Revenue, and would get back with him.

Chairperson Garwood closed the public hearing at 7:46 P.M.

STAFF ITEMS

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| 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 a lot in the recently platted Speyside at Terradyne Subdivision. Public water, sewer, and streets are in place and adequate. |
| 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 platting or dedications are required. |
| 3. | If the special use request was approved, would the subject property need a screening plan for existing or potential uses? |
| STAFF | Screening and buffering of residential uses is not required. |
| 4. | What fact-based information in support of or in opposition to the requested zoning change has staff received? |
| STAFF | Staff has received no information either in support of or opposed to the requested change. |
| 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

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| 6. | How suitable or unsuitable is the subject property for its current use? |
| STAFF | The subject property is suitable for its current permitted single family residential use. |
| 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. The subject property is within a new housing development. |

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| PLANNING | Concur. |
| COUNCIL | |
| 8. How reasonably well-suited will the requested special use of the subject property be with the current zoning of nearby properties. | |
| STAFF | Short-term rentals are a widely used product. The applicant is the owner of the Terradyne Country Club and Speyside Development. He intends to use the short-term rental unit as an amenity for golf course users. |
| 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 proposed short-term rental unit is surrounded by other new single-family residences within the Speyside at Terradyne housing development. |
| 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 | Without proper management and oversight any transient living arrangement can have detrimental effects. In this case the applicant owns surrounding properties and has lots for sale in the development, which lends itself to adequate oversight. |
| PLANNING | Concur. |
| COUNCIL | |
| 12. How would the requested special use conform with the City's Comprehensive Plan and other adopted master plans and policies. | |
| STAFF | The Activate Andover Comprehensive Plan 2024-2033 includes several statements promoting Andover as a destination for recreation, entertainment, and attractions. The proposed short-term rental promotes those goals by providing a unique opportunity to experience the Terradyne Country Club. |

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| | <p>“2021 Strategic Plan Vision Statement: The City of Andover will be an authentic, vibrant community providing economic opportunities and thriving destinations to live, work, learn, and play.”</p> <p>“Andover aspires to be a complete community that welcomes all people, supports a diverse economy, encourages fun and vibrancy, and integrates the natural environment”</p> <p>“Strategy GE+WO-2.3: Capitalize on niche industries. Capitalize on the revenue produced from Andover’s unique offerings, such as outdoor recreation amenities, and expand the variety of potential attractions.”</p> <p>“Strategy GE+WO-2.4: Incentivize distinct attractions. Encourage the development or creation of unique destinations, dining, shopping, attractions, events, entertainment, and places that appeal to the locals and attract visitors from throughout the region.”</p> |
| PLANNING | Concur. |
| COUNCIL | |
| <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> | |
| 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 use to the requested use?</p> | |
| STAFF | No loss to the public health, safety and welfare is perceived. |
| PLANNING | Concur. |
| COUNCIL | |

Mr. Israel asked if all of the country club amenities would be available to renters. Mr. Welsh answered that no, only the golf course and restaurant would be available to renters at this time.

Having considered the evidence at the hearing and the factors to evaluate the application, David Foley made a motion that the Planning Commission recommend that case Z-SU24-0001 be approved based on findings 8, 10, and 12. Motion seconded by Gary Israel. Motion carried 5/0.

5.6 Z-SU23-0006 – PUBLIC HEARING ON AN APPLICATION FOR A SPECIAL USE PERMIT TO ALLOW FOR AN INTERMEDIATE CARE FACILITY ON THE PROPERTY GENERALLY LOCATED AT 224 E. CENTRAL AVENUE, ANDOVER, KANSAS

Chairperson Garwood opened the public hearing at 7:57 P.M.

Mr. Mangus stated that this case had been returned to the Planning Commission by the Governing Body, for additional discussion on questions #10, #12, and #14. He explained the options before the Committee, and stated that the applicant was present to discuss any questions that may be outstanding.

