

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

The Andover City Council met for a regular meeting on Tuesday, March 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, Clark Nelson, and Carol Roberts. Others in attendance were: City Administrator Sasha Stiles, Assistant City Administrator Shane Coelho, Director of Public Works and Community Development Les Mangus, Administrative Services Director Donna Davis, Fire Chief Jim Shaver, Police Chief Mike Keller, City Clerk Susan Renner, City Financial Advisor Jeff Bridges, City Attorney Norman Manley, City Bond Council J.T. Klaus, and City Engineer Mike Thompson. Council Member Dreiling was absent.

The Invocation was given by Reverend Leon Heibert of the Andover Assembly of God.

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

Mayor Lawrence presented Donna Davis with the award for Excellence in Financial Reporting. Mayor Lawrence added this is the 29th year the City has received this award and congratulated Mrs. Davis for her continued hard work.

Excellence in Financial Reporting Award

Michelle Sell, Timbuktu, 1241 N Andover Road, invited the community to participate in “The Buk’s Burger Ride”, May 16, 2009. All proceeds will benefit the Jessica Harris Scholarship Fund.

Jessica Harris Scholarship Fund event

The Council concurred in a thank you for their efforts to help raise funds for such a worthy cause and stated they are in support of this event.

Denise Kelly, Greater Andover Days committee, was scheduled but was not present.

Greater Andover Days Presentation

Angie Baur, President/CEO, The Community Foundation of Greater Butler County, presented information regarding the foundation and their plans for the future.

The Community Foundation of Greater Butler County

Sasha Stiles requested the addition of two (2) items to the agenda; 1) Fire Department request for upgrade of the phone system; 2) annexation of the Moser Addition. Ms. Stiles also had a revised resolution for item 20.

Agenda

A motion was made by Council Member Nelson, seconded by Council Member Reams, to accept the agenda with the Fire Department request for an upgrade of the phone system added to the consent agenda and the Moser Addition annexation added to the regular agenda. Motion carried 5/0.

Mayor Lawrence opened the public hearing at 7:18 p.m. for the Andover Senior Care, LLC, IRB and tax abatement.

Public Hearing
IRB & Tax Abatement
Andover Senior Care LLC

No one spoke.

Mayor Lawrence closed the hearing.

Mayor Lawrence opened the public hearing at 7:20 p.m. for the Terradyne Hotel Partners, LLC, IRB and tax abatement.

Public Hearing
IRB & Tax Abatement
Terradyne Hotel Partners
LLC

Cheryl Yavornitzki, 720 N Fairway, thanked Mrs. Stiles for discussing this issue with her earlier in the day. Ms. Yavornitzki stated her concerns for the project were safety and would ask the Council to stipulate, if the project is approved, that the developer be required to have the entrance to the facility be off of 159th Street and that the developers pay to have 159th Street upgraded.

Mark Chaffin, 1514 W Highlander, stated he feels there has been a lack of notice on this project and the Council is in support of the project and not the home owners. Mr. Chaffin added his concerns for safety, noise, hours of operation, failure of the project and that he had spoke with residents and 90% are opposed.

Mayor Lawrence stated the zoning for this project had been approved in 2006 and added there will be requirements that will have to be met by the developers prior to the issuance of bonds.

Norman Manley added information regarding cases coming before the Council and its committees are available at City Hall for citizens to request.

Phil Downs, 823 Bramerton, stated he feels the Council is working for the developer.

Council Member Hale stated that as a Council member she has struggled with the issue and has to disregard her personal feelings as a Terradyne resident.

Dwight Wallace, 648 Glendevon Place, stated the Home Owners Association had spent close to \$10,000 for repairs on 159th Street and that the City should be commended for keeping it up. Mr. Wallace added the issue with the school busses is regulated by USD 385 not the City. Mr. Wallace encourages the efforts of the City Council to approve the IRB.

Patty Horning, 1608 Gleneagles Court, stated the facility used to be a forty room hotel and does not compare to the one the developer wants to build. She added her concerns for safety.

