

**ANDOVER CITY COUNCIL
Tuesday, February 10, 2009
Minutes**

The Andover City Council met for a regular meeting on Tuesday, February 10, 2009 at 909 N. Andover Road in the Andover Civic Center. Mayor Ben Lawrence called the meeting to order at 7:00 p.m. City Council Members present were Caroline Hale, Julie Reams, J.R. Jessen, and Clark Nelson. Others in attendance were: City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus, Administrative Services Director Donna Davis, Fire Chief Jim Shaver, Police Chief Mike Keller, Deputy City Clerk Susan Renner, City Financial Advisor Jeff Bridges, City Attorney Norman Manley, and City Engineer Mike Thompson. Council Member Roberts was absent and Council Member Dreiling arrived late and left early.

The Invocation was given by Jerry Smith of the Faith Baptist Church.

Invocation

The Pledge of Allegiance was led by Mayor Lawrence.

Pledge of Allegiance

Mayor Lawrence opened the floor to public comment. No one spoke.

Public Forum

Sasha Stiles requested change order two from Dondlinger Construction for the Marketplace Commercial 2nd Addition be added to the consent agenda.

Agenda

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve the agenda with the addition of the Dondlinger Construction change order to the consent agenda. Motion carried 4/0.

A motion was made by Council Member Nelson, seconded by Council Member Reams, to accept the consent agenda with the addition of Dondlinger Construction change order for the Marketplace Commercial 2nd Addition in the amount of \$1,250.00 to add a 12" water valve at the beginning of Line No. 1. Motion carried 4/0.

Consent Agenda

A. Approval of Minutes: City Council Workshop, January 26, 2009
City Council Meeting, January 27, 2009
Employee Appreciation Banquet, January 31, 2009

B. Receive & file Minutes: Site Plan Review, December 2, 2008
Subdivision, August 12, 2008
Planning Commission, December 16, 2008

C. Receive & file reports:
1. Fire January 2009

D. Approval of appropriation ordinance B-03-09 in the amount of \$808,307.24

E. Approval of employee status changes for:

Shawn Speere, Waste Water Department Operator, salary increase for longevity from \$19.23 per hour to \$19.71 per hour effective February 6, 2009.

Susan Renner, Deputy City Clerk position change to City Clerk, with a pay increase from \$14.88 per hour to \$16.88 per hour, effective February 10, 2009.

F. Approve renewal of janitorial service contract with AAA Commercial Janitorial Services, Wichita, from March 1, 2009 through February 28, 2010, in the amount of \$21, 390.

G. Approve right of way acceptance for Andover Road expansion project for the following address: 665 S Andover Road.

H. Approve Declaration of Participation in the Firefighters Relief Fund for 2009.

I. Approve Police Department camera purchase of eleven (11) in-car cameras, one (1) 40 GB hard drive, plus freight and insurance, from Ka-Comm., Inc., of Olathe, Kansas in the total amount of \$52,520.56 to be paid for over a three (3) year period with the first payment in the amount of \$18,000.

J. Approve Kansas Municipality Insurance Trust participation renewal in the amount of \$68,590.

K. Approve City Clerk job description.

L. Approve Mayors appointment of Susan Renner as City Clerk.

M. Approve appointment of Dennis Bush, 726 S 159th Street East, Wichita, to Site Plan Review Committee as ‘in of city limits’ but in the planning area member.

N. Approve waste water line rehab proposal for Cured-In-Place-Pipe for 4,719 line foot at \$20.90 per line foot on Broadview and Prosperity Streets, from Utility Maintenance Contractors, Wichita, in the amount of \$98,627.10 and a one year bond in the amount of \$1,479.41 for a total cost of \$100,106.51.

Motion carried 4/0.

Mayor Lawrence swore in Susan Renner as City Clerk and congratulated her.

Mayor Lawrence presented zoning case Z-2008-08, a request for zoning change, for approximately 5 acres, from R-2 Single Family to B-1 Office Business District for Andover Farm at Cedar Park 4th Addition, generally located on the north west corner of 13th and Andover Farm Lane.

Zoning Case Z-2008-08
Andover Farm at Cedar
Park 4th Addition
Ordinance 1423

The Mayor asked the City Council if anyone intended to disqualify themselves from discussing or voting on this case because they have conflicts of interest or particular bias. No one did.

The Mayor asked Susan Renner, City Clerk, if the City had received any protest petitions. She responded she had not.

The Mayor confirmed with the Council that they had received the December 16, 2008, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. Phil Meyer of Baughman Company was present as the applicants representative. Mayor Lawrence asked if the applicant felt they had a fair and impartial hearing at the Planning Commission meeting, Mr. Meyer responded they had.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case. Mr. Mangus stated this request is to create a five (5) acre parcel of what was four (4) single family lots and change the zoning from R-2 Single Family Residential to B-1 Office Business District.

The Mayor asked Mr. Meyer if they had any further information to provide. He did not.

The Mayor opened the public hearing. No one spoke. The public hearing was closed and the discussion moved to the bench.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 6

REZONING REPORT *

CASE NUMBER: Z-2008-08

APPLICANT/AGENT: Andover Farm at Cedar Park, LLC/Baughman Co.

