

**ANDOVER CITY COUNCIL
Tuesday, December 8, 2009
Minutes**

The Andover City Council met for a regular meeting on Tuesday, December 8, 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, Sheri Geisler and Dave Tingley. 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 Attorney Norman Manley, and City Engineer Mike Thompson..

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 and signed the following Proclamation for the Butler County Homeless Initiative

Butler County Homeless Initiative Proclamation

Homelessness, although often hidden, is a harsh reality for many persons in Butler County and in our community. It affects not only individuals who have made poor life choices, but individuals and families who find themselves homeless due to circumstances beyond their control. The main causes of homelessness are poverty and lack of affordable housing. With the poor economy, job loss, and growing number of foreclosures during the last several years, many who never thought it could happen to them have found themselves homeless.

We recognize that homelessness adversely affects not only those families and individuals who experience it, but the entire community; and when the community supports efforts to help individual residents and families gain stability and a better quality of life, the community as a whole will prosper and become stronger. Therefore, the City of Andover supports

Butler Homeless Initiative

In their efforts to open and maintain a shelter and provide support, guidance, and encouragement for homeless individuals and families throughout Butler County.

Sasha Stiles stated the Public Hearing and regular agenda item #10 2010 Budget Amendment is actually the 2009 Budget Amendment.

Agenda

Sasha Stiles stated the Public Hearing for Zoning Case Z-2009-02 was an error, the hearing takes place during the presentation of the ordinance at regular agenda item #13.

A motion was made by Council Member Nelson, seconded by Council Member Reams, to accept the agenda with the 2010 Budget Amendment changed to 2009 Budget Amendment and to remove the Public Hearing for Zoning Case Z-2009-02. Motion carried 6/0.

Mayor Lawrence opened the Public Hearing for the 2009 Budget Amendment. No one spoke. The Mayor closed the hearing.

Public Hearing
2009 Budget Amendment

Mayor Lawrence opened the Public Hearing for the Neighborhood Revitalization Plan. No one spoke. The Mayor closed the hearing.

Public Hearing
NRP

A motion was made by Council Member Nelson, seconded by Council Member Reams, to approve the consent agenda.

Consent Agenda

Council Member Tingley stated there was an error in the November 24, 2009 minutes; page 2 where Council is discussing the Chamber of Commerce request for City membership, Council Member Tingley stated “he did not believe the cost of utilities were in excess of \$500 a year”, it should have said \$500 per month. Susan Renner stated she would make the correction.

A. Approval of Minutes: City Council Workshop, November 23, 2009
City Council Meeting, November 24, 2009
(as revised)

B. Receive & file Minutes: Site Plan Review, October 13, 2009
Planning Commission, October 20, 2009
Library, October 14, 2009

C. Receive & file reports:
i. Finance November 2009
ii. Fire November 2009
iii. Library September 2009

D. Approval of appropriation ordinance B-23-09 in the amount of \$261,215.28

E. Approval of a request from Boy Scout Troup 584 to camp out at Central Park on December 11 & 12, 2009.

F. Approval of request to purchase \$770 in Chamber Bucks for employee appreciation for 77 employees.

G. Approval of request to purchase \$1,400 in bank gift cards for employee service awards for 20 years of service; Les Mangus, Ralph Rust, William Duggan and 5 year awards for Randa Wilson-Evans and Jason Jacobs.

