



**PLANNING & ZONING**  
1609 E. CENTRAL AVE.  
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**PLANNING COMMISSION  
& BOARD OF ZONING APPEALS AGENDA**  
**JUNE 26, 2024 | 7:00 P.M.**  
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

**1. CALL TO ORDER**

*On June 18, 2024, the Committee attempted to hold the meeting. A quorum could not be reached at this time.*

*Committee members in attendance: Acting Chairperson Marla Canfield; Gary Israel; and Clint Teinert.*

*Gary Israel made a motion to continue the meeting to June 26, 2024 at 7:00 P.M. Motion seconded by Clint Teinert. Motion carried 3/0.*

*The following minutes record the meeting as continued on June 26, 2024.*

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

**2. ROLL CALL**

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

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

**3. APPROVAL OF THE MINUTES OF THE MAY 21, 2024 MEETING**

*Gary Israel made a motion to approve the minutes of the May 21, 2024 meeting as presented. Motion seconded by Clint Teinert. Motion carried 5/0.*

**4. COMMUNICATIONS**

**A. COMMITTEE & STAFF REPORT**

None.

**B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT**

**5 AGENDA**

- 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.*

**5.1 BZA-A24-0001 – REVIEW AND APPROVAL OF A REQUEST FOR AN EXTENSION ON A VARIANCE GRANTED FOR 737 S. RUTH AVENUE, ANDOVER, KANSAS**

Mr. Westphall explained that this item is simply a request for a 180-day extension to a Variance that was approved in December of 2023. He continued that conditions had not changed for the project; construction had simply been delayed.

*Gary Israel made a motion to grant an extension for a Variance at 737 S. Ruth Avenue. 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 Peter Fox. Motion carried 5/0.*

## **5.2 Z-PUD24-0003 – PUBLIC HEARING ON A PROPOSED AMENDMENT TO THE GENERAL PROVISIONS OF THE CORNERSTONE PLANNED UNIT DEVELOPMENT**

Acting Chairperson Canfield opened the public hearing at 7:10 P.M.

Mr. Israel stated that he had received communication regarding the case prior to the meeting, by way of a Facebook message, and that he had passed this on to Staff to be incorporated into the report on public comments.

Mr. Mangus began by calling back to 2018, when the uses that would be permitted via this Amendment were approved for a different parcel in the Cornerstone Planned Unit Development. He stated that this Amendment would allow for a mix of uses, including businesses and multi-family housing on the subject property, with a maximum density of 20 dwelling units per acre.

Phil Meyer with Baughman was in attendance, as the applicant's agent. He reiterated that commercial uses were already permitted on the property. He continued that while a contract had been in place for apartments on the property, the deferment of the approval had rendered this contract void, so no specific plan for development was in place.

Mr. Israel asked for clarification as to what is intended by "multi-family". Mr. Meyer replied that they mean apartments.

Mr. Fox asked if there was an exhibit that would show what these theoretical apartments would look like. Mr. Meyer stated that no exhibit existed at this time, and added that no such exhibit is involved in this Amendment. Mr. Mangus added that the text of the Amendment does define a two-story maximum with the 35-foot height limit, and Mr. Meyer stated that it would be limited to one complex, despite the subject parcel being split into two pieces of land.

Mr. Israel asked Staff if the building on the property could be taller than 35 feet if it were a business use rather than an apartment. Mr. Mangus replied that the 35 foot limit is the same either way.

Mr. Israel asked again if any specific plans were in place for the property should the Amendment be approved. Mr. Meyer answered that no, there are no specific plans, but they wish to move forward regardless.

Brad Train, property owner at 2141 N. Stonegate Circle, was in attendance to offer public comment. He stated that he was representing himself and many neighbors, who had shared their concerns to be brought up at the meeting. Mr. Train stated that the Cornerstone residents are not against development, but are not convinced that the installation of an apartment complex would not negatively affect their property values. He additionally mentioned concerns about privacy, stating that residents in an apartment complex would be able to look down into the backyards of nearby houses to the north. He stated that he did not wish to live near "transient renters". Mr. Train continued by stating that the views afforded to nearby residents would be ruined by a large apartment building, and that he and other residents were concerned about safety and an increase in traffic should many new residents move into the area.