Lynette Jacobson, 1612 Gleneagles Court, has concerns as a citizen and tax payer regarding the value of her home, safety for the children and what will happen to the community. She feels there should be more open communication.

Mayor Lawrence stated this is simply a proposal at this time. The developers have a vision and an idea of what to expect but nobody knows, it is not a sure thing. He added that a large part of this issue is due to the confusion of the residents. Mr. Smith has a legal right to develop his property.

Council Member Nelson stated Mr. Smith had complied with all of the questions and requests posed to him. He believes the citizens have legitimate concerns but in theory the developer could build without Council approval. He thought there had been an informational meeting at Terradyne and at the Council workshop meeting there were a lot of citizens that spoke.

J.T. Klaus, Triplett, Woolf and Garretson, City Bond Council, explained the cost benefit analysis presented to the Council and added the City would receive more than they gave in the 10 year term of the abatement that was recommended by the committee at 100% for the first five (5) years and then lower each year following until the 10th year and the abatement is only for the new construction of the facility.

Mr. Klaus stated the issuance of Internal Revenue Bonds is not giving the city's money to the project or endorsing the project, it is simply a building block to allow the developers to begin their process.

Paul Hanneman, 1204 Terradyne, stated it was obvious the city is going to approve even though the people are against it.

Joan Barkley, 1117 Terradyne Court, asked if the citizens would rather have an empty clubhouse or have a viable club that is an asset and will the club fail if there is no hotel.

Hap Asmann, 1212 Terradyne, stated he wanted to make the city aware of the safety issues. He believes the hotel would be an asset to the club and the city.

Les Mangus explained that there are lot of things we don't have the answers to, yet. The plans would have to be approved by the Site Plan Review committee and citizens would be able to voice concerns at that time.

Mike Garman, 1118 Terradyne Place, asked what the total amount of the abatement would be.

J.T. Klaus stated it would be approximately 3-4 times the amount being paid now.

Mayor Lawrence closed the public hearing at 8:51 p.m.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve the consent agenda with the addition of the Fire Department telephone upgrade request as item M.

Consent Agenda

- A. Approval of Minutes: City Council Tour of Terradyne, February 21, 2009

City Council Workshop, February 23, 2009

City Council Meeting, February 24, 2009

- B. Receive & file minutes:
 - Site Plan Review, January 6, 2009
 - Subdivision, December 9, 2008
 - Planning Commission, January 20, 2009
 - Library Board, January 14, 2009
- C. Receive & file reports:

Finance	February 2009
Police	January 2009
Fire	February 2009
Library	January 2009
- D. Approval of appropriation ordinance B-05-09 in the amount of \$750,849.64
- E. Approve Park Department fencing purchase for 13th Street Sports Park from American Fence Co., Wichita, in the amount of \$4,156.08.
- F. Approve Park Department tree purchase of 50 trees from Willow Springs Wholesale Nursery, Wichita, in the amount of \$7,500.
- G. Approve landscape items for Central Park playground from Superior Landscape, Andover, in the amount of \$10,660.
- H. Approve payment to J.P. Weigand in the amount of \$2,000 for marketing expenses for 937 N Andover Road.
- I. Approve renewal of general liability, equipment and machinery insurance for 2009 from ICI, El Dorado, in the amount of \$114,246.
- J. Approve moving of siren #6 at Andover Road and Stanton Road by Blue Valley Public Safety, Grain Valley, MO, in the amount of \$1,975.00.
- K. Approve supplemental agreement with Poe & Associates for the Harry Street water main in the amount of \$2,000.
- L. Approve Fire Department insurance renewal from ICI, El Dorado, in the amount of \$20,424.
- M. *Approve Fire Department telephone system upgrade from AT&T in the amount of \$6,025.96.*

Motion carried 5/0.

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.

Moser Annexation
(addition to agenda)
Ordinance 1429

Mayor Lawrence asked Les Mangus to give a brief description of the annexation request.

