



PLANNING & ZONING
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ANDOVER, KS 67002
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PLANNING COMMISSION & BOARD OF ZONING APPEALS MINUTES

JULY 16, 2024 | 7:00 P.M.

ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

1. CALL TO ORDER

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

2. ROLL CALL

Committee members in attendance: Chairperson Vance Garwood; Marla Canfield; Gary Israel; David Foley; Peter Fox; and Dan Colson.

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

3. APPROVAL OF THE MINUTES OF THE JUNE 18, 2024 MEETING

Gary Israel made a motion to approve the minutes of the June 18, 2024 meeting as presented. Motion seconded by Peter Fox. Motion carried 6/0.

Clint Teinert joined the meeting at 7:04 P.M.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

Mr. Mangus wished to extend a welcome to Mr. Dan Colson, the new Committee member. He stated that Mr. Colson previously served on the Planning Commission for the city of Emporia, KS.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

5. AGENDA

5.1 FINANCE PRESENTATION

Ms. Graham introduced this item, stating that whenever the Comprehensive Plan is annually reviewed, the Capital Improvement Plan is also presented to the Planning Commission for approval. She continued that the Committee should review expenditures on public improvements and facilities, and stated that the CIP is considered to be a 5-year plan with need-based allocation of funds.

Chairperson Garwood asked for the definition of a 'self-contained breathing apparatus'. Ms. Graham stated that it is the breathing device used by firefighters to have oxygenated masks.

Mr. Israel asked if the City has kept to the previous CIP budget effectively. Ms. Graham stated that the CIP is considered to be a 'living document', with shifting of priorities to allocate funds for areas with the greatest need. Mr. Mangus expanded on this, stating that the budgeting is controlled through a living spreadsheet that is updated daily.

Marla Canfield made a motion to approve the Capital Improvement Plan as presented. Motion seconded by Gary Israel. Motion carried 7/0.

5.2 ANNUAL REVIEW – REVIEW OF THE ACTIVATE ANDOVER COMPREHENSIVE PLAN 2024-2033

Mr. Westphal introduced the item, a review of the 2024-2033 Comprehensive Plan as approved on July 18, 2023. He reviewed the stated goals of the Plan, pointing to the Heritage development and the US-54 Corridor as tangible proof of the City's strategy for ongoing development.

Chairperson Garwood stated that himself as well as Mr. Israel were very involved in the development of the Plan.

Mr. Fox asked if a budget overview would be useful for the Committee's action on this item. Chairperson Garwood stated that the CIP shows expected large expenditures, while the Comprehensive Plan is more of a blueprint, showing what kind of development is desired and the long-term ideal for the City. Mr. Mangus concurred, stating that the Comprehensive Plan represents the vision for the City, and the CIP is the shorter-term action plan for City spending. He added that the land uses referenced in the Comprehensive Plan are painted with a wide brush.

Chairperson Garwood invited anyone who has not reviewed the plan to do so- he stated that it is available on the City website, www.andoverks.com.

Mr. Mangus stated that this Plan featured the most public engagement of any previous Planning document.

5.3 ANNEXATION PETITION – REVIEW AND APPROVAL OF A PETITION TO ANNEX CERTAIN LANDS COMPRISING OF THE MEADOWBROOK 4TH ADDITION, ANDOVER, KANSAS

Mr. Westphall stated that this is an approximately 15-acre parcel, near the extant Meadowbrook 3rd which had previously been annexed. He stated that the land would be rezoned after annexation, and added that the land is served by all expected utilities already.

Gary Israel made a motion to recommend approval of the annexation of the Meadowbrook 4th Addition. Motion seconded by Marla Canfield. Motion carried 7/0.

5.4 ANNEXATION PETITION – REVIEW AND APPROVAL OF A PETITION TO ANNEX CERTAIN LANDS GENERALLY LOCATED AT 9947 S.W. MEADOWLARK ROAD, ANDOVER, KANSAS

Mr. Westphall explained that this small annexation will retain its county AG-40 zoning and will be rezoned in the future. He stated that while this property is to the east of the City currently, it is within the extraterritorial jurisdiction of Andover, and that the Committee should expect to see multiple cases regarding this property in the future. Mr. Westphall stated that the property is served by Rural Water District #5 and Evergy, though it is not connected to Andover public sewers.

Mr. Israel asked if the property is served by the Andover Fire and Police Departments. Mr. Mangus stated that it is within the fire district, and will be primary served by the Andover Police Department after being annexed (whereas currently, it is primarily served by the County sheriff).

Chairperson Garwood asked if the inherited zoning would make the property a legal nonconforming lot. Mr. Mangus confirmed as much, stating that whenever the County makes changes to its zoning code, many properties are given the 'default' AG-40 zoning.

Chairperson Garwood asked if public sewers were nearby. Mr. Mangus stated that the nearest was about a mile away. Mr. Israel asked if sewers would ever be extended to this property. Mr. Mangus stated that it likely would, but in the distant future.

Gary Israel made a motion to recommend approval of the annexation of 9947 S.W. Meadowlark Road. Motion seconded by Peter Fox. Motion carried 7/0.