Mr. Teinert stated that access control would be purely along 21<sup>st</sup> Street, so traffic on Cornerstone Parkway would not increase. He asked Mr. Train if his primary concern was with the quality of the housing. Mr. Train agreed that this is a concern, and added that the small size of the lots would mean that most of the land would be covered with buildings.

Mr. Teinert drew attention to the landscaping requirements in the Amendment, which require 20% lot coverage with landscaping and screening elements. Mr. Train replied that he feels that any trees installed as screening would not be tall enough to adequately block the view from apartment residents. He reiterated that existing residents are specifically against apartments going in on this land.

Mr. Train mentioned that there had been rumors of low-income apartments being planned for the area, but stated that it was merely hearsay. He stated that there are plenty of other places in Andover to put apartments. He continued by stating that 20-25 foot setbacks would be insufficient.

Mr. Foley asked if any data had been presented to Staff concluding that nearby property values go down when an apartment complex is built. No data had been provided.

Acting Chairperson Canfield asked Staff for the specific scope of the Amendment. Mr. Mangus answered that the B-3 zoning is already in place, and the Amendment allows specifically for multi-family housing.

Mr. Israel asked Staff if the setback requirements vary for business uses compared to an apartment. Mr. Mangus stated that they are the same, as are the requirements for screening. Mr. Israel then stated that an apartment complex may have windows that could look down over the backyards of nearby houses. Mr. Mangus agreed, and stated that an office building, which is already permitted, could do the same.

Acting Chairperson Canfield asked if any public comments had been received by Staff ahead of the meeting. Mr. Boyd answered that several had, though most of the concerns had been mentioned already by Mr. Train. Mr. Boyd added that one resident expressed concern about the school district in the area already being near capacity, and that adding more housing units could cause a problem in this vein.

Mr. Meyer returned to the stand and addressed the public comments. He stated that he was not aware of any studies looking at property value changes due to the building of apartments, and reiterated the fact that the B-3 commercial zoning was already in place when the nearby homes were sold. He stated that he would expect any apartment that goes in the area to be very nice, and was doubtful about the possibility of low-income housing. He finished by reminding the Committee that any plans would of course be reviewed by the Site Plan Review Committee, including any landscaping plans.

Mr. Israel added that a plat for the property would be discussed by the Subdivision Committee before any building could be approved.

Mr. Teinert provided an anecdote from his personal experience, owning a home that had an apartment complex built nearby. He stated that his property value in fact increased after the installation of the apartments.

Mr. Train returned to the stand and stated that he is doubtful that a business use would use the full 35-foot height maximum. He added that businesses are often not open late at night.

Acting Chairperson Canfield closed the public hearing at 7:33 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 water, sewer, and streets are available adjacent to the subject property and can be readily extended.
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 would need to be platted before development.
3.	If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?
STAFF	Yes, screening would be required. Per the UDM, Part 3.4.8, the proposed B-3 Mixed use adjacent to SF-2 would require a Screening Fence or Wall at least 6 feet tall. Further, at least 1 shade tree per 40 linear feet or 1 ornamental tree per 30 feet of buffer length would be required.
4.	What fact-based information in support of or in opposition to the requested zoning change has staff received?
STAFF	Staff have received opposing opinions from residents that are concerned with a multi-family structure impacting their property values, but no fact-based information.
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 is an undeveloped parcel in the Cornerstone PUD that is suitable for the current uses allowed by the PUD B-3 which is appropriate for PUD
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.	<p>STAFF The subject property resides in a transition area between two current zoning districts of nearby properties. Cornerstone Parkway bisects the subject property, the West being the B-3 zoning district and to the east the SF-3 zoning district. The requested change would be reasonably well-suited to align with either of these zoning districts.</p> <p>PLANNING Concur.</p> <p>COUNCIL</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>STAFF No</p> <p>PLANNING Concur.</p> <p>COUNCIL</p>
10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?	<p>STAFF The subject property is surrounded on three sides by the Cornerstone Mixed Use PUD and the surrounding area has a mixture of uses from single family residential to multifamily residential to commercial.</p> <p>PLANNING Concur.</p> <p>COUNCIL</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>STAFF The proposed use would add little or no increase traffic, lighting, noise, etc. as compared to the existing use. Traffic would not impact the flow of Cornerstone Parkway because the property would have access points directly with 21<sup>st</sup> Street.</p> <p>PLANNING Concur.</p> <p>COUNCIL</p>
12. How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.	<p>STAFF The proposed uses are generally in conformance with the Comprehensive Plan by providing alternative housing options. The Place Types associated with the subject property are Business and Employment Center as well as the Mixed Residential Neighborhood. A denser</p>