H. Approval of change order 004 for the Andover Public Library in the amount of \$3,657.



**Andover Public Library
Change Order #4
ITEMIZATION**

ITEM NO.	DESCRIPTION		CHANGE
4.1	Remove Item CP-18c from the contract. Delete water repellent on exposed masonry on back of exterior ceramic tile wall	DEDUCT	\$ (1,006.00)
4.2	CP-24 Add Marmoleum at Family Toilet walls.	ADD	\$ 626.00
4.3	CP-27 Deduct VE Item #28 light fixtures	DEDUCT	\$ (1,890.00)
4.4	CP-27 Add brass floor plates at security area adjacent to each pair of doors at main entrance	ADD	\$ 64.00
4.5	CP-27 Change breakers for Kitchen Equipment	ADD	\$ 80.00
4.6	CP-27 Relocate microwave outlet	ADD	\$ 71.00
4.7	CP-27 Add switching for mezzanine lighting	ADD	\$ 558.00
4.8	CP-27 Add wiring at door alarm	ADD	\$ 152.00
4.9	CP-31a Add for Vinyl Wall Covering selection for Circulation Desk	ADD	\$ 294.00
4.10	CP-32 Add two soap dispensers at Toilet Rooms	ADD	\$ 130.00
4.11	CP-33 Add vinyl base as requested by Owner	ADD	\$ 113.00
4.12	CP-34 Add new vinyl flooring in Family Restroom to replace water damaged flooring.	ADD	\$ 1,318.00
4.13	CP-37 Deduct specified masonry sealer	DEDUCT	\$ (2,730.00)
4.14	CP-38 Provide additional drywall control joints to control drywall cracking	ADD	\$ 4,282.00
4.15	CP-40 Provide hardened ceiling panels adjacent to access ladder in Genealogy Room	ADD	\$ 380.00
4.16	CP-42 Add for sealant	ADD	\$ 848.00
4.17	CP-43 Add new masonry CJs	ADD	\$ 367.00
	TOTAL		\$ 3,657.00

- I. Approval of non-elected personnel changes for:
Police Officer Lee Nygaard position change to MPO I with a salary change from \$17.55 to \$17.88 per hour effective November 16, 2009.
Firefighter John Gabriel position change to Firefighter I with a salary change from \$11.30 to \$11.60 per hour.

- J. Approval of renewal of Cereal Malt Beverage licenses for 2010
Kiwk Shop, 114 W Highway 54
Pizza Hut of SE KS, Inc., 307 N Andover Road
Presto #16, 2035 N Andover Road
Presto #22, 105 W Central
Presto #35, 514 S Andover Road

- K. Approval of APAC change order SIX for Marketplace Commercial 2nd Addition for stop bar pavement marking (1899B) (\$500) for revision of traffic control plan.

- L. Approval of LaFarge North America change order 1 for south Andover Road project (008 N 0390-01) (\$3,080.07) for additional work due to changes to the dimensions of manholes and inlets.

- M. Approval of LaFarge North America change order 2 for south Andover Road project (008 N 0390-01) (-\$10,203.27) at the City's request for hot applied joint sealing compound for the transverse joints versus neoprene compression type joint filler.

- N. Approval of notebook computer purchase at a cost of \$4,849.76 from Dell. One for Kandace Hunt, Planning Commission secretary and one for Travis Hooper, IT Assistant.

- O. Approval of DSL line for IT Department to support the growth of the mobile computers accessing our network from outside the building at a cost of \$123.94 a month and a one-time installation charge of \$54.95 from Cox Communications.

- P. Approval of Police Department purchase of CrimeReports and CommandCentral software for 13 months service from Public Engines, Inc. of Salt Lake City, Utah at a cost of \$3,160.30 for 2010.

- Q. Approval of the appointment of Caroline Hale to the Salary Review Committee in place of Dave Tingley due to meeting scheduling conflicts.

Motion carried 6/0.

Mayor Lawrence explained the 2009 Budget Amendment is a housekeeping measure. 2009 Budget Amendment

Table of Contents:		Page No.	2009 Amended Budget		
			2008 Tax that was Levied	Amount of	
Fund	K.S.A.			Adopted 2009 Expenditures	Proposed Amended 2009 Expenditures
Bond & Interest		2	167,587		
Hotel & Tourism		3		4,471,825	15,351,294
Water Fund		4		45,000	85,000
Arterial Impact		5		40,472	365,108
Street Improvements		6		50,000	250,000
Festivals		7		6,107,453	7,574,875
Sewer Expan/Equip Res		8			22,500
Park Improvement		9		156,348	409,316
Totals		xxxxxxx	167,587	28,098	41,998
Summary of Amendments		10		10,899,196	24,100,091

A motion was made by Council Member Reams, seconded by Council Member Jessen, to approve the amendment as presented. Motion carried 6/0.

Shane Coelho presented a resolution authorizing and directing the execution of an Interlocal Agreement with the Board of County Commissioners of Butler County, Kansas, Unified School District No. 385, and the Butler Community College.

Resolution 09-21
NRP Interlocal Agreement

Mr. Coelho explained the Neighborhood Revitalization Project is an incentive for property owners to be eligible for a 95% tax rebate on increased property tax for improvements to the approved properties. Mr. Coelho presented a map of the areas in Andover that would be included in the program.

