



**PLANNING & ZONING**  
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## **PLANNING COMMISSION & BOARD OF ZONING APPEALS MINUTES**

**MARCH 15, 2022 | 7:00pm**

ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

### **1. CALL TO ORDER**

Chairperson Erik Pedersen called the meeting to order at 7:01 pm.

### **2. ROLL CALL**

Commissioners in attendance: Chairperson Erik Pedersen, Secretary Gary Israel, Kirsten Barnes, Marla Canfield, and Tim Hendricks. Commissioner Vance Garwood was absent. Staff in attendance: Les Mangus, Director of Community Development and Justin Constantino, Assistant Director of Community Development. A/V services provided by WAV Services.

### **3. APPROVAL OF THE MINUTES OF THE FEBRUARY 15, 2022 MEETING**

*Gary Israel made a motion to approve the minutes of the February 15, 2022 meeting as presented. Motion seconded by Kirsten Barnes. Motion carried 4/0/1. Tim Hendricks abstained.*

### **4. COMMUNICATIONS**

#### **A. COMMITTEE & STAFF REPORT**

None.

#### **B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT**

None.

### **5. AGENDA**

#### **5.1 Z-2022-01 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED AMENDMENT TO THE VILLAGE CROSSING PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN TO MODIFY THE PERMITTED LAND USES OF PARCEL 3 TO ALLOW FOR THE USE OF A QUICK LUBE OIL CHANGE FACILITY ON THE PROPERTY GENERALLY LOCATED AT 301 S. ANDOVER ROAD, ANDOVER, KANSAS**

Mr. Mangus stated that the original application had a few errors affecting the text of the PUD Plan. Mr. Mangus stated that staff spoke with the applicant regarding their application and the applicant has agreed to withdraw their application and resubmit with corrections. Mr. Mangus stated that the new application would require a new public hearing.

Mr. Constantino stated that there was no public hearing or action required by the Planning Commission. Mr. Constantino stated that when the item was originally recommended for approval in February, it was reviewed by the City Council and sent back to the Planning Commission for the purpose of clarifying the applicant's intent and the desired use of the property.

#### **5.2 Z-2022-02 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED CHANGE OF ZONING DISTRICT CLASSIFICATION FROM THE SF-1 SINGLE-FAMILY RESIDENTIAL LOW DENSITY DISTRICT TO THE B-3 RETAIL AND SERVICE BUSINESS DISTRICT OF THE SUBJECT PROPERTY WITH PROVISIONAL CONDITIONAL AND SPECIAL USES ON THE PROPERTY GENERALLY LOCATED AT 601 S. ANDOVER ROAD, ANDOVER, KANSAS**

Chairperson Pedersen stated that the Planning Commission needed to revisit the motion from the February 15<sup>th</sup> Planning Commission meeting.

Mr. Mangus stated that the motion made during the meeting did not make reference to the general provisions that were included that provided a detailed description of the uses allowed and not allowed on the subject property. Mr. Mangus stated that the applicant requested that the Planning Commission revisit the motion as it is their intent to allow for the outdoor storage and display of vehicles at a vehicle rental facility.

Mr. Pedersen asked if any members of the public were interested in speaking regarding the case. No members of the public spoke regarding the case.

*Erik Pedersen made a motion to readopt the findings of fact and recommend that the City Council approve Zoning Case Z-2022-02 changing the zoning district classification of the subject property from the SF-1 Single-Family Residential Low Density District to the B-3 Retail and Service Business District of the subject property with an Arterial Transition Overlay (ATO) as presented by the applicant, conditioned on the dedication of satisfactory half street road right-of-way for Andover Rd. The motion was seconded by Gary Israel. Motion carried 5/0.*

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

### **5.3 BZA-V22-0001 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 276 SQUARE FEET FROM THE 300 SQUARE FOOT MAXIMUM FLOOR AREA OF AN ACCESSORY STRUCTURE ON THE PROPERTY GENERALLY LOCATED AT 1511 E. BLUESAGE COURT, ANDOVER, KANSAS**

Chairperson Pedersen opened the public hearing at 7:06 pm.

Mr. Mangus stated that applicant is exceeding the 300 square foot maximum for an accessory structure and that the subject property is considerably larger than the typical lot size in the zoning district. Mr. Mangus stated that staff has reviewed the conditions for approval and supports the application.

Chairperson Pedersen closed the public hearing at 7:11 pm.

#### **DOES THE EVIDENCE DEMONSTRATE THAT:**

1.	The physical surroundings, shape or topography of the property would result in a practical difficulty, as distinguished from a mere inconvenience, for the owner, lessee or occupant.
STAFF	The subject property is an 18,131 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.
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. Mr. Israel asked if the structure would be coherent with the existing house. Mr. Mangus stated that Flint Hills has an architectural review committee that would review the structure.