	<p>housing option would align with the Mixed Residential Neighborhood Place Type. With Cornerstone Parkway bisecting the subject property, creating a transition zone, the requested zoning change would allow for the parcel to be developed in accordance with both of the proposed Place Types.</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	No
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 does not anticipate any detrimental effects or hardship to public health, safety, or welfare if there is a change to this subject property to the requested use. This staff opinion is qualified by comparing the existing permitted uses to the proposed uses.
PLANNING	Concur.
COUNCIL	

Mr. Israel provided an anecdote about his own home, stating that multiple other homes can see into his kitchen by way of their own multi-story decks.

*Having considered the evidence at the hearing and the factors to evaluate the application, Gary Israel made a motion that the Planning Commission recommend that case Z-PUD24-0003 be approved based on findings 8, 10, 12, and 14. Motion seconded by Peter Fox. Motion carried 5/0.*

Acting Chairperson Canfield issued a correction to the dates for protest petitions and for this and other cases to be brought before the Governing Body, due to the meeting being continued to this date. This correction applies to this and the following zoning cases on the agenda. Protest petitions may be received by **July 10<sup>th</sup> at 4:30 P.M.**, and these cases will go before the Governing Body on **July 30<sup>th</sup>**.

### **5.3 ANNEXATION PETITION – REVIEW AND APPROVAL OF A PETITION TO ANNEX CERTAIN LANDS GENERALLY LOCATED AT 1413 E. HWY 54, ANDOVER, KANSAS**

Mr. Mangus introduced the subject property, which is within an area that was slated for annexation later in 2024 already. He added that it is surrounded by other properties already annexed into the city.

Mr. Israel asked why the annexation is not waiting for the rest of the area to be annexed all at once. Mr. Mangus replied that the owner petitioned for annexation by themselves, because they intend to possibly rezone the property in the near future.

*Gary Israel made a motion to recommend approval of the annexation for 1413 E. HWY 54. Motion seconded by David Foley. Motion carried 5/0.*

**5.4 Z-VA24-0001 – PUBLIC HEARING ON AN APPLICATION FOR VACATION OF CERTAIN LANDS GENERALLY LOCATED AT 428 E. WILLOWBROOK STREET, ANDOVER, KANSAS**

Acting Chairperson Canfield opened the public hearing at 7:55 P.M.

Mr. Mangus referenced the Heritage plans from the past, explaining that the original road design for Shay Road and Sunset Drive would have put the road and right-of-way through the subject land. However, due to Sunset Drive intersecting with Shay Road further to the north, this section of land was vacant, yet considered part of the road right-of-way. Mr. Mangus stated that the property owner of the adjoining lot was already mowing the land and treating it as if it were his yard, and so the City decided to apply to Vacate it so that he may incorporate it officially.

Mr. Israel noted a sliver of land connected to the subject land to the north, adjoining Lot 9 (the aforementioned property that will be gaining land is Lot 8). He asked why the City is not Vacating this piece of land as well, since it too seems to be unused after the road redirection. Mr. Mangus replied that this was the only case that had been brought to the City's attention, and thus the Committee could not vote on a matter that was not advertised.

Acting Chairperson Canfield closed the public hearing at 8:05 P.M.