Mr. Mangus stated the Moser Addition is approximately 2.8 acres generally located at the northwest corner of US Highway 54 and S McCandless. Mr. Mangus explained the property houses the former J-Mac Feed and there is an adjacent vacant piece of property on the north side. The property is adjacent to an existing city water line on Highway 54, is served by city sewer, and is adjacent to the city on the south and east.

Robert Kaplan, agent for the applicant was present to represent the petitioner. Mr. Kaplan stated the annexation and platting of the property would be contingent on approval of the applicants request for a change of zoning district classification and approval of the special use request.

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve the annexation. Motion carried 5/0. Ordinance number 1429 was assigned.

Les Mangus explained no action was necessary on item 11) Moser Addition Preliminary Plat due to the request for acceptance of the final plat was item 12) on the agenda.

Moser Addition
Preliminary Plat

Mayor Lawrence presented the final plat for the Moser Addition, generally located at the northwest corner of US Highway 54 and S McCandless.

Moser Addition
Final Plat

A motion was made by Council Member Nelson, seconded by Council Member Reams, to accept the final plat as presented. Motion carried 5/0.

Mayor Lawrence presented zoning case Z-2009-01, Moser Addition, generally located on the northwest corner of US Highway 54 and S McCandless.

Z-2009-01
Moser Addition
Ordinance 1430

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 February 17, 2009, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. Robert Kaplan was present as the owner's representative.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case.

Mr. Mangus explained Parcel A of this property has been used in the past as a feed store and has a conditional use that allows it to operate as a highway business through the County zoning system. Parcel B is a vacant single family parcel. A few hundred feet to the west of this property the Planning Commission has conditionally recommended the Countryside Mobile Home Park be rezoned to the B-5 Highway Business District with a reverse frontage road that would parallel the highway with a lesser classification of B-3 Central Shopping District with protective overlay restrictions along the backside of the property adjacent to residential areas. This application is for B-5 Highway Business District and the next item on the Councils agenda is a special use request for the Minneha Township maintenance facility.

Staff recommends the B-5 Highway Business District and special use be limited to Parcel A, with Parcel B being granted a lesser zoning classification based on the fact that after a frontage road is installed the configuration of the parcel would only allow for lots that are about 120 feet deep and would not support the types of businesses that go along with a B-5 classification.

The Mayor asked Mr. Kaplan 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.

ANDOVER CITY PLANNING COMMISSION

Agenda Item
No. 6

REZONING REPORT *

CASE NUMBER: Z-2009-01/SU-2009-01

APPLICANT/AGENT: Marvin D. & Carole F. Moser/Robert W. Kaplan

REQUEST: Change zoning district classification from Butler County AG w/special use to City B-5 Highway Business District w/Special Use for Minneha Township office and maintenance facility

CASE HISTORY: Operated as a feed store since built in the early 1990's

LOCATION: Northwest corner of US-54 and S. McCandless Dr.

SITE SIZE: +/- 2.9 acres

PROPOSED USE: Minneha Township office and maintenance facility

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County - single family residence
 South: B-4 Central Business District – YMCA
 East: A-1 Agricultural Transition – single family residence

West: Butler County - warehouse

Background Information: The property is currently vacant, but has been operated as a feed store in the past

* 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:

YES NO 1. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?

STAFF:

PLANNING: Subject Property: Butler County AG-40; North: Butler County – single family residence; South: B-4 Central Business District – YMCA; East: A-1 Agricultural Transition – single family residence; West: Butler County – warehouse.

COUNCIL: Concur

YES NO 2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?

STAFF:

PLANNING: Current Zoning: Butler County AG-40; North: Butler County – single family residence; South: B-4 Central Business District – YMCA; East: A-1 Agricultural Transition – single family residence; West: Butler County – warehouse.

COUNCIL: Concur

YES NO 3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 4. Would the request correct an error in the application of these regulations?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 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?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 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?

