



PLANNING & ZONING
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**PLANNING COMMISSION
& BOARD OF ZONING APPEALS AGENDA**
SEPTEMBER 17, 2024 | 7:00 P.M.
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

1. CALL TO ORDER

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

2. ROLL CALL

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

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

3. APPROVAL OF THE MINUTES OF THE AUGUST 20, 2024 MEETING

Gary Israel made a motion to approve the minutes of the August 20, 2024 meeting as presented. Motion seconded by Peter Fox. Motion carried 7/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

Ms. Boyd stated that Staff had supplied a new set of documents to the Committee, detailing the development history on the properties for which the Committee would hear cases, and asked for feedback. She continued by explaining how these Development Timeline documents would, in the future, be included in the agenda packet when it is distributed.

The Committee agreed that they appreciated the Development Timeline documents. Mr. Teinert stated that "it's super".

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

Chairperson Garwood asked how permits and construction this year compares to last year. Mr. Mangus stated that the numbers are a bit misleading- he continued that, for example, an apartment complex that is being counted is only listed as 6 buildings, instead of as the number of dwelling units that will be added.

5 AGENDA

5.1 Z-A24-0003 – PUBLIC HEARING ON AN APPLICATION TO CHANGE THE ZONING DISTRICT CLASSIFICATION FROM THE COUNTY AGRICULTURAL DISTRICT TO THE SF-2 SINGLE FAMILY RESIDENTIAL / MEDIUM DENSITY DISTRICT, ON CERTAIN LANDS GENERALLY LOCATED IN THE 800 BLOCK OF W. HARRY STREET, ANDOVER, KANSAS

Chairperson Garwood opened the public hearing at 7:04 P.M.

Mr. Westphall explained that this is the same case as was heard at the previous meeting, and that it simply needed to be repeated due to an error in notification. He stated that otherwise, the case is the same, and that Staff supports the change of zoning, continuing by stating that the necessary utilities serve the area.

Chairperson Garwood closed the public hearing at 7:07 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. Existing sewage disposal and water utilities can be readily extended 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 applicant has submitted the preliminary plat to be reviewed concurrently with the zoning amendment.

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

STAFF Because the surrounding properties are either used for agriculture, not annexed into Andover, or zoned SF-2, a screening plan would not be required. However, because the surrounding properties are in Andover's extraterritorial jurisdiction and will later be annexed into the city, any further development at the Site Plan Committee would take this into consideration and ensure adequate screening is emplaced should those potential uses require a landscape buffer or screening plan.

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 & COMMITTEE/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. Because it is fewer than 40 acres, it is not 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.
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 to medium-density 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 with the City's Comprehensive Plan 2024-2033 by serving as the projected 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, Gary Israel made a motion that the Planning Commission recommend that case Z-A24-0003 be approved based on findings 6, 8, 10, and 12. Motion seconded by Dan Colson. Motion carried 7/0.

Gary Israel made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Chairperson Garwood. Motion carried 7/0.

5.2 **Z-VA24-0003 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 1150 SF. FROM THE 500 SF. MAXIMUM SIZE OF AN ACCESSORY STRUCTURE, ON CERTAIN LANDS GENERALLY LOCATED AT 1125 S. ANDOVER ROAD, ANDOVER, KANSAS**

Chairperson Garwood opened the public hearing at 7:14 P.M.

Mr. Westphall stated that the SF-1 district allows for up to 500 sf. for an accessory structure, but that the applicant is seeking to build a carport that is larger. He continued that the Variance may seem excessive, but that the property itself is over 1 acre in size, and the total lot coverage will remain very low even with this structure in place.

Chairperson Garwood noted that it seems that nearby properties already feature accessory structures of a similar size.

Mr. Fox asked if there was a cumulative maximum allowable accessory structure size for all structures on the property, noting several existing accessory structures. Mr. Mangus stated that the limit is twice the allowable maximum for any given structure, and that the total area of accessory structures is to be kept lower than the total area of the primary dwelling on the property.

Chairperson Garwood noted that the Committee had heard and approved a similar case a few months ago.