*David Foley made a motion to recommend approval of the Vacation of certain lands near 428 E. Willowbrook Street. Motion seconded by Peter Fox. Motion carried 5/0.*

**5.5 SMALL TRACT FINAL PLAT – REVIEW AND APPROVAL OF THE POSTIE'S PATCH SMALL TRACT PLAT, GENERALLY LOCATED AT 505 W. ALLISON STREET, ANDOVER, KANSAS**

Mr. Mangus explained that this property has been considered by the Committee multiple times for various steps in the process, from the initial Lot Split to this replat. He stated that Staff comments had been satisfactorily implemented, and that the area is a good candidate for this type of platting.

Todd Hornbaker with Merestone was in attendance. He concurred with Mr. Mangus' report, stating that they had worked closely with Staff to ensure that the plat was compliant.

*Gary Israel made a motion to recommend approval of the Postie's Patch Small Tract Plat. Motion seconded by Peter Fox. Motion carried 5/0.*

**5.6 Z-A24-0001 –PUBLIC HEARING ON AN APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION FOR CERTAIN LANDS GENERALLY LOCATED AT 1904 E. CENTRAL AVENUE, ANDOVER, KANSAS**

Acting Chairperson Canfield opened the public hearing at 8:07 P.M.

Mr. Westphall explained that this case too had been before the Committee in several forms already, for annexation and platting, and now for rezoning. He stated that the property is properly served with water and utilities, and that the previous issues with fire code compliance had been resolved.

Acting Chairperson Canfield closed the public hearing at 8:11 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 | The property is currently served by Evergy, Andover sewer services, and Rural Water District #5. Central Avenue is being chipseal paved by Bruno Township.

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 | A final plat of the subject property is in process pending the outcome of the change in zoning district classification.

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

STAFF | No, the adjacent zoning districts would not require a landscape buffer or screening as per Section 3.4.8 of the Andover Unified Development Manual.

4. What fact-based information in support of or in opposition to the requested zoning change has staff received?

STAFF | None.

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 is an undeveloped parcel in the Butler County Agricultural District 40 zoning district. It is suitable for the 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 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 requested zoning change is well-suited for the current zoning of nearby properties which are also low-density Butler County Agricultural 40 or Residential Estate zoning districts.

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 No

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 of the subject property and surrounding neighborhood are low-density, rural home sites. The proposed use and zoning would be consistent with the character and condition of the surrounding neighborhood.

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 Staff anticipates no detrimental effects from this requested zoning change.

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 requested zoning change would conform directly with the City's Comprehensive Plan 2024-2033 by utilizing the subject property as the Traditional Neighborhood Place Type that is depicted.

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 proposed change in zoning.

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 does not anticipate any detrimental effects or hardship to public health, safety, or welfare if there is a change to this subject property to the requested use.

PLANNING Concur.

COUNCIL

*Having considered the evidence at the hearing and the factors to evaluate the application, Peter Fox made a motion that the Planning Commission recommend that case Z-A24-0001 be approved based on findings 8, 10, 12, and 14. Motion seconded by Clint Teinert. Motion carried 5/0.*

## 6 MEMBER ITEMS

Mr. Israel stated that he had toured the 13<sup>th</sup> Street Sports Park, and was very impressed by the progress. Ms. Graham concurred, stating that the City had received lots of good feedback from residents.

Mr. Mangus reminded the Committee that the next meeting, in July, would feature the yearly Comprehensive Plan review.

Mr. Foley asked if the owner who had developed much of the Cornerstone Planned Unit Development was intending to develop the aforementioned apartments or commercial uses. Mr. Mangus replied that he owns the land, but that it would be sold to whatever developer ended up with the land.

Mr. Foley asked if residents that purchase homes near undeveloped parcels are given advance notice at the time of sale of what development could be installed in the future. Mr. Mangus replied that this sometimes happens, and though he could not provide specifics, he was under the impression that during title work for Cornerstone homes, something about this kind of thing would have been mentioned.

## 7 ADJOURN

*Acting Chairperson Canfield made a motion to adjourn the meeting. Motion seconded by Gary Israel. Motion carried 5/0.*

Meeting adjourned at 8:25 P.M.