<p>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.</p>	
STAFF	The subject property is an 18,131 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.
BZA	Concur.
<p>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.</p>	
STAFF	The applicant has declared the intended use to be a pool house as an accessory residential use.
BZA	Concur.

**SPECIFIC CONDITIONS TO BE MET:**

<p>1. The requested variance arises from a condition unique to the property in question, which is not ordinarily found in the same zoning district, and which was not created by any action of the property owner or the applicant.</p>	
STAFF	The subject property is an 18,131 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.
BZA	Concur.
<p>2. Strict application of the provisions of these Zoning Regulations would result in unnecessary hardship for the owner, lessee or occupant of the land or structures.</p>	
STAFF	The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 18,131 sq. ft., which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35%.
BZA	Concur.
<p>3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.</p>	
STAFF	The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 18,131 sq. ft., which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35%.
BZA	Concur.

4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.	
STAFF	The subject property is an 18,131 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.
BZA	Concur.
5. The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.	
STAFF	The intent of maximum lot coverage and accessory structure size limitations are to promote the health, safety and general welfare of residents. The subject property is 18,131 sq. ft., which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35% and providing adequate separation from adjacent neighbors.
BZA	Concur.

*Having considered the evidence at the hearing and determined that the findings of fact have been found that support all five conditions set out in Subsection 11-106.B.2 of the Zoning Regulations and K.S.A. 12-759(e), Gary Israel made a motion to authorize the Chairperson to sign a resolution granting the variance for case BZA-V22-0001. Motion seconded by Kirsten Barnes. Motion carried 5/0.*

*Gary Israel made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Erik Pedersen. Motion carried 5/0.*

**5.4 Z-A22-0002 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED CHANGE OF ZONING DISTRICT CLASSIFICATION FROM THE SF-1 SINGLE-FAMILY / LOW DENSITY DISTRICT TO THE SF-2 SINGLE-FAMILY / MEDIUM DENSITY DISTRICT ON THE PROPERTY GENERALLY LOCATED AT 814 N. BROADVIEW LANE, ANDOVER, KANSAS**

Chairperson Pedersen opened the public hearing at 7:19 pm.

Mr. Mangus stated that the subject property subdivision dates back to the 1950s through 1960s era where there were very large lots accommodating private septic systems and water wells. Mr. Mangus stated that the applicant owns one lot and the majority of another lot that totals approximately 8/10ths of an acre. Mr. Mangus stated that 8<sup>th</sup> Street cut through one of the lots to connect the subdivision to another older subdivision. Mr. Mangus stated that the applicant desires to use the lot for two single-family dwelling units and will need to conduct a boundary shift between the two lots and provide enough area for two independents single-family dwellings.

Ms. Barnes asked if the property south of 8<sup>th</sup> Street has already gone through a similar zoning change. Mr. Mangus said yes, and that part of that lot was also taken by part of 8<sup>th</sup> Street when platted.

Chairperson Pedersen closed the public hearing at 7:25 pm.

**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	Adequate public facilities are in place.
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	Replating is not necessary. Dedications are necessary to bring the Broadview Ln. 1/2 street right of way up to the required width.
3. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?	STAFF	Screening is not required.
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. However, the unused lot is not an efficient use of the land.
	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. Mr.
	COUNCIL	

8.	<p>How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.</p> <p>STAFF      The proposed use is well suited for the neighborhood.</p> <p>PLANNING    Concur.</p> <p>COUNCIL</p>
9.	<p>Has the zoning change been requested because conditions in the area of the subject property have changed or are changing? If so, what is the nature and significance of these conditions?</p> <p>STAFF      The new owner simply desires to change the use of the property to use the land more efficiently.</p> <p>PLANNING    Concur. Mr. Israel added that there was also no longer a need for septic systems as the lots have access to City water and sewer.</p> <p>COUNCIL</p>
10.	<p>What are the current land uses, character and condition of the subject property and the surrounding neighborhood?</p> <p>STAFF      All of the surrounding land is used for single-family residences in good condition.</p> <p>PLANNING    Concur.</p> <p>COUNCIL</p>
11.	<p>Would the proposed zoning change of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?</p> <p>STAFF      No</p> <p>PLANNING    Concur.</p> <p>COUNCIL</p>
12.	<p>How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.</p> <p>STAFF      The Comprehensive Plan supports a more dense pattern of land use with more diverse housing choices.</p> <p>PLANNING    Concur.</p> <p>COUNCIL</p>