REQUEST: Proposed amendment number four to the Andover Farm at Cedar Park Preliminary Planned Unit Development Plan to reconfigure a portion of Parcel 3 to create a new Parcel 4 with a change of zoning district classification from the R-2 Single-Family Residential District to the B-1 Office Business District on the Planned Unit Development District Overlay thereon.

CASE HISTORY: Existing single family residential PUD

LOCATION: NE corner of 13th St. & 159th St.

SITE SIZE: +/-5 acres

PROPOSED USE: Office complex

ADJACENT ZONING AND EXISTING LAND USE:

North: R-2 single family residential Cedar Park 4th Addition

South: Butler County unoccupied Agriculture
 East: R-2 single family residential future Cedar Park Addition
 West: Sedgwick County unoccupied Agriculture

Background Information: The applicant intends to build offices for other companies that he owns.

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission’s considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

FACTORS AND FINDINGS:

What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?
 YES NO
 STAFF:
 PLANNING: Subject Property: R-2 Single-Family Residential; North R-2 Single-Family Residential Cedar Park 4th Addition; South: Butler County unoccupied Agriculture; East: R-2 Single-Family Residential future Cedar Park Addition; West: Sedgwick County unoccupied Agriculture.
 COUNCIL: Concur

What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?
 YES NO
 STAFF:
 PLANNING: Subject Property: R-2 Single-Family Residential; North R-2 Single-Family Residential Cedar Park 4th Addition; South: Butler County unoccupied Agriculture; East: R-2 Single-Family Residential future Cedar Park Addition; West: Sedgwick County unoccupied Agriculture.
 COUNCIL: Concur

Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
 YES NO
 STAFF:
 X PLANNING:
 COUNCIL: Concur

YES NO Would the request correct an error in the application of these regulations?
 STAFF:
 X PLANNING:
 COUNCIL: Concur

YES NO Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
 X STAFF: Improved access and public utility availability.
 X PLANNING: Growth of the City.
 COUNCIL: Concur

YES NO 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?
 X STAFF: All are nearby for reasonable extension.
 X PLANNING:
 COUNCIL: Concur

YES NO Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?
 X STAFF:
 X PLANNING:
 COUNCIL: Concur

YES NO Would a screening plan be necessary for existing and/or potential uses of the subject property?
 X STAFF:
 X PLANNING:
 COUNCIL: Concur

YES NO Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
 X STAFF: Vacant land is available, but not in the immediate area.
 X PLANNING: Vacant land of this size is not available with a B-1 zoning classification. There is also no land currently zoned B-1 in the immediate area.
 COUNCIL: Concur

YES NO If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
 X STAFF:
 X PLANNING:
 COUNCIL: Concur

YES NO Is the subject property suitable for the uses in the current zoning to which it has been restricted?
 X STAFF:
 X PLANNING:
 COUNCIL: Concur

To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO

STAFF: Increased traffic, lighting, noise, etc.
 PLANNING: Minimal affect on other property in the neighborhood.
 COUNCIL: Concur

Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO

X
 X

STAFF:
 PLANNING:
 COUNCIL: Concur

Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO

X

STAFF: Pg. 8-9 GENERAL DEVELOPMENT PATTERN suggests “Planned Unit Development’s (PUD’s) as allowed by the City’s zoning regulations, provide for the mixing of land uses in a planned fashion.”

X

PLANNING:
 COUNCIL: Concur

What is the support or opposition to the request?

YES NO

STAFF: None at this time
 PLANNING: No opposition noted.
 COUNCIL: Concur

Is there any information or are there recommendations on this request available from knowledgeable persons, which would be helpful in its evaluation?

YES NO

X
 X

STAFF: Approval as applied for.
 PLANNING:
 COUNCIL: Concur

If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?

YES NO

X

STAFF:
 PLANNING:
 COUNCIL: Concur

CONDITIONS:

Platting: That all of such property be platted and recorded within one year from the date of Governing Body approval or the case be considered disapproved and closed, and that the Ordinance effectuating the zone change not be published by the City Clerk until the final plat has been recorded with the Register of Deeds during the period stated above.

John Cromwell made a motion to recommend approval of case Z-2008-08 by the City Council, subject to the condition of platting based on findings 5, 6, 7, 10, 11, 13 and 14. Lynn Heath seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve the zoning change based on the findings and factors of the

Planning Commission, and to approve an ordinance changing the zoning district classification of certain property and amending the amended preliminary planned unit development plan of Andover Farm at Cedar Park subdivision located in the City of Andover, Kansas, under the authority granted by the Zoning Regulations of the City as originally approved by Ordinance No. 1187. Motion carried 4/0. Ordinance number 1423 was assigned.

Mayor Lawrence presented the Andover Farm Office at Cedar Park Final PUD. Mayor Lawrence explained the association with the previous case.

Andover Farm at Cedar Park Final PUD

Les Mangus stated this replats a portion of Andover Farm at Cedar Park 4th Addition to create an office park. The proposed plat amends access control to 13th Street to allow one (1) opening to the office park.