The applicant, Frank Braider, began by stating that while he could not speak to question #10 (the land uses of the surrounding properties), he wanted to clarify what types of care would not be present at the facility. Mr. Braider stated that the facility is not to be a walk-in clinic for outpatient care, where patients could receive detoxification

drugs daily. He stated that the facility is to be a so-called "30-day" facility with inpatient care, in which most patients stay for approximately 30 days. He continued by clarifying the ability for a patient to leave the facility "against medical advice" ("AMA"), stating that while no patient is held against their will, in order to leave, a patient would have to meet with medical professionals and establish transportation either with a family member, or to the airport to return to their home. Mr. Braider added that only about 1% of patients leave these facilities, and they do not simply discharge them into the street.

Mr. Teinert asked if a doctor would have to sign the patient out if they wished to leave the facility. Mr. Braider responded that yes, the doctor would be involved, and that the desire to leave would be discussed with the patient and family member. Mr. Braider stated that facility staff keeps close communication with family members of patients.

Mr. Foley wished to clarify whether the facility would feature outpatient care, and what drugs would be administered on site. Mr. Braider answered that no, the facility is exclusively for inpatient care, and that the only detoxification drug to be used on site is Suboxone, in order to taper those with heavy opioid addictions off of the addictive drugs. Mr. Foley then asked if patients at the facility would be in care for opioid addiction or alcohol addiction. Mr. Braider answered that he expects roughly half and half opioid and alcohol cases. Mr. Foley asked if a licensed psychiatrist would be on staff, and whether this person would be on the facility premises. Mr. Braider replied that a psychiatrist would be on staff, and would be present at the facility at least three times per week. Mr. Braider added that the facility would be overseen by a Medical Director, and a Director of Nursing.

Mr. Israel asked a prepared list of questions, beginning by asking whether patients obtaining treatment would be staying overnight and seeking room and board at the facility- Mr. Braider answered in the affirmative. Mr. Israel asked if patients would be free to leave the facility at night. Mr. Braider answered that no, the doors are locked at night and security keeps ingress and egress under control, and any patient exit would involve the aforementioned medical discharge with staff made aware. Mr. Israel asked how many patients would be staying at the facility. Mr. Braider answered that he expects somewhere between 60 and 75 patients, pending the conditions of the state license, and that the facility previously held up to 74 patients. Mr. Israel asked how many staff members would be present during the day and at night. Mr. Braider answered that generally, the facilities have 33% of the patient population of staff, with around 12 techs and at least one nurse on site at night in addition to security. Mr. Israel asked about rules for visitors. Mr. Braider answered that visitation is limited to the weekend, and is limited to HIPAA-approved guests, which mostly includes immediate family. He stated that while visitors are not searched, the visitation is supervised, and drug tests are taken by patients upon admission and multiple times per week. Mr. Israel asked if the applicant already had other similar facilities. Mr. Braider responded that this would be the third such facility he has overseen, with one already established in Florida and one in Texas. Mr. Israel asked if there had been any issues or complaints from the community around these other facilities, and Mr. Braider said that there had not been any issues.

Mr. Fox stated that he did not wish to significantly increase the workload of the local police. Mr. Braider concurred, and stated that he would be willing to meet with law enforcement to discuss any concerns they may have. He continued that safety is the priority for patients and the surrounding community, and that patients generally want to be in rehabilitation, adding that even court-ordered patients choose their facility for treatment.

Mr. Israel asked about transportation, should patients need to leave the facility for any reason. Mr. Braider answered that staff technicians would drive any patients if they needed to exit the facility, and that no patient would be released without supervision to, for example, go shopping.

Mr. Mangus wished to address another concern from the City Council, stating that notice had been given to 15 property owners of record near the subject property, and that among these, 8 were single-family residences. He continued by addressing the Comprehensive Plan, in which the subject property is classified under the City Center place type, a mixed-use place type that allows for medical facilities alongside residences and other higher-intensity uses.