X STAFF: All are in place and readily extended

X PLANNING: All are readily available

COUNCIL: Concur

YES NO 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?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

STAFF: N.A. for special use

N PLANNING: Not for the special use request

COUNCIL: Concur

YES NO 10. 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 11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?

X STAFF: But the use is restricted to the feed store

X PLANNING:

COUNCIL: Concur

YES NO 12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

STAFF: Increased traffic, light, noise, etc.

PLANNING: Increased noise

COUNCIL: Concur

YES NO 13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 15. What is the support or opposition to the request?

X STAFF: Increased traffic, light, noise, etc.

PLANNING: None presented during the public hearing.

COUNCIL: Concur

YES NO 16. Is there any information or are there recommendations on this request available from knowledgeable persons which would be helpful in its evaluation?

X STAFF: Approval of B-5 w/special use on the Tract A with a limitation to prohibit outdoor storage of equipment or construction materials. B-2 on Tract B.

X PLANNING:
COUNCIL: Concur

YES NO 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?

STAFF:

X PLANNING:

COUNCIL: Concur

Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I Lynn Heath, move that we recommend to the Governing Body that Case No. Z-2009-01/SU-2009-02 be modified and approved to change the zoning district classification from the Butler County AG-40 District to the Andover B-5 Highway Business District with a special use to establish a public building limited to indoor storage on Parcel A and to change the zoning district classification from Butler County AG-40 to Andover B-2 Neighborhood Business District on Parcel B based on findings 7, ,10, 13 and 14 of the Planning Commission as recorded in the summary of this hearing, and that the following conditions be attached to this recommendation. Motion seconded by John Cromwell. Chairman Coon asked if there was any further discussion. Byron Stout asked if the motion needed to be amended to state the special use is to establish the Minneha Township office and maintenance facility. Les Mangus said yes. Byron Stout amended the motion to state the zoning district classification shall be changed from the Butler County AG-40 District to the Andover B-5 Highway Business district with a special use to establish the Minneha Township office and maintenance facility limited to indoor storage only on Parcel A. Lynn Heath seconded the amendment. Motion carried 6/0.

CONDITIONS:

1. **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.
2. **Screening Plan:** That a screening plan be submitted to the Planning Commission for approval prior to the issuing of a zoning permit.
3. **Annexation:** That an annexation ordinance be approved and published prior to the effectuating ordinance for the rezoning amendment.

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 to 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. (Zoning Case Z-2009-01 from Butler County AG-40 to Andover B-5 Highway Business & B-5 Neighborhood Business District - generally located 1216 E Highway 54 - northwest corner of US Hwy 54 and S. McCandless). Motion carried 5/0. Ordinance number 1430 was assigned.

Mayor Lawrence presented Special Use case SU-2009-01 to establish the Minneha Township office and maintenance facility, generally located northwest corner of US Highway 54 and S McCandless.

SU-2009-01
Moser Addition
Ordinance 1431

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 February 17, 2009, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. Robert Kaplan was present as the applicant's representative. Mayor Lawrence asked if they felt they had a fair and impartial hearing at the Planning Commission meeting, he responded they had.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case.

Mr. Mangus explained the proposed special use would allow Minneha Township to operate its road maintenance facility and office at this location. The Township has occupied several locations in the past few years as development in the area has moved further east eliminating warehouse or barn type locations. Staff has met with the applicant's agent on the matter and relayed concerns for heavy equipment traffic and outdoor storage. The applicant intends to keep all construction equipment inside the existing building, and use only the property adjacent to the existing building. The application includes adjacent property that is currently vacant and adjacent to existing single family residences. Staff recommends that the B-5 zoning and special use be limited to Parcel A in the description with no outdoor storage of equipment or materials, and that the remainder of the subject property be B-2 Neighborhood Business.

The Mayor asked Mr. Kaplan 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.