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve the plat as presented. Motion carried 4/0.

Mayor Lawrence presented zoning case Z-2008-09, 1519 N Andover Road, which is a request to change the classification from R-2 Single Family Residential to B-3 Central Shopping district.

Zoning Case Z-2008-09
1519 N Andover Road
Ordinance 1424

The Mayor asked the City Council if anyone intended to disqualify themselves from discussing or voting on this case because they have conflicts of interest or particular bias. No one did.

The Mayor asked Susan Renner, City Clerk, if the City had received any protest petitions. She responded she had not.

The Mayor confirmed with the Council that they had received the January 20, 2009, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. They were not.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case. Mr. Mangus stated the proposed change from R-2 Single-Family Residential District to the B-3 Central Shopping District is the result of the applicant's purchase of the property adjacent at 1509/1513 N. Andover Road that she had rezoned to B-2 Neighborhood Business District. Staff recommends the approval be restricted to the same use as the previous case – B-2 Neighborhood Business District with the following limitations established by the Protective Overlay District:

To limit uses to any permitted use allowed in the B-2 Neighborhood Business District except the following permitted uses: package liquor stores; restaurants, will be allowed with the exclusion of drive-thru style, self-service laundries and dry cleaning stores; service stations; automobile parts stores; and child care centers and preschools based on findings.

The Mayor opened the public hearing. No one spoke. The public hearing was closed and the discussion moved to the bench.

ANDOVER CITY PLANNING COMMISSION

Agenda Item
No. 6

REZONING REPORT *

CASE NUMBER: Z-2008-09
 APPLICANT/AGENT: Bih Jau Sheu
 REQUEST: Proposed change of zoning district classification from the R-2 Single Family Residential District to the B-3 Central Shopping District.
 CASE HISTORY: Existing single family dwelling
 LOCATION: 1519 N. Andover Rd.
 SITE SIZE: 158' X 100' = +/- 15,800 s.f.
 PROPOSED USE: Re-development of existing single family dwelling to business uses

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 legal nonconforming multiple family residences
 South: B-2 multi-family residence owned by the applicant
 East: R-2 single family residences
 West: R-2 single family residence

Background Information: The subject property was the subject of a previous application for change of zoning district classification that was recommended for change by the Planning Commission, but never completed by the owner.

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission's considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant's reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

FACTORS AND FINDINGS:

1. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?

YES NO

STAFF:
 PLANNING: Subject property: R-2 Single-Family Residential District; North B-1 legal nonconforming multiple-family residences; South: B-2 multi-family residence owned by the applicant; East: R-2 single-family residences; West: R-2 single-family residence.

COUNCIL: Concur

What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?

YES NO

STAFF:

PLANNING: Current zoning: R-2 Single-Family Residential District; North B-1 legal nonconforming multiple-family residences; South: B-2 multi-family residence owned by the applicant; East: R-2 single-family residences; West: R-2 single-family residence

COUNCIL: Concur

Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES NO

X

STAFF:

X

PLANNING:

COUNCIL: Concur

Would the request correct an error in the application of these regulations?

YES NO

X

STAFF:

X

PLANNING:

COUNCIL: Concur

Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

YES NO

X

STAFF: The school campuses, district office, large church, and heavy traffic on Andover Rd. in the area have changed the residential character.

X

PLANNING:

COUNCIL: Concur

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?

YES NO

X

STAFF: All are available.

X

PLANNING:

COUNCIL: Concur

Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?

YES NO

X

STAFF: Dedications could be made in lieu of re-platting.

X

PLANNING: Dedications could be made in lieu of re-platting.

COUNCIL: Concur

Would a screening plan be necessary for existing and/or potential uses of the subject property?

YES NO

X

STAFF:

X

PLANNING:

COUNCIL: Concur

Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

YES NO
 X
 X STAFF: Vacant land is available in the area.
 PLANNING: The applicant wants to utilize an existing building.
 COUNCIL: Concur

If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

YES NO
 X
 X STAFF:
 PLANNING:
 COUNCIL: Concur

Is the subject property suitable for the uses in the current zoning to which it has been restricted?

YES NO
 X STAFF: Not suitable for residences to be adjacent to, and face Andover Road with 15,000 cars a day across the frontage.
 X PLANNING:
 COUNCIL: Concur

To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO
 STAFF: Increased traffic, lighting, noise, etc.
 PLANNING: Increased traffic, lighting, noise, etc.
 COUNCIL: Concur

Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO
 X
 X STAFF:
 PLANNING:
 COUNCIL: Concur

Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO
 X
 X STAFF: Case by case review.
 PLANNING:
 COUNCIL: Concur

What is the support or opposition to the request?

YES NO
 STAFF: None at this time
 PLANNING: None presented.
 COUNCIL: Concur

Is there any information or are there recommendations on this request available from knowledgeable persons which would be helpful in its evaluation?

YES NO
 X STAFF: Approval with a Protective Overlay to restrict some of the permitted uses.
 X PLANNING:
 COUNCIL: Concur

If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?