Mr. Teinert voiced his support of the case, stating that he was in favor of the applicant getting their vehicles covered and out of the public eye.

Chairperson Garwood closed the public hearing at 7:21 P.M.

Mr. Israel asked for any specifics on the construction of the carport. Mr. Mangus replied that as far as he was aware, it would be a metal structure with 14-foot walls and open sides. He added that the applicant may intend to pour a concrete pad.

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 characteristics of the property do not result in any practical difficult to the applicant.
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 applicant does not have a motivation to make money out of the property through the request of this variance. It is to allow a structure that would protect their camper and boat from inclement weather.
BZA	Concur.

SPECIFIC CONDITIONS TO BE MET:

5.	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 generally larger than other comparable SF-1 housing sites. Comparing it to a smaller lot that might comply with the 500 square foot maximum for accessory structures, it would have a comparable impact on the maximum lot coverage as what is being requested.
BZA	Concur.

6.	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	Strict application of the provisions in this case would result in some unnecessary hardship for the owner given the size of the lot and what is being requested.
	BZA	Concur.
7.	Granting the variance will not adversely affect the rights of adjacent property owners or residents.	
	STAFF	No adverse effects are anticipated.
	BZA	Concur.
8.	The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.	
	STAFF	No adverse effects are anticipated.
	BZA	Concur.
9.	The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.	
	STAFF	Because the requested variance would still allow the subject property to comply with the maximum lot coverage specified for this zoning district in the bulk regulations, it is not in opposition to the general spirit and intent of the Zoning Regulations.
	BZA	Concur.

Marla Canfield made a motion to authorize the Chairperson to sign a Resolution approving the Variance at 1125 S. Andover Road. Motion seconded by Gary Israel. Motion carried 7/0.

Marla Canfield made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Gary Israel. Motion carried 7/0.

9.3 Z-PUD24-0004 – PUBLIC HEARING ON AN APPLICATION TO AMEND THE PROVISIONS OF THE CORNERSTONE 5TH ADDITION PLANNED UNIT DEVELOPMENT, ON CERTAIN LANDS GENERALLY LOCATED IN THE 2000 BLOCK OF N. SAVONA STREET, ANDOVER, KANSAS
Chairperson Garwood opened the public hearing at 7:27 P.M.

Mr. Westphall stated that this amendment would modify the general provisions of the Cornerstone 5th Addition, which is Parcel #14 of the Cornerstone Planned Unit Development, to reduce the side yard setbacks to 6 feet in order to increase the density of housing in the parcel. He added that a provision was included to allow for protruding overhangs in these setbacks. Mr. Westphall stated that, while the fire code will require certain construction materials be used, the reduction of setbacks is not a concern for fire safety as long as all requirements are met. He added that the aforementioned overhangs will need to be no less than 4 feet apart.

Chairperson Garwood asked if other construction in the Cornerstone development was as close together. Mr. Mangus replied that even the zero lot line sections feature 6 feet of building separation (and similar fire code considerations).

Mr. Israel asked if the lots in Parcel #14 are unusually small, so as to justify the reduction of setbacks. Mr. Mangus stated that the original purpose of the provisions on the parcel was to allow for duplexes, but that now, the developers wish to install large single-family houses that exceed the size of the originally-planned buildings.

Mr. Colson asked if there would be a difference in the total density (vis-à-vis count of dwelling units) if the amendment were passed. Mr. Mangus stated that the total number of structures would be the same.

The applicant's agent, Jay Cook with Baughman, was in attendance. He stated that Baughman had revised their original submittal, which would have affected the entire parcel, to only change the provisions of Lots 1-10; he stated that he intends to return to the Planning Commission at a later date to modify the provisions of the rest of the lots.

Mr. Israel asked if Lots 1-10 would be converted to zero lot line Lots. Mr. Cook stated that they would not, and added that the odd shape of many of the lots was the reason for the setback changes.

Mr. Israel asked if Staff was comfortable with the setbacks as presented. Mr. Mangus stated that they were, given the compliance with the fire code, and added that the front setbacks on each lot would not be changing, so the appearance from the road was uncompromised.