ANDOVER CITY PLANNING COMMISSION

Agenda Item
No. 6

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APPLICANT/AGENT: Marvin D. & Carole F. Moser/Robert W. Kaplan

REQUEST: Change zoning district classification from Butler County AG w/special use to City B-5 Highway Business District w/Special Use for Minneha Township office and maintenance facility

CASE HISTORY: Operated as a feed store since built in the early 1990's

LOCATION: Northwest corner of US-54 and S. McCandless Dr.

SITE SIZE: +/- 2.9 acres

PROPOSED USE: Minneha Township office and maintenance facility

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County - single family residence
 South: B-4 Central Business District – YMCA
 East: A-1 Agricultural Transition – single family residence
 West: Butler County - warehouse

Background Information: The property is currently vacant, but has been operated as a feed store in the past

* 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:

YES	NO	2. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?
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STAFF:

PLANNING: Subject Property: Butler County AG-40; North: Butler County – single family residence; South: B-4 Central Business District – YMCA; East: A-1 Agricultural Transition – single family residence; West: Butler County – warehouse.

COUNCIL: Concur

YES NO 3. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?

STAFF:

PLANNING: Current Zoning: Butler County AG-40; North: Butler County – single family residence; South: B-4 Central Business District – YMCA; East: A-1 Agricultural Transition – single family residence; West: Butler County – warehouse.

COUNCIL: Concur

YES NO 4. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 8. Would the request correct an error in the application of these regulations?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 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?

X STAFF:

X PLANNING:

COUNCIL: Concur

YES NO 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?

X STAFF: All are in place and readily extended

X PLANNING: All are readily available

COUNCIL: Concur

YES NO 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?

X STAFF:
X PLANNING:
COUNCIL: Concur

YES NO 18. Would a screening plan be necessary for existing and/or potential uses of the subject property?

X STAFF:
X PLANNING:
COUNCIL: Concur

YES NO 19. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?

STAFF: N.A. for special use
N PLANNING: Not for the special use request
COUNCIL: Concur

YES NO 20. 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 21. Is the subject property suitable for the uses in the current zoning to which it has been restricted?

X STAFF: But the use is restricted to the feed store
X PLANNING:
COUNCIL: Concur

YES NO 22. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

STAFF: Increased traffic, light, noise, etc.
PLANNING: Increased noise
COUNCIL: Concur

YES NO 23. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

X STAFF:
X PLANNING:
COUNCIL: Concur

YES NO 24. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

X STAFF:
X PLANNING:
COUNCIL: Concur

YES NO 25. What is the support or opposition to the request?

X STAFF: Increased traffic, light, noise, etc.
PLANNING: None presented during the public hearing.
COUNCIL: Concur

YES NO 26. Is there any information or are there recommendations on this request available from knowledgeable persons which would be helpful in its evaluation?

X STAFF: Approval of B-5 w/special use on the Tract A with a limitation to prohibit outdoor storage of equipment or construction materials. B-2 on Tract B.
X PLANNING:
COUNCIL: Concur

YES NO 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?

STAFF:
X PLANNING:
COUNCIL: Concur

Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I Lynn Heath, move that we recommend to the Governing Body that Case No. Z-2009-01/SU-2009-02 be modified and approved to change the zoning district classification from the Butler County AG-40 District to the Andover B-5 Highway Business District with a special use to establish a public building limited to indoor storage on Parcel A and to change the zoning district classification from Butler County AG-40 to Andover B-2 Neighborhood Business District on Parcel B based on findings 7, ,10, 13 and 14 of the Planning Commission as recorded in the summary of this hearing, and that the following conditions be attached to

this recommendation. Motion seconded by John Cromwell. Chairman Coon asked if there was any further discussion. Byron Stout asked if the motion needed to be amended to state the special use is to establish the Minneha Township office and maintenance facility. Les Mangus said yes. Byron Stout amended the motion to state the zoning district classification shall be changed from the Butler County AG-40 District to the Andover B-5 Highway Business district with a special use to establish the Minneha Township office and maintenance facility limited to indoor storage only on Parcel A. Lynn Heath seconded the amendment. Motion carried 6/0.