YES NO

X

STAFF:

X

PLANNING:

COUNCIL: Concur

John Cromwell made a motion to recommend the City Council approve case Z-2008-08 limited to B-2 Neighborhood Business District and to limit uses to any permitted use allowed in the B-2 Neighborhood Business District except the following permitted uses: number 13, Package liquor stores; number 14, Restaurants, will be allowed with the exclusion of drive-thru style restaurants; number 15, Self-service laundries and dry cleaning stores; number 16, Service stations; number 19, Automobile parts stores; and number 22, Child care centers and preschools based on findings 5, 8, 10, 13, 14 and 16. Byron Stout seconded the motion. Motion carried 6/0.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to approve the zoning change based on the findings and factors of the Planning Commission, and approve an ordinance changing the zoning district classification of certain lands located in the City of Andover, Kansas, under the authority granted by the Zoning Regulations of the City as originally approved by Ordinance No. 1187. Motion carried 4/0. Ordinance number 1424 was assigned.

Mayor Lawrence presented an ordinance of the City of Andover, Kansas, pursuant to K.S.A. 12-519 et seq. Annexing to the corporate limits certain tracts of land at the request of the owners thereof. (generally located 600' south of US Highway 54 and 400' east of Andover Road)

Annexation
Freemont at Allen Street
Ordinance 1425

Les Mangus explained the series of requests for this property and the two agenda items that follow. After several meetings with the Andover Planning Commission the developer has requested to annex the entire 37 acres and then to request re-zoning for only a six (6) acre tract and a special use to allow an assisted living facility for the elderly and the handicapped.

Mayor Lawrence reminded the Council this agenda item was only for the annexation.

A motion was made by Council Member Hale, seconded by Council Member Reams, to annex the requested 37 acres. Motion carried 4/0. Ordinance number 1425 was assigned.

Mayor Lawrence presented zoning case Z-2008-04, an ordinance changing the zoning district classification of certain lands located in the City of Andover, Kansas, under the authority granted by the Zoning Regulations of the City as originally approved by ordinance no. 1187. (generally located 600' south of US Highway 54 and 400' east of Andover Road - annexed on previous agenda item)

Zoning Case Z-2008-04
Freemont at Allen Street
Ordinance 1426

The Mayor asked the Council if anyone intended to disqualify themselves from discussing or voting on this case because they have conflicts of interest or particular bias. No one did.

The Mayor asked Susan Renner, City Clerk, if the City had received any protest petitions. She responded she had not.

The Mayor confirmed with the Council that they had received the January 20, 2009, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. No one responded. The hearing was closed and the discussion moved to the bench.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case. Mr. Mangus explained the application for change of zoning district classification and special use was continued from the August Planning Commission meeting to allow the applicant to gather more information regarding the traffic generated by the proposed development, and the impact on the surrounding road system. The applicant has provided a traffic impact report. The applicant has requested the zoning change for an area +/- 6 acres.

The Mayor opened the public hearing. No one spoke. The public hearing was closed and the discussion moved to the bench.

ANDOVER CITY PLANNING COMMISSION

Agenda Item
No. 5

REZONING REPORT *

CASE NUMBER: Z-2008-04/SU2008-02

APPLICANT/AGENT: David & Donna Ray

REQUEST: Case No. Z-2008-04. Proposed change of zoning district classification from the Butler County AG-40 District to the R-4 Multiple-Family Residential District.

Case No. SU-2008-02 Special Use request to establish an assisted living facility for the elderly and handicapped.

CASE HISTORY: Vacant agricultural land

LOCATION: Southwest corner of Allen & Bales streets

SITE SIZE: +/-6 acres

PROPOSED USE: Assisted living facility

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County Ag-40 former Charlie's Salvage and single family residence

South: A-1 Agricultural Transition land owned by the applicant

East: R-1 Bales single family residential neighborhood

West: A-1 Agricultural Transition land owned by the applicant

Background Information:

This property lies south of the former Charlie’s Salvage, and is adjacent to the City Limits on the east and west. Public sewer is available adjacent to the property and public water is nearby at Allen St. & Cloud Ave. Allen St. is paved to Cloud Ave., and the remainder is gravel. The only through east west street in the area is Bales St., which is gravel over to Andover Rd. The applicant has amended the original application for 37 acres down to +/-6 acres and the traffic impact report has been provided.

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission’s considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

FACTORS AND FINDINGS:

1. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?

YES NO

STAFF:

PLANNING: Subject property: Butler County Ag-40; North: Butler County AG-40 former Charlie’s Salvage and single-family residence; South: A-1 Agricultural Transition land owned by the applicant; East: R-1 Bales single-family residential neighborhood; West: A-1 Agricultural Transition land owned by the applicant.

COUNCIL: Concur

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?

YES NO

STAFF:

PLANNING: Current zoning: Butler County Ag-40; North: Butler County Ag-40 former Charlie’s Salvage and single-family residence; South: A-1 Agricultural Transition land owned by the applicant; East: R-1 Bales single-family residential neighborhood; West: A-1 Agricultural Transition land owned by the applicant.