A motion was made by Council Member Hale, seconded by Council Member Reams, to approve the resolution and authorize the Mayor to sign the agreement. Motion carried 6/0. Resolution number 09-21 was assigned.

Shane Coelho presented an ordinance adopting a Neighborhood Revitalization Plan and designating a neighborhood revitalization area. Mr. Coelho explained this actually adopts the program.

Ordinance 1449
NRP Adoption

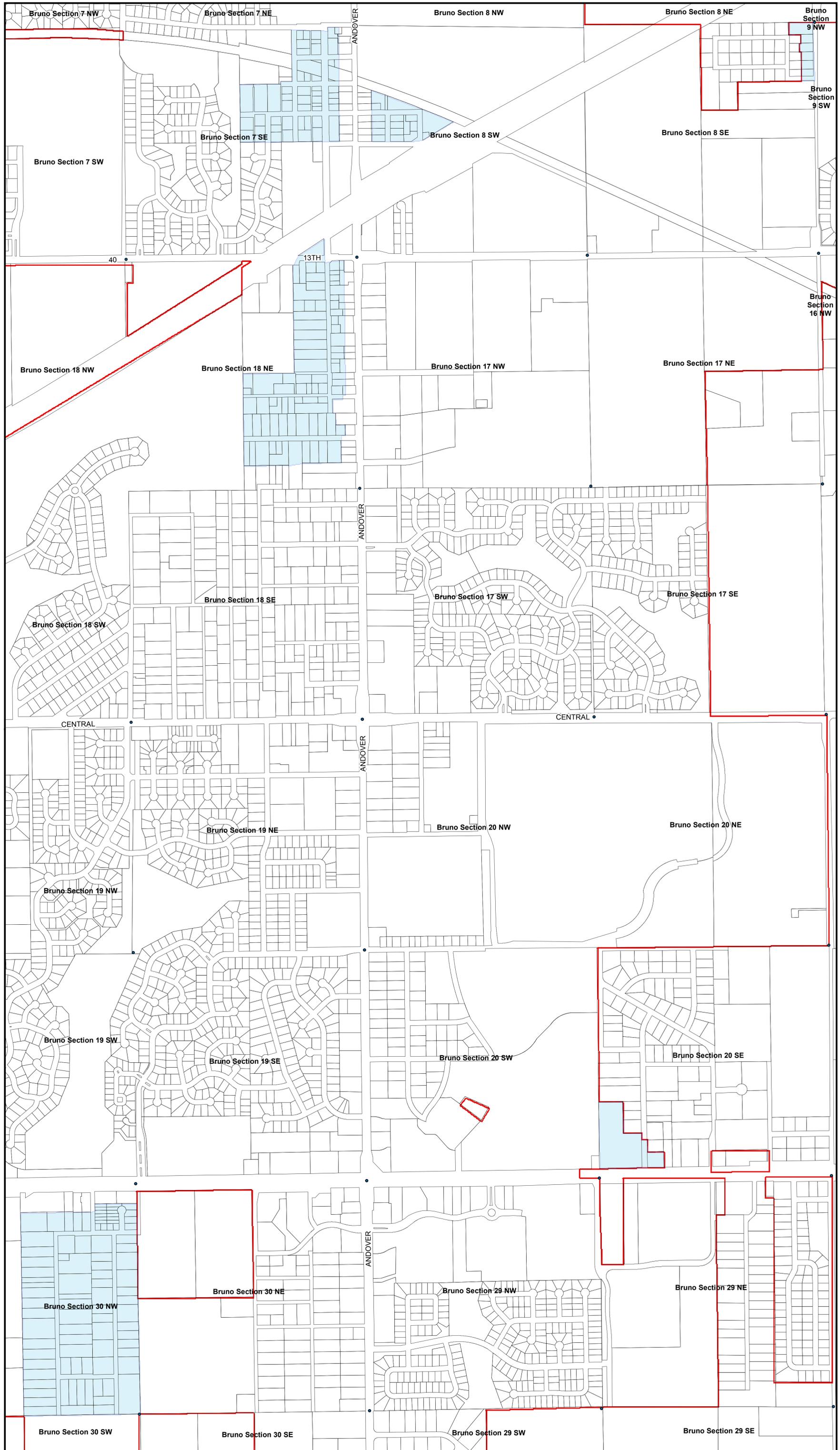
DRAFT



1 inch = 500 feet

Legend

- Section corners
- Rev 1
- City Limits
- Section Lines



A motion was made by Council Member Nelson, seconded by Council Member Geisler, to approve the ordinance as presented. Motion carried 6/0. Ordinance number 1449 was assigned.