13. Do any professional persons knowledgeable on conditions that affect this zoning change request have information or recommendations to provide, which would be helpful in its evaluation?	
STAFF	Approval as applied for, conditioned on the dedication of adequate Broadview Ln. half-street right of way.
PLANNING	Concur.
COUNCIL	
14. How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety and welfare, if there is a change from the current zone to the requested zone?	
STAFF	Staff perceives no detriment to the public health, safety, or welfare.
PLANNING	Concur.
COUNCIL	

*Gary Israel made a motion to adopt the findings of fact and recommend that the City Council approve zoning case Z-A22-0002 with the dedication of half-street right-of-way along Broadview Lane based on findings 6, 8, 9, 10, and 12 . Motion seconded by Tim Hendricks. Motion carried 5/0.*

**5.5 FINAL PLAT – REVIEW AND APPROVAL OF THE RIGGIN ADDITION SMALL TRACT FINAL PLAT GENERALLY LOCATED AT 115 W. ALLISON STREET, ANDOVER, KANSAS**

Mr. Constantino stated that the subject property is located at 115 W. Allison Street, generally located at the southwest corner of N. Andover Road and W. Allison Street. Mr. Constantino stated that the applicant is proposing a partial replat of one lot on approximately 0.18 acres of property zoned B-2 Neighborhood Business District, and that the applicant has indicated that they are interested in constructing an office building on the subject property, an allowable use within that zoning district. Mr. Constantino stated that water and sewer service for the subject property is currently served and will continue to be served by the City of Andover, and that the subject property will receive access from the existing W. Allison Street. Mr. Constantino stated that staff provided initial comments to the applicant regarding the request for additional right-of-way along W. Allison Street, potential access control along W. Allison Street, and minor text changes. Mr. Constantino stated that the applicant has addressed all outstanding staff comments.

Mr. Israel asked if the project would ultimately have to go to the Site Plan Review Committee. Mr. Constantino said yes.

*Erik Pedersen made a motion to approve the Riggins Addition Small Tract Final Plat and recommend that the Governing Body accept the dedication of land for public purposes. Motion seconded by Kirsten Barnes. Motion carried 5/0.*

**5.6 FINAL PLAT – REVIEW AND APPROVAL OF THE COURSE AT GREEN VALLEY GREENS 11<sup>TH</sup> ADDITION FINAL PLAT GENERALLY LOCATED NORTH OF US 54/400 BETWEEN S. ANDOVER ROAD AND S. ONEWOOD DRIVE, ANDOVER, KANSAS**

Mr. Constantino stated that the subject property is generally located north of US 54/400 between S. Andover Road and S. Onewood Drive. Mr. Constantino stated the applicant is proposing apartment dwelling units on 1 lot of approximately 15.9 acres of property located on Parcel 16 within the Green Valley Greens Final PUD Plan. Mr. Constantino stated that water and sewer service for the subject property are currently served and will continue to be served by the City of Andover, and that the subject property will receive access from the existing Onewood Drive and the proposed Founders Parkway. Mr. Constantino stated that the Subdivision Committee recommended that the Planning Commission approve the final plat at their March 8th meeting with the condition that any outstanding staff comments are addressed. Mr. Constantino stated that staff has worked closely with the applicant regarding Evergy's request for additional 20-foot utility easements throughout the property and the impact of the easements along the proposed Founder's Parkway and settled on boxed easements for the specific transformers as opposed to one 20-foot blanket easement along the entirety of Founder's Parkway.

Mr. Israel asked if all of staff's comments have been addressed. Mr. Constantino stated that the City Engineer hasn't had the full opportunity to review the revised plans and requested that any motion be contingent upon his review.

*Marla Canfield made a motion to approve the Course at Green Valley Greens 11<sup>th</sup> Addition Final Plat and recommend that the Governing Body accept the dedication of land for public purposes with the condition that any outstanding engineering comments are addressed. Motion seconded by Gary Israel. Motion carried 5/0.*

## **5.7 FINAL PUD – REVIEW AND APPROVAL OF THE TUSCANY ADDITION FOURTH PHASE FINAL PLANNED UNIT DEVELOPMENT PLAT & PLAN GENERALLY LOCATED AT THE NORTHWEST CORNER OF S. ANDOVER ROAD AND SW 120<sup>TH</sup> STREET, ANDOVER, KANSAS**

Mr. Constantino stated that the subject property is generally located at the northwest corner of S. Andover Road and SW 120th Street and that the applicant is proposing 20 total lots on approximately 9.7 acres of property within the Tuscany Addition PUD Plan. Mr. Constantino stated that the water and sewer service for the subject properties will be served by the City of Andover and will need to be extended to serve the newly-proposed lots. Mr. Constantino stated that the subject properties will receive access from the existing S. Vintage Drive located off SW 120th Street. Mr. Constantino stated that staff has reviewed the Final PUD plan and requested that the applicant submit a preliminary grading plan and preliminary drainage plan as required per the submittal application. Mr. Constantino stated that the Subdivision Committee recommended that the Planning Commission approve the final PUD plan at their March 8th meeting with the condition that any outstanding staff comments are addressed and that the applicant submit a preliminary grading plan and preliminary drainage plan. Mr. Constantino stated that staff had a question regarding drainage as it relates to the western portion of the property and whether or not the drainage should be stored internally on the subject property.