COUNCIL: Concur

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES NO

X

STAFF:

X PLANNING:
COUNCIL: Concur

4. Would the request correct an error in the application of these regulations?

YES NO
X STAFF:
X PLANNING:
COUNCIL: Concur

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

YES NO
X STAFF:
X PLANNING: The growth of the City, specifically in this area near Marketplace development.
COUNCIL: Concur

6. 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?

YES NO
X STAFF: All are available, or easily extended.
X PLANNING:
COUNCIL: Concur

7. Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?

YES NO
X STAFF:
X PLANNING:
COUNCIL: Concur

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

YES NO
X STAFF: The assisted living facility could require screening from the adjacent residence
X PLANNING:
COUNCIL: Concur

9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

YES NO
X STAFF:
X PLANNING: The area behind the current Dillon's is zoned R-4.
COUNCIL: Concur

10.If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

YES NO
X STAFF: The aging population requires more housing opportunities.
X PLANNING:
COUNCIL: Concur

11.Is the subject property suitable for the uses in the current zoning to which it has been restricted?

YES NO

X STAFF:
 X PLANNING:
 COUNCIL: Concur

12.To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO

STAFF: Increased lighting, traffic, drainage, noise, emergency vehicle responses, etc.
 PLANNING: Increased lighting, traffic, drainage, noise, emergency vehicle responses, etc
 COUNCIL: Concur

13.Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO

STAFF: The intent of the zoning district is to place medium density multiple family development along an arterial or collector street due to the traffic generation. The R-4 district is the only district where a special use is listed for multiple dwelling units for the elderly and handicapped.

X

PLANNING: Based on the Special Use request and limited to an assisted living facility by Protective Overlay.
 COUNCIL: Concur

14.Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO

X

STAFF: The Comprehensive Plan Chapter 3 GOALS FOR PLANNING goes to great lengths to suggest a variety of quality housing alternatives including specialized facilities for the elderly and disabled. Chapter 8 LAND USE PLAN recognizes the need for multiple family residential development, but suggests some guiding policies for future locations, which includes “along arterial and collector streets but not on local streets mixed within single-family neighborhoods”.

X

PLANNING:
 COUNCIL: Concur

15.What is the support or opposition to the request?

YES NO

STAFF: Increased traffic, lighting, drainage, noise, emergency vehicles, and perceived devaluation of adjacent residential properties.
 PLANNING: Increased traffic, lighting, drainage, noise, emergency vehicles, and perceived devaluation of adjacent residential properties. Support for the project was shown when noted the applicant would not be asking residents to participate in the cost of improvements.
 COUNCIL: Concur

16.Is there any information or are there recommendations on this request available from knowledgeable persons, which would be helpful in its evaluation?

YES NO

X

STAFF: In its current configuration the subject property does not meet the intent for location of medium density multiple family residential development due to the lack of adequate street connections to the collector or arterial streets in the area. However, if the application were limited to multiple dwelling

units for the elderly and handicapped, which generate significantly less traffic than single or multiple family dwellings, and the street network were expanded to meet the zoning district criteria, then the proposed uses would likely not have the affect of overwhelming the neighborhood or adjacent street system.

X PLANNING:
COUNCIL: Concur

17.If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?

YES NO

X STAFF:
PLANNING:
COUNCIL: Concur

CONDITIONS:

Platting: That all of such property be platted and recorded within one year from the date of Governing Body approval or the case be considered disapproved and closed, and that the Ordinance effectuating the zone change not be published by the City Clerk until the final plat has been recorded with the Register of Deeds during the period stated above.

Lynn Heath made a motion to recommend the City Council approve case Z-2008-04 and SU-2008-02 with the restriction by Protective Overlay to limit the use of the six acres to an assisted living facility for the elderly and handicapped based on findings 10, 13 and 14. Byron Stout seconded the motion. Chairman Coon asked if there was any further discussion. Chairman Coon asked if the Special Use needed to be restricted. Les Mangus said no the applicant only applied for the Special Use of an assisted living facility. Motion carried 5/0/1 with Ken Boone abstaining.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to approve the zoning change based on the findings and factors of the Planning Commission, and approve an ordinance changing the zoning district classification of certain lands located in the City of Andover, Kansas, under the authority granted by the Zoning Regulations of the City as originally approved by Ordinance No. 1187.

Council Member Jessen stated he strongly believes this is not the location for an assisted living facility. There are one and two acre home sites to the east of this proposed project and this will also be adding traffic flow to the dirt roads.

Les Mangus stated the developer presented the Planning Commission with a traffic impact study (also included in the Council packet) that stated the majority of what increase there would be would not use the dirt road. The developer is paying for paving from US Highway 54 to the south entrance of the development along Allen Street.

Council Member Nelson stated he felt that this was a good move toward potential growth in that area.

Lewis Harper, 415 W Partridge, stated that he opposes the development because of added traffic and the cost of paving and water hook-ups the home owners would incur.