CONDITIONS:

4. **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.
5. **Screening Plan:** That a screening plan be submitted to the Planning Commission for approval prior to the issuing of a zoning permit.
6. **Annexation:** That an annexation ordinance be approved and published prior to the effectuating ordinance for the rezoning amendment.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to approve an ordinance approving a special use to establish the Minneha Township office and maintenance facility in the B-5 Highway Business 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. (Special Use Case SU-2009-01 to establish the Minneha Township office and maintenance facility in a B-5 Highway Business District - northwest corner of US Hwy 54 and S. McCandless). Motion carried 5/0. Ordinance number 1431 was assigned.

Mayor Lawrence presented special use case SU-2009-02, to establish a storage warehouse in the B-2 Neighborhood Business District, generally located 1627 N Andover Road.

SU-2009-02
1627 N Andover Road
Ordinance 1432

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 February 17, 2009, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. Mr. Ken Houston was present. Mayor Lawrence asked if he felt they had a fair and impartial hearing at the Planning Commission meeting, he responded they had.

The Mayor asked Zoning Administrator Les Mangus to give a brief report regarding the case.

Mr. Mangus explained this is to expand the existing Andover Lawn Care business. They would like to build a warehouse.

The Mayor asked Mr. Houston if he had any further information to provide. He did not.

The Mayor opened the public hearing. No one spoke. The public hearing was closed.

SU-2009-02- A Public Hearing on a request of a Special Use to establish a storage warehouse in the B-2 Neighborhood Business District. SU-2009-02

From Les Mangus' Memo: The proposed special use to allow a storage warehouse in the B-2 Neighborhood Business District at 1627 N. Andover Road is the result of the need for the additional storage parts and equipment for Andover Lawn Equipment at 1635 N. Andover Road across the street from the subject property. The applicant's have acquired the subject property in order to expand the existing business, which sells and services lawn care equipment. Staff supports the application limited to indoor storage only.

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained this site is located just north of the BNSF railroad on Andover Road. The applicants have outgrown their facility north of Market Street and need more warehouse space for their business. They have bought the property that houses Glen's Auto to the south and intend to build a warehouse to store mowers and yard equipment. The property is zoned B-2 and does not allow for warehouses in the permitted uses, creating this special use request.

Applicant Ken Huston was present to represent the applicant.

Mr. Huston said he would be happy to answer any questions the Commission might have.

Lynn Heath asked if Glen's Auto building would remain. Mr. Huston said the building will remain at this time. Lynn Heath asked if the storage building will be located behind Glen's Auto. Mr. Huston said yes.

Lynn Heath asked if the special use applied to the entire property. Les Mangus said yes.

Chairman Coon opened the Public Hearing at 7:38 p.m. With no public input Chairman Coon closed the Public Hearing at 7:38 p.m.

ANDOVER CITY PLANNING COMMISSION

Agenda Item
No. 7

REZONING REPORT *

CASE NUMBER:	SU-2009-02
APPLICANT/AGENT:	Lesta Berta Dodge Estate & Miller Parts Co. Inc./Ken Huston
REQUEST:	Special use to allow a storage warehouse to store parts, equipment, merchandise, etc. for Andover Lawn Equipment in the B-2 Neighborhood Business District.
CASE HISTORY:	Vacant land behind Glenn's Service

LOCATION: 1627 N. Andover Rd.

SITE SIZE: 21,477 sq. ft.

PROPOSED USE: Storage warehouse

ADJACENT ZONING AND EXISTING LAND USE:

- North: B-3 Andover Lawn Equipment
- South: B-2 vacant lot
- East: R-1 Andover Middle School
- West: B-3 Jayhawk Landscape contractor’s warehouse

Background Information:

* 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: B-2 Neighborhood Business District; North: B-3 Andover Lawn Equipment; South: B-2 vacant lot; East: R-1 Andover Middle School; West: B-3 Jayhawk Landscape contractor’s warehouse.