Mayor Lawrence presented zoning case Z-2009-02, requesting zoning change from B-1 Office Business to R-1 Single Family Residential, located at 114 Willowbrook and 216 and 226 S Andover Road.

Ordinance 1450
Z-2009-02
114 Willowbrook
216 & 226 S Andover Rd

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 November 17, 2009, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. No one was present as the applicants representative.

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

Mr. Mangus explained the proposed change is the result of the inability to market the property, recently changed zoning from R-1 to B-1, for business office purposes. The applicant made a mistake on the application and is requesting to change back to R-1 Single-Family Residential District not R-3 on the application.

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

Z-2009-02- Continuance of the public hearing on a proposed change of zoning district classification from the B-1 Office Business District to the R-3 Multiple-Family Residential District. Z-2009-02

From Les Mangus' Memo: The proposed change of zoning district classification from the B-1 Office Business to the R-3 Multiple-Family Residential District, continued from the October 20, 2009 meeting, is the result of the applicant's inability to market the existing single family residences for business office purposes in today's economy. As you may recall these properties were recently changed from R-1 to B-1 for speculative business purposes. Staff contacted the applicant about the continuance in order to assure his attendance at the November meeting. At that time the applicant stated that a mistake was made on the application, and that he wished to amend his application to reflect R-1 Single-Family Residential District. Staff does not support the intrusion of multifamily zoning in the established single family neighborhood, and therefore would recommend approval of the amended request to change to the original R-1 Single-Family District.

Chairman Coon asked for staff input. Les Mangus said there was a misunderstanding with the applicant about which zoning classification he actually wanted and he is present tonight to amend his application.

Applicant Warren Cowgill was present to represent the application.

Mr. Cowgill explained he had purchased the subject lots with the intention of making the middle home an office building. Once plans for renovations were made the cost of converting the home to an office did not meet the value of the property. Mr. Cowgill continued by saying he tried to sell the lots as commercial property but at this time the market for commercial property is not strong. He has found a buyer who would like to use the property as residential and in order to proceed with loans this buyer needs a residential zoning.

Chairman Coon asked if the homes are currently occupied. Mr. Cowgill said two of the three are.

Lynn Heath asked if all three properties were being purchased by an individual buyer. Mr. Cowgill said yes they are being bought to operate as rental properties for the time being.

Chairman Coon opened to public hearing at 7:05 p.m.

Xury Hole of 318 Willowbrook stated he was concerned that the middle home had been partially remodeled as office space and that it was not always maintained.

With no further input Chairman Coon closed the public hearing at 7:07 p.m.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No.
5

REZONING REPORT *

CASE NUMBER: Z-2009-02

APPLICANT/AGENT: Warren Cowgill Trust

REQUEST: A change of zoning district classification from the B-1 Office Business District to the R-3 Multiple-Family Residential District.

CASE HISTORY:

LOCATION: 114 E. Willowbrook, 216 S. Andover Road, and 226 S. Andover Road. On the east side of Andover Road between Willowbrook Street and Douglas Avenue.

SITE SIZE: +/- 2 acres

PROPOSED USE: Multiple-Family Residential.

ADJACENT ZONING AND EXISTING LAND USE:

North: R-1 Single family residence

South: R-1 Single family residence

East: R-1 Single family residence

West: B-1 & B-2 PUD Office businesses

Background Information:

This property was recently rezoned to B-1 by the applicant with the intentions of remodeling the existing house for office businesses or construction of new offices. The downturn in the economy and general overbuilt conditions for office space have limited the possibilities. The applicant has buyers who are willing to buy the residences, but the lenders have a problem with the legal nonconforming residences in a business zone.

* 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-1 Office Business District; North: R-1 Single-Family Residential; South: R-1 Single-Family Residential; East: R-1 Single-Family Residential; West: B-1 & B-2 PUD Office Business.