Sasha Stiles explained that water service in the Bales District is not required and the paving of Allen Street is being paid for by the developer. There is no cost to the home owners.

Dave Tingley, 305 Lioba, President of the Andover Chamber of Commerce, stated he believes there will be a request for senior living on the south side of Kellogg.

Lewis Harper, 415 W Partridge, stated knowing there will not be any specials added to his property for this development he has changed his position on the development.

Motion carried, by show of hands, 4/1/1. Council Members Reams, Hale, Nelson voted to approve, Council Member Jessen opposed, Mayor Lawrence cast the deciding vote in favor, Council Member Dreiling arrived during the discussion and abstained from the vote. Ordinance number 1426 was assigned.

Mayor Lawrence presented an ordinance approving a special use to establish an assisted living facility for the elderly and handicapped in the R-4 Multiple-Family Residential district on certain lands located in the City of Andover, Kansas, under the authority granted by the Zoning Regulations of the City as originally approved by ordinance 1187. This is special use case SU-2008-02, allowing the establishment of an assisted living for the elderly and the handicapped on the property rezoned in the previous agenda item.

Special Use Su-2008-02
Freemont at Allen Street
Ordinance 1427

The Mayor asked the Council if anyone intended to disqualify themselves from discussing or voting on this case because they have conflicts of interest or particular bias. No one did.

The Mayor asked Susan Renner, City Clerk, if the City had received any protest petitions. She responded she had not.

The Mayor confirmed with the Council that they had received the January 20, 2009, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. He was not.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case. Mr. Mangus explained this will allow the developer to establish multiple dwelling units for the elderly and handicapped including assisted living and nursing home facilities located at the southwest corner of Allen Street and west Bales Street. This type of facility is not listed as permitted use in any zone.

The Mayor opened the public hearing. No one spoke. The public hearing was closed and the discussion moved to the bench..

ANDOVER CITY PLANNING COMMISSION

Agenda Item
No. 5

REZONING REPORT *

CASE NUMBER: Z-2008-04/SU2008-02

APPLICANT/AGENT: David & Donna Ray

REQUEST: Case No. Z-2008-04. Proposed change of zoning district classification from the Butler County AG-40 District to the R-4 Multiple-Family Residential District.

Case No. SU-2008-02 Special Use request to establish an assisted living facility for the elderly and handicapped.

CASE HISTORY: Vacant agricultural land

LOCATION: Southwest corner of Allen & Bales streets

SITE SIZE: +/-6 acres

PROPOSED USE: Assisted living facility

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County Ag-40 former Charlie’s Salvage and single family residence

South: A-1 Agricultural Transition land owned by the applicant

East: R-1 Bales single family residential neighborhood

West: A-1 Agricultural Transition land owned by the applicant

Background Information: This property lies south of the former Charlie’s Salvage, and is adjacent to the City Limits on the east and west. Public sewer is available adjacent to the property and public water is nearby at Allen St. & Cloud Ave. Allen St. is paved to Cloud Ave., and the remainder is gravel. The only through east west street in the area is Bales St., which is gravel over to Andover Rd. The applicant has amended the original application for 37 acres down to +/-6 acres and the traffic impact report has been provided.

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission’s considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the

following factors as guidelines:

FACTORS AND FINDINGS:

2. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?

YES NO

STAFF:

PLANNING: Subject property: Butler County Ag-40; North: Butler County AG-40 former Charlie’s Salvage and single-family residence; South: A-1 Agricultural Transition land owned by the applicant; East: R-1 Bales single-family residential neighborhood; West: A-1 Agricultural Transition land owned by the applicant.

COUNCIL: Concur

3. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?

YES NO

STAFF:

PLANNING: Current zoning: Butler County Ag-40; North: Butler County Ag-40 former Charlie’s Salvage and single-family residence; South: A-1 Agricultural Transition land owned by the applicant; East: R-1 Bales single-family residential neighborhood; West: A-1 Agricultural Transition land owned by the applicant.

COUNCIL: Concur

4. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES NO

X

STAFF:

X

PLANNING:

COUNCIL: Concur

8. Would the request correct an error in the application of these regulations?

YES NO

X

STAFF:

X

PLANNING:

COUNCIL: Concur

9. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

YES NO

X

STAFF:

X

PLANNING: The growth of the City, specifically in this area near Marketplace development.

COUNCIL: Concur

10. 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?

YES NO

X

STAFF: All are available, or easily extended.