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: Current Zoning: B-2 Neighborhood Business District; North: B-3 Andover Lawn Equipment; South: B-2 vacant lot; East: R-1 Andover Middle School; West: B-3 Jayhawk Landscape contractor’s warehouse.

PLANNING:

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
 X STAFF:
 X PLANNING:
 COUNCIL: Concur

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

YES NO
 X
 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
 X STAFF:
 X PLANNING:
 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
 X STAFF:
 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
 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
 X STAFF:
 X PLANNING: Not required between two businesses
 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
 X STAFF:
 X PLANNING:
 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
 X STAFF:
 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:
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
X
STAFF:
PLANNING: NA
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
X
X
STAFF:
PLANNING:
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
X
STAFF:
PLANNING:
COUNCIL: Concur
15. What is the support or opposition to the request?
- YES NO
STAFF: None at this time
PLANNING: None presented
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: Approval as applied for.
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

Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I John Cromwell, move that we recommend to the Governing Body that Case No. SU-2009-02 be approved to establish a storage warehouse in the B-2 Neighborhood Business District limited to indoor storage based on findings 5, 6, 10, 11, 13 and 14 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Byron Stout. Motion carried 6/0.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, an ordinance approving a special use to establish a storage warehouse in the B-2 Neighborhood Business 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. (Special Use Case SU-2009-02 to establish a storage warehouse in the B-2 Neighborhood Business District). Motion carried 5/0. Ordinance number 1432 was assigned.

Mike Thompson, POE & Associates, City Engineer, presented a proposal and change order from McCullough Excavation in the amount \$43,050 for the waterline from Andover Road to Phyllis Lane on Harry.

Harry Street waterline
McCullough Excavation
proposal

A motion was made by Council Member Nelson, seconded by Council Member Hale, to approve and authorize the City Administrator to sign change order number one in the amount of \$43,050. Motion carried 5/0.

Jeff Bridges, DeWaay Financial, City Financial Advisor, presented an ordinance of the City of Andover, Kansas, authorizing the issuance of the City's General Obligation Refunding Bonds, Series A, 2009, in the aggregate principal amount of \$6,253,000, for the purpose of refunding certain outstanding general obligation internal improvement bonds of the city; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on said bonds; authorizing certain other documents and actions; and making certain covenants with respect thereto.

General Obligation
Refunding Bonds
Series A, 2009
Ordinance 1433

A motion was made by Council Member Hale, seconded by Council Member Reams, to approve the ordinance as presented. Motion carried 5/0. Ordinance number 1433 was assigned.

Jeff Bridges, DeWaay Financial, City Financial Advisor, presented a resolution prescribing the form and details of and authorizing and directing the sale and delivery of General Obligation Refunding Bonds, Series A, 2009, in the total aggregate principal amount of \$6,253,000, of the City of Andover, Kansas, previously authorized by Ordinance No. 1433 of the City; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith.

General Obligation
Refunding Bonds
Series A, 2009
Resolution 09-04

A motion was made by Council Member Hale, seconded by Council Member Reams, to approve the resolution describing the details associated with Ordinance 1433. Motion carried 5/0. Resolution number 09-04 was assigned. Mr. Bridges state the closing would be March 24, 2009.

J.T. Klaus, Triplett, Woolf and Garretson, City Bond Council, presented resolution indicating the intent of the Governing Body of the City of Andover, Kansas to issue certain taxable Industrial Revenue Bonds in an aggregate principal amount of not to exceed seven million dollars (\$7,000,000) for the purpose of purchasing, acquiring, constructing, furnishing and equipping an extended-care skilled nursing facility to be located in the City of Andover, Kansas. (Andover Senior Care, LLC)

Andover Senior Care LLC
IRB & Tax Abatement
Resolution 0-05

Mr. Klaus explained these revenue bonds are for the new portion of the facility.

A motion was made by Council Member Nelson, seconded by Council Member Hale, to approve the resolution as presented. Motion carried 5/0. Resolution number 09-05 was assigned.