COUNCIL:

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: B-1 Office Business District; North: R-1 Single-Family Residential; South: R-1 Single-Family Residential; East: R-1 Single-Family Residential; West: B-1 & B-2 PUD Office Business.

COUNCIL:

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:

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

YES NO

X

STAFF:

X

PLANNING:

COUNCIL:

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: There is an excessive amount of business property, and unoccupied office buildings available.

X PLANNING:
COUNCIL:

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: All are in place and adequate.

PLANNING:
COUNCIL:

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:
PLANNING:
COUNCIL:

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

YES NO
X
X

STAFF: Residential to residential does not require screening.

PLANNING:
COUNCIL:

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: There is a limited amount of multifamily residential property available in the area.

X PLANNING: Limited amount of R-1 property available.
COUNCIL:

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

YES NO

STAFF: N.A.
PLANNING: N.A.
COUNCIL:

11.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:

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: Multifamily residential would have the potential to increase traffic,

noise, lighting, etc.

PLANNING: There will be no affect with the change to R-1 Single-Family.
COUNCIL:

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

STAFF: The placement of multifamily residential in the middle of a single family residential neighborhood is not recommended.

X PLANNING: As R-1 Single-Family.
COUNCIL:

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 Comp. Plan suggests a variety of housing types located along major streets, but the future land use map does not contemplate multifamily at this location.

X PLANNING:
COUNCIL:

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

YES NO

STAFF: Concerns over devaluation of property values in the neighborhood.
PLANNING: Concern for maintaining the property noted during the public hearing.

COUNCIL:

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: Staff recommends rezoning to the R-1 in order to maintain the character of the neighborhood.

X PLANNING: Applicant amended request to R-1 Single-Family Residential.
COUNCIL:

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

STAFF:
X PLANNING:
COUNCIL:

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. Z-2009-02 be approved as amended to change the zoning district classification from the B-1 Office Business District to the R-1 Single-Family Residential District based on findings 3, 5, 6, 13 and 16 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Byron Stout. 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 Geisler, to approve the 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, as set forth by the Planning Commission in items, 3, 5, 6, 15, and 16.

Council Member Hale inquired if all of the neighbors had been notified. Mr. Mangus stated they had.

Motion carried 5/0/1. Council Member Hale missed the vote and was considered abstained. Ordinance number 1450 was assigned.

Mike Thompson, POE & Associates, City Engineer, presented the bids opened at 11:00 a.m. for the reconstruction of 159th Street north of 21st Street to the north boundary of the elementary school. Mr. Thompson stated there were three bids received, APAC-Kansas Inc., Cornejo & Sons Inc. and LaFarge North America Inc. with APAC-Kansas having the lowest bid at \$505,998.59.

159th Street improvements

A motion was made by Council Member Jessen, seconded by Council Member Nelson, to accept the bid from APAC-Kansas Inc. and authorize the Mayor to sign the contract after approval of bonds and insurance by City Counsel and satisfactory completion of the agreement made with the developer by the City Administrator . Motion carried 6/0.

Member Items

Member Items

Council Member Reams wished everyone a Merry Christmas.

Council Member Geisler had none.

Council Member Nelson had none.

Council Member Hale shared a story regarding her husband Harry and his county wide famous walks.

Council Member Jessen wished everyone a Merry Christmas.

Council Member Tingley asked if the City had received any further information from Mr. Masterson or Mr. Spear regarding their project. Sasha Stiles stated she had not.

Les Mangus presented information regarding the recent T-Link Project Rankings which rank the priority of transportation projects in the State.

Council Member Nelson stated some of the ratings were on the low side giving the City a low grade. He added a motion was made and passed at the WAMPO meeting to submit new traffic counts to KDOT to hopefully have them re-evaluated to move the City up the line for funding.

Mr. Mangus added it was obvious the rankings were heavily weighted toward the Kansas City area and KDOT seemed gracious to accept the updated traffic counts received from Parsons Brinckerhoff.

Mayor Lawrence asked the Council if they concurred in closing the administrative office at noon on Christmas Eve. They did.

A motion was made by Council Member Jessen, seconded by Council Member Hale, at 7:46 p.m. to adjourn. Motion carried 6/0. Adjourn

Respectfully Submitted by

Susan Renner

City Clerk

Approved this 29th day of December, 2009 by the City Council, City of Andover.