X

PLANNING:

COUNCIL: Concur

11. Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?
- YES NO
X
X
STAFF:
PLANNING:
COUNCIL: Concur
18. Would a screening plan be necessary for existing and/or potential uses of the subject property?
- YES NO
X
X
STAFF: The assisted living facility could require screening from the adjacent residence
PLANNING:
COUNCIL: Concur
19. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
- YES NO
X X
STAFF:
PLANNING: The area behind the current Dillon's is zoned R-4.
COUNCIL: Concur
20. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
- YES NO
X X
STAFF: The aging population requires more housing opportunities.
PLANNING:
COUNCIL: Concur
21. Is the subject property suitable for the uses in the current zoning to which it has been restricted?
- YES NO
X X
STAFF:
PLANNING:
COUNCIL: Concur
22. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?
- YES NO
STAFF: Increased lighting, traffic, drainage, noise, emergency vehicle responses, etc.
PLANNING: Increased lighting, traffic, drainage, noise, emergency vehicle responses, etc
COUNCIL: Concur
23. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
- YES NO
STAFF: The intent of the zoning district is to place medium density multiple family development along an arterial or collector street due to the traffic generation. The R-4 district is the only district where a special use is listed for multiple dwelling units for the elderly and handicapped.
X PLANNING: Based on the Special Use request and limited to an assisted living facility by Protective Overlay.
COUNCIL: Concur

24. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO
X

STAFF: The Comprehensive Plan Chapter 3 GOALS FOR PLANNING goes to great lengths to suggest a variety of quality housing alternatives including specialized facilities for the elderly and disabled. Chapter 8 LAND USE PLAN recognizes the need for multiple family residential development, but suggests some guiding policies for future locations, which includes “along arterial and collector streets but not on local streets mixed within single-family neighborhoods”.

X PLANNING:
COUNCIL: Concur

25. What is the support or opposition to the request?

YES NO

STAFF: Increased traffic, lighting, drainage, noise, emergency vehicles, and perceived devaluation of adjacent residential properties.
PLANNING: Increased traffic, lighting, drainage, noise, emergency vehicles, and perceived devaluation of adjacent residential properties. Support for the project was shown when noted the applicant would not be asking residents to participate in the cost of improvements.
COUNCIL: Concur

26. Is there any information or are there recommendations on this request available from knowledgeable persons, which would be helpful in its evaluation?

YES NO
X

STAFF: In its current configuration the subject property does not meet the intent for location of medium density multiple family residential development due to the lack of adequate street connections to the collector or arterial streets in the area. However, if the application were limited to multiple dwelling units for the elderly and handicapped, which generate significantly less traffic than single or multiple family dwellings, and the street network were expanded to meet the zoning district criteria, then the proposed uses would likely not have the affect of overwhelming the neighborhood or adjacent street system.

X PLANNING:
COUNCIL: Concur

27. If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?

YES NO
X

STAFF:
PLANNING:
COUNCIL: Concur

CONDITIONS:

Platting: That all of such property be platted and recorded within one year from the date of Governing Body approval or the case be considered disapproved and closed, and that the Ordinance effectuating the zone change not be published by the City Clerk until the final plat has been recorded with the Register of Deeds during the period stated above.

Lynn Heath made a motion to recommend the City Council approve case Z-2008-04 and SU-2008-02 with the restriction by Protective Overlay to limit the use of the six acres to an assisted

living facility for the elderly and handicapped based on findings 10, 13 and 14. Byron Stout seconded the motion. Chairman Coon asked if there was any further discussion. Chairman Coon asked if the Special Use needed to be restricted. Les Mangus said no the applicant only applied for the Special Use of an assisted living facility. Motion carried 5/0/1 with Ken Boone abstaining.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to approve the special use based on the findings and factors of the Planning Commission, and approve an ordinance allowing the special use of certain lands located in the City of Andover, Kansas, under the authority granted by the Zoning Regulations of the City as originally approved by Ordinance No. 1187. Motion carried 4/1/. Council Member Jessen opposed. Ordinance number 1427 was assigned.

Mayor Lawrence presented a request for a water line connection on Harry Street in conjunction with the Andover Road expansion project.

Harry Street water line connection (south Andover Road expansion project)

Les Mangus explained the proposed waterline extension along Harry St. connects the Andover Road water transmission line to the Harry St. waterline, continues east to serve the Aspen Creek and Montana Hills subdivisions. Mr. Mangus added that the timing of the extension is critical in order to get the pipe in the ground before the Andover Road improvements are constructed to avoid damage to the new road, bridge, and sidewalks.

A motion was made by Council Member Nelson, seconded by Council Member Reams, to authorize staff to negotiate a change order with McCullough Excavating to add the extension. Motion carried 4/0.

Mayor Lawrence asked Mr. Mangus to give a brief report of the 159th Street improvements north of 21st Street.

Mr. Mangus stated with the platting of the Cornerstone School Addition petitions were accepted for a portion of the costs to improve 159th Street from 21st Street north 1/2 mile to the Martin Elementary School property. The improvements were delayed until the Wichita 21st Street Improvement Project was under construction in order to avoid conflicts, temporary paving, etc. between the two projects. The Wichita Project is now in construction and scheduled for completion in November 2009.

159th Street-north of 21st Street improvements

Sasha Stiles stated the improvement costs have risen and staff is working on the financing issues. She added there is a great opportunity for the City to cut a lot of costs if negotiations are with Lafarge, contractor for the Wichita 21st Street Improvement Project.

Mayor Lawrence stated he has spoke with the owners of the property to the west of 159th Street in an effort to defray some of the costs. Those property owners will benefit from the improvements, but, before he looks for support from them he needs more accurate costs.