5.5 Z-SU24-0004 – PUBLIC HEARING ON AN APPLICATION FOR A SPECIAL USE PERMIT IN THE B-3 RETAIL AND SERVICE BUSINESS DISTRICT TO ALLOW FOR A CONVENIENCE STORE, ON CERTAIN LANDS GENERALLY LOCATED AT 300 S. ANDOVER ROAD, ANDOVER, KANSAS

Chairperson Garwood opened the public hearing at 7:26 P.M.

Mr. Westphall explained that Casey's is seeking a Special Use permit to allow for a convenience store, which is acceptable in the given zoning district. He added that the building itself had already been approved by the Site Plan Review Committee, with multiple changes and additions per Staff and SPRC recommendations.

Chairperson Garwood asked if the SPRC had focused on the rear screening of the property, as it abuts residentially-zoned properties. Mr. Mangus stated that it had.

Chairperson Garwood asked if Staff had any concerns about traffic. Mr. Mangus stated that the site will feature two access points, one along Andover Road, and one on Willowbrook to the north.

Mr. Fox stated that there are already 5 gas stations along Andover Road nearby, and asked why another was necessary. He added that this does not seem to fit with the goal of diversification of uses in the City Center area.

Mr. Teinert stated that the City has already lost multiple convenience stores, and Mr. Mangus added that multiple existing stations would be moving as a result of the US-54 freeway improvement project.

Mr. Fox asked where the Quik Trip would be moving to. Mr. Mangus stated that it would be at the intersection of Yorktown and US-54. Mr. Fox stated that this development does not seem to revitalize the area, which is a stated goal of the Comprehensive Plan for the area. He raised concerns about pedestrian and bicycle traffic in the area.

Mr. Mangus stated that with the US-54 project, Andover Road would stay at grade, and the highway would go under, helping to link across the highway area for pedestrians.

Chairperson Garwood stated that despite the guidelines of the Comprehensive Plan, the Committee cannot deny a business that fits the applicable zoning regulations unless it would be a directly deleterious presence to the surrounding community. Mr. Fox agreed, but stated that he is still concerned about the lack of diversity along Andover Road.

Mr. Colson asked how far off the Andover Road improvements are. Mr. Mangus stated that he last heard around 2028.

Mr. Colson asked if the Willowbrook and Andover Road intersection would gain a traffic light. Mr. Mangus stated that there are currently no plans for a light there, but it may be added in the future as traffic studies track the roads that are in progress, such as Founder's Parkway.

The applicant's agent, Jeff Laubach with SBB Engineering, was in attendance. He stated that the location was chosen in anticipation of future need, given the nearby road projects.

Mr. Israel asked how many pumps the station would feature. Mr. Laubach stated that there would be 5 pumps for a total of 10 fueling positions.

Mr. Israel asked if the new store would be the same size as the Casey's on 21st Street. Mr. Laubach stated that this store would be slightly larger, by approximately 1000 square feet.

Chairperson Garwood asked if there were any concerns about screening the property from the nearby residences. Mr. Laubach reiterated Staff's opinion that the screening plan that had been negotiated with the SPRC and Staff would be more than sufficient.

John Plett, resident at 301 S. Westview Road, asked about the easement on the eastern side of the property, and how the screening fence would accommodate this. Mr. Mangus confirmed that the screening fence would be inset 10 feet from the property line to allow for easement access. Mr. Plett then asked if Willowbrook Street would receive curb and guttering with the north side access. Mr. Mangus stated that no public improvements were necessary, but that Casey's themselves would make improvements to accommodate their driveway and drainage.

Chairperson Garwood closed the public hearing at 7:48 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 subject property is served with public streets, water, and sewer
2.	If the special use request was approved, would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights-of-way, easements, building setback lines, or access control?
STAFF	The property is already platted.
3.	If the special use request was approved, would the subject property need a screening plan for existing or potential uses?
STAFF	The Site Plan Review Committee approved the applicant's submittal on 2 July, 2024. The submittal accounted for adequate screening in the landscape plan.
4.	What fact-based information in support of or in opposition to the requested zoning change has staff received?
STAFF	None at this time.
5.	If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?
STAFF	No errors are known to exist.

STAFF & COMMITTEE / COUNCIL ITEMS

6.	How suitable or unsuitable is the subject property for its current use?	STAFF	The subject property is currently a single-family home and not suitable for its current zoning district.
		PLANNING	Concur.
		COUNCIL	
7.	Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the special use request?	STAFF	No.
		PLANNING	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	The proposed use would be well-suited with the zoning of nearby properties and S Andover Road transitions more toward commercial and business uses.
		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 subject property is predominantly surrounded by a combination of single-family homes and smaller businesses. It would be a suitable change that would match the character and condition of the surrounding neighborhood.
		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	Granting this special use permit might result in a noticeable increase in traffic. Additionally, the lighting for convenience stores has the potential to be more intense than other comparable B-3 uses, but the SPRC has implemented measure to mitigate these concerns.
		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 requested special use would fit into the Comprehensive Plan's Mixed Residential Neighborhood Placetype by providing a small commercial use to the neighborhood and transition effectively into the adjacent City Center Placetype to the South.
		PLANNING	Concur.
		COUNCIL	
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?	STAFF	After reviewing the submittal, the Planning and Zoning staff supports the application because it conforms with the Comprehensive plan and any concerns that have been raised were addressed during the Site Plan Review process.
		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 use to the requested use?	STAFF	This special use is only concerned with comparing what is currently allowed in the B-3 district to what is being requested. The change would have no foreseeable adverse impact on public health, safety or welfare.
		PLANNING	Concur.
		COUNCIL	