Chairperson Garwood closed the public hearing at 7:40 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 zoning change were approved?

STAFF	Public water, sewer, and streets are available adjacent to the subject property and can be readily extended.
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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 already platted.
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3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?

STAFF	Because of the zoning districts of adjacent parcels, no landscape buffer would be required.
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4. What fact-based information in support of or in opposition to the requested zoning change has staff received?

STAFF	Staff have received no opposing opinions from residents.
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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 uses allowed by the PUD. This proposed amendment would just be adjusting the minimum set and density.

PLANNING Concur.

COUNCIL

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

STAFF No.

PLANNING Concur.

COUNCIL

8. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.

STAFF The subject property would be well-suited to the requested zoning change so long as the applicant can agree to the proposed requirements suggested in accordance with the IRC.

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 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.

PLANNING COUNCIL	Concur.
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 would not change the traffic or any other detrimental effects of the development, it is intended to increase the footprint a structure can occupy within the development.
PLANNING COUNCIL	Concur.
12. How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.	
STAFF	The proposed uses are generally in conformance with the Comprehensive Plan by providing alternative housing options at a higher density.
PLANNING COUNCIL	Concur.
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	Community Development and AFR staff are supportive of the proposed amendment with the aforementioned modifications to the minimum distances between structures and the inclusion of building materials that meet IRC standards.
PLANNING COUNCIL	Concur.
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 COUNCIL	Concur.

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 6, 8, 10, and 12, with the condition that the structures will be no closer than 4 feet apart, and built with 1-hour

rated fire walls per the International Residential Code (fire code). Motion seconded by Peter Fox. Motion carried 6/1. Mr. Colson dissenting.

5.4 COUNTY REZONING – REVIEW OF AND RECOMMENDATION ON AN APPLICATION TO BUTLER COUNTY TO CHANGE THE ZONING DISTRICT CLASSIFICATION FROM THE RESIDENTIAL ZONING DISTRICT TO THE COMMERCIAL ZONING DISTRICT, ON CERTAIN LANDS GENERALLY LOCATED AT 511 S. PRAIRIE DRIVE, ANDOVER, KANSAS

Mr. Westphall stated that the City was notified of this item the same day, hence its late inclusion into the agenda. He stated that Butler County will be holding a hearing for this item on October 1st, 2024, and that the subject property is within the Andover Planning Area but outside of the Comprehensive Plan Future Land Use area- thus, the Committee would simply be furnishing a recommendation to the County Planning Commission for their hearing.

Mr. Mangus stated that the subject property is six tenths of a mile to the east of Prairie Creek Road, and is surrounded by commercial uses. He stated that therefore, the change to a commercial zone is congruent with the surrounding area.

Mr. Israel asked if the property would be affected by the US-54 improvement project. Mr. Mangus stated that no improvements are planned for the area that contains this property. Mr. Israel asked if the owner could then build right along the highway. Mr. Mangus replied that the County Planning Commission would take the highway right of way into account.

Chairperson Garwood noted that this case is unusual for Andover. Mr. Mangus confirmed, stating that the owners of the subject property petitioned for annexation approximately 20 years ago, but due to the lack of public utilities to serve the lot, the Governing Body at the time declined the annexation.

Chairperson Garwood and Mr. Teinert confirmed that the action by the Committee is to provide a recommendation only. Mr. Mangus agreed.

Gary Israel made a motion to recommend approval of the zoning change to the Butler County Planning Commission. Motion seconded by Dan Colson. Motion carried 7/0.

6 MEMBER ITEMS

Mr. Israel stated that the 13th Street Sports Park is wonderful, and recommended that anyone who had not yet visited do so. He addressed a safety concern that was raised through unofficial channels, which Staff had been made aware of. Ms. Graham stated that the City elected to open the park before all tile work was complete, in order to allow for access to the splash pad before the end of the summer. Ms. Graham asked that any concerns with the Park or other City property be directly submitted to the City through official channels, so that corrective action can be taken.

7 ADJOURN

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

Meeting adjourned at 7:58 P.M.