A motion was made by Council Member Nelson, seconded by Council Member Reams, to authorize staff to negotiate with Lafarge for the project. Motion carried 4/0.

Sasha Stiles presented information for the renewal of employee health insurance. She stated staff is recommending the renewal of the current plan with PPK.

Employee health insurance renewal

Mayor Lawrence inquired if the contracts would include the Butler County hospitals, in particular, Kansas Medical Center here in Andover. Donna Davis explained there is some negotiating currently but nothing approved for this contract.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve the renewal of the employee health insurance contract with PPK beginning March 1, 2009 through February 28, 2010. Motion carried 4/1 with Council Member Dreiling abstaining due to returning to the meeting in the middle of the discussion.

Sasha Stiles presented information for the renewal of employee dental insurance. She stated staff is recommending the renewal of the current plan with Blue Cross/Blue Shield.

Employee dental insurance renewal

A motion was made by Council Member Hale, seconded by Council Member Reams, to approve the renewal of the employee dental insurance contract with Blue Cross/Blue Shield beginning March 1, 2009 through February 28, 2010. Motion carried 5/0.

A motion was made by Council Member Jessen, seconded by Council Member Reams, at 9:04 p.m. to recess the City Council meeting to convene the Public Building Commission meeting. Motion carried 5/0.

Recess to Andover Public Building Commission

A motion was made by Public Building Commissioner Lawrence, seconded by Public Building Commissioner Reams, to convene the Public Building Commission meeting. Motion carried 5/0.

Call to order - Andover Public Building Commission meeting

Public Building Commissioner President Nelson called the meeting to order at 9:05 p.m.. The Public Building Commissioners present were Kevin Dreiling, J.R. Jessen, Caroline Hale, Ben Lawrence, and Julie Reams.

A motion was made by Public Building Commissioner Hale, seconded by Public Building Commission Lawrence, to approve the minutes from the February 28, 2006 minutes. Motion carried 6/0.

Jeff Bridges, Dewaay Financial, Public Building Commission Financial Advisor, presented a resolution declaring it necessary and advisable to issue revenue bonds of the Andover Public Building Commission in an amount not to exceed \$6,000,000 for the purpose of purchasing, acquiring, constructing, furnishing and equipping a new city hall and reconstructing, furnishing and equipping the existing city hall to be used as a police station.

Mr. Bridges provided a debt service schedule and explained it was the same as used for the police department. He added this is the 3rd phase of what was adopted in 2000. Once adopted and published for two (2) weeks there would be a 30 day protest period.

Public Building Commissioner Lawrence stated the passing of this resolution would authorize and expenditure of up to \$6 million to build a new city hall. The Andover City Council would then lease the facility from the Public Building Commission. Approval of this resolution does not require the City Council to move forward with the project, it authorizes them to do so. It will not be presented to the City Council this evening.

A motion was made by Public Building Commissioner Hale, seconded by Public Building Commissioner Lawrence, to approve the resolution as presented. Motion carried 6/0.

APBC Resolution 09-01

A motion was made by Public Building Commissioner Hale, Public Building Commissioner Dreiling, seconded by Public Building Commissioner Reams, at 9:24 p.m. to adjourn the Public Building Commission meeting. Motion carried 6/0.

Adjourn Andover Public Building Commission meeting

A motion was made by City Council Member Nelson, seconded by Council Member Hale, at 9:25 p.m. to reconvene the Andover City Council meeting. Motion carried 5/0. Council Member Dreiling left between meetings.

Reconvene City Council meeting

A motion was made by Council Member Reams, seconded by Council Member Hale, at 9:25 p.m. to go in to executive session for approximately five (5) minutes to discuss contract negotiations and to include the Governing Body, City Administrator Stiles, City Attorney Manley and Brandon Tiedeman with J.P. Weigand Realtors. Motion carried 4/0.

Executive session - contract negotiations

A motion was made by Council Member Reams, seconded by Council Member Jessen, at 9:38 p.m. to come out of executive session. Motion carried 4/0.

Member Items

Member Items

Council Member Dreiling apologized for coming and going this evening.

Council Member Dreiling stated he attended the USD 385 Board meeting and the Board agreed to re-open Meadowlark Elementary School and he commended the Board for their action.

Council Member Jessen apologized for any undeserved comments he might have made this evening.

Council Member Hale had none.

Council Member Nelson thanked Julie Reams for putting together a great employee appreciation banquet.

Council Member Nelson reported the WAMPO meetings' stress level is enormous and final decisions will be made next month.

Council Member Reams congratulated Susan Renner on her promotion.

Council Member Reams invited everyone to the Jessica Harris Scholarship Fundraiser this weekend. She encouraged the public to follow the city web site and cable channel 7 for more events.

A motion was made by Council Member Hale, seconded by Council Member Reams, at 9:43 p.m. to recess the meeting to February 21st, 2009, at 11:30 a.m. at Terradyne County Club for a tour with Mr. Craig Smith. Motion carried 5/0. Adjourn

Respectfully Submitted by

Susan Renner
City Clerk

Approved this 24th day of February, 2009 by the City Council, City of Andover.