Mr. Braider added that the facility will employ many members of the community, and that safety is beneficial to the community and to the business.

Mr. Israel asked who normally pays for patients to stay at these facilities. Mr. Braider stated that 98% of the time, private insurance covers most or all of the bill for rehabilitation, though in rare cases a family member may contribute. Mr. Israel asked about the total cost for a rehabilitation stay. Mr. Braider answered that generally care costs between \$20,000 and \$30,000.

Chairperson Garwood closed the public hearing at 8:31 P.M.

STAFF & COMMISSION/COUNCIL ITEMS

10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?

STAFF The surrounding land uses are widely mixed with mixed commercial, institutional, and residential uses.

PLANNING Concur. Mr. Israel added that the facility was previously a skilled nursing care center, and no new facilities would be constructed. Mr. Fox stated that security would be much more intense for this facility compared to the previous use.

COUNCIL

12. How would the requested special use conform with the City's Comprehensive Plan and other adopted master plans and policies.

STAFF The surrounding land uses are widely mixed as proposed in the future "City Center" place type. The proposed use fits within the cluster of existing medical/institutional uses and commercial activity.

PLANNING Concur. Mr. Israel stressed a need for a treatment facility of this kind in the area. Chairperson Garwood noted that the facility is currently employing no one, but should this facility be opened, roughly 60 jobs would be created in the community.

COUNCIL

Mr. Israel asked if the facility's license could be revoked if it presented legal infractions or issues with care as defined by the granting body. Ms. McCausland answered that she believed this to be the case, but noted that the City does not handle licensing of this kind, but does issue the occupancy certificate, and would perform code inspections as per usual. Mr. Braider added that the state licensing body performs their own inspections and evaluations for the purpose of continuing the license to operate.

Mr. Israel asked if repeated police calls would jeopardize the facility license. Mr. Braider said that it would, and added that all law enforcement calls are reported to the state licensing body.

Mr. Mangus stated that in order to address the Council's concerns, the Committee should expand their answer to question #14. Mr. Teinert stated that he feels that an appropriate "buffer" exists between the patients and the community, in the case of any adverse effects.

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?

STAFF

Staff perceives no detriment to the public health, safety and welfare created by the minor change in use.

PLANNING

Concur.

COUNCIL

Having considered the evidence at the hearing and the factors to evaluate the application, Gary Israel made a motion that the Planning Commission resubmit their recommendation that case Z-SU23-0006 be approved based on findings 10, 12, and 14, on the condition that Mr. Frank Braider be present at the meeting of the Governing Body when this case is heard. Motion seconded by Peter Fox. Motion carried 5/0.

Note: The recording of this meeting is available [HERE](#), on the AndoverKSCity YouTube channel. Agenda item 5.6 is discussed starting at the 57:00 mark.

Gary Israel made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by David Foley. Motion carried 5/0.

5.7 BZA-V23-0014 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 11 FEET FROM THE 35 FOOT MINIMUM FRONT YARD SETBACK; AND A VARIANCE OF 1148 SF. FROM THE 2152 SF. MAXIMUM LOT COVERAGE ON THE PROPERTY GENERALLY LOCATED AT 115 W. ALLISON STREET, ANDOVER, KANSAS

Mr. Mangus reminded the Committee that at their last meeting on January 16th, 2024, this agenda item was tabled pending the attendance of the applicant. The applicant was absent from this meeting. Chairperson Garwood stated that he feels that nothing has changed on this item.

Gary Israel made a motion to table case BZA-V23-0014 until the applicant can be present at the meeting. 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 Clint Teinert. Motion carried 5/0.

6. MEMBER ITEMS

Mr. Israel wished to express his appreciation to Staff, without whom these meetings would not go as smoothly.

7. ADJOURN

Peter Fox made a motion to adjourn the meeting. Motion seconded by David Foley. Motion carried 5/0.

Meeting adjourned at 8:45 P.M.