Mr. Israel asked what is located west of the subject property. Mr. Mangus stated that there is an 80-acre parcel that was preliminary platted at the Diamond Creek Subdivision that was never final platted. Mr. Mangus stated that the preliminary drainage plan doesn't appear to reflect the drainage plan from the original subdivision and that the stormflow has been changed so that the runoff goes off of the property instead of into the detention system within the property.

Will Clevenger of Garver Engineering, representing the applicant, stated that the plan was put together by a drainage engineer and that they were willing to continue to work with staff to address any drainage concerns.

Mr. Israel stated that the preference of the Planning Commission would be to keep the drainage on the subject property. Mr. Mangus stated that the City would require that no more drainage come off the subject property than was coming off before development. Mr. Mangus stated that the drainage will be coming off the subject property is about twice what was projected to go offsite when the original drainage



plan was drafted many years ago. Mr. Israel asked if a restriction could be added to the motion that the drainage be contained within the subject property or if the motion should be broader. Mr. Mangus stated that the applicant may have sound reasoning as to why the drainage is to be projected offsite.

*Kirsten Barnes made a motion to approve the Tuscan Addition Fourth Phase Final Planned Unit Development Plat & Plan and recommend that the Governing Body accept the dedication of land for public purposes with the condition that the City Engineer gives final approval on the drainage plan. Motion seconded by Erik Pedersen. Motion carried 5/0.*

## **5.8 BUTLER COUNTY CONDITIONAL USE – REVIEW AND RECOMMENDATION FOR A CONDITIONAL USE TO CONSTRUCT A TRUCKING TRANSPORT TERMINAL AND VEHICLE EQUIPMENT STORAGE ON THE PROPERTY GENERALLY LOCATED AT 9947 SW MEADOWLARK ROAD, ANDOVER, KANSAS**

Mr. Mangus stated that staff received notification from the Butler County Planning Department that they have a conditional use case on their next agenda for a trucking transport terminal at the corner of Meadowlark Road and US 54/400. Mr. Mangus stated that there are some heavy commercial uses in every direction. Mr. Mangus stated that staff is not concerned about the land use but wants to limit access to US 54/400 and would recommend that the property be platted so that the Planning Commission can consider access control to the highway.

Mr. Pedersen asked what would sit on the facility. Mr. Mangus stated that they would potentially store, service, or even sell vehicles and/or equipment on the site.

Ms. Canfield asked if this area would be impacted by the US 54/400 construction. Mr. Mangus said not in the current round of improvements.

Mr. Israel asked if the district was zoned commercial. Mr. Constantino stated that the property is zoned agricultural. Mr. Constantino stated that the adjacent properties to the north, west, and south are also zoned agricultural, while the property adjacent to the east across SW Meadowlark Road is zoned commercial.

*Marla Canfield made a motion to recommend that the Butler County Planning Commission approve the conditional use for the property generally located at 9947 SW Meadowlark Road with the condition that the property be platted prior to conditional use approval. Motion seconded by Erik Pedersen. Motion carried 5/0.*

## **6. MEMBER ITEMS**

Mr. Israel asked if it would be possible to include the proposed motion at the bottom of the page within the packet. Mr. Constantino stated that staff could explore the best format for that motion and that those motions at the bottom of the page are included as part of the rezoning and variance checklists. Mr. Mangus said that if you touch the case link on the agenda, it takes you back to the first page where the motion is readily available.

Mr. Israel also asked if staff could report on the meeting with the resident that spoke in regards to the 601 S. Andover Road case from the February 15<sup>th</sup> meeting. Mr. Mangus stated that he met with the property owner that attended the public hearing and that the owner was satisfied that greater setbacks would be applied and that the Site Plan Review Committee would be reviewing screening and buffering measures to mitigate the impact of the business on the surrounding neighborhood. Mr. Israel thanked staff for taking the extra time to work with residents and applicants.

## **7. ADJOURN**

*Erik Pedersen made a motion to adjourn the meeting. Gary Israel seconded the motion. Motion carried 5/0. The meeting was adjourned at 8:01 pm.*

Respectfully submitted by:

Justin Constantino, AICP  
Assistant Director of Community Development

Approved on the 19<sup>th</sup> day of April 2022 by the City of Andover Planning Commission.