J.T. Klaus, Triplett, Woolf and Garretson, City Bond Council, presented a resolution indicating the intent of the Governing Body of the City of Andover, Kansas to issue certain taxable industrial revenue bonds in an aggregate principal amount of not to exceed fifteen million dollars (\$15,000,000) for the purpose of purchasing, acquiring, constructing, furnishing and equipping a new hotel and conference center to be located adjacent to the existing Terradyne Country Club at 1400 W. (Terradyne Hotel Partners LLC)

Terradyne Hotel Partners
LLC
IRB & Tax Abatement
Resolution 09-06

Mr. Klaus explained that this is just the first step of many prior to an actual issuance of bonds.

Craig Smith, Terradyne Hotel Partners, stated he has met with some of the attendees at the City Council workshop meeting October 27, 2008, and they are really misinformed about the project. A traffic study has been supplied to the City Council and Mr. Smith added that the report shows no substantial increase in traffic. Mr. Smith stated this would be a first class facility with some type of major hotel flag.

Council Member Nelson asked if Mr. Smith was planning on selling the project. Mr. Smith stated if approved there will be strong backing of the project and he is willing to stay as long as the partners want him. He added he had not planned running a country club for the rest of his life and will hire a manager.

Council Member Nelson asked Mr. Smith how he felt about the current economics and how it effects his project. Mr. Smith stated two of the partners have been in the hotel business for 25 years and currently operate approximately 150 properties all over the country. Another partner has developed 150 hotels with the Marriot Residence Inn and Courtyard. Mr. Smith stated he and his partners have developed seven hotels and currently own several.

Mr. Smith stated that in the Wichita metro area today there are approximately 8,000 rooms and it can be difficult to find a room available in the middle of the week. There is a shortage of hotels and that is why there are five (5) opening soon and they are not even competitive with the type of facility they are planning.

Council Member Nelson asked Mr. Smith if he is aware of the process they will have to go through before building, i.e. Site Plan Review Committee, Planning Commission, and Council approval. Mr. Smith responded he was aware.

Council Member Nelson stated he wanted the public to understand the concerns for safety etc. will be addressed as the applicants submit plans to the various committees and comply with the rules, codes, and requirements of the city.

A motion was made by Council Member Roberts, seconded by Council Member Jessen, to approve the resolution of intent in the amount of \$15,000,000 for Terradyne Hotel Partners, LLC as presented.

Council Member Nelson added if this resolution passes there are numerous opportunities for the community to voice their concerns at the committee meetings the project will have to be approved by.

Council Member Roberts stated the citizens should have faith in our city's Site Plan Review Committee and Planning Commission and added everyone is concerned with safety.

Motion carried 4/1. Council Member Reams opposed. Resolution number 09-06 was assigned.

Mayor Lawrence stated this is just a letter of intent and does not commit the city.

Police Chief Keller explained the 2009 Cops Grant and the actions of the USD 385 School Board meeting the night before.

2009 COPS Grant

A motion was made by Council Member Hale, seconded by Council Member Reams, to authorize Chief Keller to submit the grant as requested. Motion carried 5/0.

Member Items

Member Items

Council Member Jessen had none.

Council Member Hale had none.

Council Member Nelson stated he felt the negative comments regarding the Terradyne situation were unfortunate. He would like the people to know that they try to keep the neighbors informed and he encourages input of their concerns.

Council Member Reams stated the new Dillons Marketplace had opened on Sunday and they had 6,300 shoppers that day.

Council Member Reams thanked the Chamber of Commerce for the wonderful annual party.

Council Member Reams stated she would be leaving for the National League of Cities Conference in Washington D.C. on Saturday.

Council Member Roberts stated she hoped this evenings discussion helped alleviate the publics concern about city's money and what I.R.B.'s are.

A motion was made by Council Member Reams, seconded by Council Member Hale, at 10:18 p.m. to adjourn. Motion carried 5/0.

Adjourn

Respectfully Submitted by,

Susan Renner

City Clerk

Approved this 31st day of March, 2009 by the City Council, City of Andover.