Mr. Israel stated that his parents used to live near a post office, and were troubled by frequent nighttime delivery trucks. He asked when deliveries would be made to the convenience store. Mr. Laubach stated that the time will vary, but deliveries are generally not made at night, for merchandise or gasoline. Mr. Mangus added that the delivery area was to the south of the property.

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-SU24-0004 be approved based on findings 6, 8, 10, 11, 12, and 13. Motion seconded by Clint Teinert. Motion carried 7/0.

5.6 Z-SU24-0005 – PUBLIC HEARING ON AN APPLICATION FOR A SPECIAL USE PERMIT IN THE SF-2 SINGLE FAMILY RESIDENTIAL / MEDIUM DENSITY DISTRICT TO ALLOW FOR SHORT TERM RENTALS, ON CERTAIN LANDS GENERALLY LOCATED AT 321 W. CONCORD COURT, ANDOVER, KANSAS

Chairperson Garwood opened the public hearing at 7:59 P.M.

Mr. Westphall stated that like the previous case, the intended use is permitted in the applicable zoning district with a Special Use permit. He stated that the property features a single-family home, and with the permit, may be used for AirBnB, VRBO, etc.

The applicant, Erica Vincent, stated that the home is owned by her father, who uses it infrequently, and that she and her husband wished for the home to be available for friends and family to use, and that it would be used as an AirBnB/VRBO to maintain costs. She stated that she already has a good relationship with the neighbors, and had given out her phone number to them in case any concerns were raised.

Mr. Israel asked if Ms. Vincent would be managing the property herself. She stated that she would, and that she and her husband are there often, as they live very nearby.

Chairperson Garwood closed the public hearing at 8:05 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 change in zoning were approved? |
| STAFF | The subject property is served with public streets, water, and sewer |
| 2. | If the special use request was approved, would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights-of-way, easements, building setback lines, access control? |
| STAFF | The property is already platted. |
| 3. | If the special use request was approved, would the subject property need a screening plan for existing or potential uses? |
| STAFF | Because the adjacent properties are also SF-2, there are no screening requirements listed in the UDM. |
| 4. | What fact-based information in support of or in opposition to the requested zoning change has staff received? |
| STAFF | None at this time. |

5. If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?

STAFF | No errors are known to exist.

STAFF & COMMISSION / COUNCIL ITEMS

6. How suitable or unsuitable is the subject property for its current use?

STAFF | The subject property is currently a single-family home and is suitable for its current zoning district.

PLANNING | Concur.

COUNCIL

7. Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the special use request?

STAFF | No.

PLANNING | 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 | The proposed use would be well-suited, it will generally have the same use but on a rental basis as opposed to permanent residence.

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 subject property is surrounded by single-family homes. It would be a suitable change that would match the character and condition of the surrounding neighborhood.

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	No.
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 requested special use would fit into the Comprehensive Plan's Traditional Neighborhood Placetype because it will only be changing from a permanent residence to a short-term rental residence.
PLANNING	Concur.
COUNCIL	
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?
STAFF	After reviewing the submittal, the Planning and Zoning staff supports the application. It conforms with the Comprehensive Plan by developing and implementing strategies to utilize new technologies and trends.
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 use to the requested use?
STAFF	The change would have no foreseeable adverse impact on public health, safety or welfare.
PLANNING	Concur.
COUNCIL	

Having considered the evidence at the hearing and the factors to evaluate the application, Marla Canfield made a motion that the Planning Commission recommend that case Z-SU24-0005 be approved based on findings 8, 10, 12, and 13. Motion seconded by Gary Israel. Motion carried 7/0.

6 MEMBER ITEMS

Mr. Fox stated that he feels that the Comprehensive Plan should not encourage another gas station along Andover Road, and that it gives no reason for someone to stay in Andover. Mr. Teinert asked how he would define the desired diversity. Mr. Fox replied that he would like to see unique retail and service businesses. Chairperson Garwood referenced the Heritage development as an example of the desired development that the City is encouraging.

The Committee discussed the 14 factors that are referenced in Public Hearings. Ms. Graham clarified that the factors are legally prescribed for the Committee to consider, and Mr. Boyd added that the Committee is not required to 'concur' with the Staff findings on each item, nor are the members required to vote unanimously on each case. Mr. Mangus agreed, stating that the Factors are simply required points of discussion, not yes-or-no questions.

7 ADJOURN

Gary Israel made a motion to adjourn the meeting. Motion seconded by Clint Teinert. Motion carried 7/0.

Meeting adjourned at 8:34 P.M.