

**ANDOVER CITY COUNCIL
Tuesday, March 9, 2010
Minutes**

The Andover City Council met for a regular meeting on Tuesday, March 9, 2010, 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 Dave Tingley. Others in attendance were: City Administrator Sasha Stiles, Administrative Services Director Donna Davis, Fire Chief Jim Shaver, Police Chief Mike Keller, City Clerk Susan Renner, City Engineer Jim Ubert, and City Attorney Norman Manley. Sheri Geisler was absent.

The Invocation was given by Pastor Tom Howland of the Hope Community Church. Invocation

The Pledge of Allegiance was led by Mayor Lawrence. Pledge of Allegiance

Mayor Lawrence opened the floor to public comment. Public Forum

Angie Bauer, 329 N Knight, Towanda, Executive Director, Community Foundation of Greater Butler County, gave a brief presentation regarding activities co-sponsored with the City of Andover, Police Department, and Library.

The public forum was closed.

Mayor Lawrence presented a 2010 Census Partner Proclamation; 2010 Census Partner Proclamation

WHEREAS an accurate census count is vital to our community and residents' well-being by helping planners determine where to locate schools, day care centers, roads and public transportation, hospitals and other facilities, and achieving an accurate and complete count of the nation's growing and changing population;

WHEREAS more than \$400 billion per year in federal and state funding is allocated to states and communities based, in part, on census data;

WHEREAS census data help determine how many seats each state will have in the U.S. House of Representatives and often is used for the redistricting of state legislatures, county and city councils and voting districts;

WHEREAS the 2010 Census creates jobs that stimulate economic growth and increase employment;

WHEREAS the information collected by the census is confidential and protected by law;

Now, therefore, we PROCLAIM that the City of Andover, Kansas, is committed to partnering with the U.S. Census Bureau to help ensure a full and accurate count in 2010.

As a 2010 Census partner, we will:

Support the goals and ideals for the 2010 Census and disseminate 2010 Census information to encourage those in our community to participate.

Encourage people in our community to place an emphasis on the 2010 Census and participate in events and initiatives that will raise overall awareness and ensure a full and accurate census. Support census takers as they help our community complete an accurate count.

Create or seek opportunities to collaborate with other like-minded groups in our community by participating in Complete Count Committees and/or utilizing high-profile, trusted voices to advocate on behalf of the 2010 Census.

Michael Aumack, Partnership Specialist, U.S. Census Bureau, explained the importance of the census and how it is key to community planning, civil services, road expansion, etc. and how the federal government uses these numbers for funding justification. Mr. Aumack expressed not only the importance but confidentiality of the information.

A motion was made by Council Member Nelson, seconded by Council Member Jessen, to accept the agenda with the correction of the zoning case number from Z-96-026 to Z-96-06. Motion carried 5/0.

Agenda

Mayor Lawrence presented zoning case Z-96-06, Andover Crossing PUD Amendment, the general location of 426 S Andover Road.

Public Hearing
Z-96-06
426 S Andover Road

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 16, 2010, Planning Commission meeting minutes.

The Mayor asked if the applicant was present. Tim Connel, Connel & Connel, El Dorado, was present as the applicants 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 City Administrator Sasha Stiles to give a brief report regarding the case.

Ms. Stiles stated the application is the result of the future tenant's, Atwood's, product line and need for outdoor storage which is not permitted in the B-3 Central Shopping District. Atwood's stores sell a line of farm and home supplies and equipment similar to the Walnut Valley Country Store. Staffs opinion is the permanent outdoor storage of farm supplies and equipment, and landscaping materials should be limited to an area near the northwest corner of the site and seasonal display of plants, landscaping materials, lawn furniture, etc. be allowed on the sidewalk in front of the building and south of the building, and parking comply with typical Article 5 requirements of 1 space per 300 square feet of building area.

The Mayor asked Mr. Connel 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.

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

Consent Agenda

- A. Approval of Minutes: City Council Workshop, February 22, 2010
City Council Meeting, February 23, 2010
- B. Receive & file Minutes: Planning Commission, January 19, 2010
- C. Approval of appropriation ordinance B-04-10 in the amount of \$213,186.22.
- D. Approval of non elected personnel status change for City Administrator Sasha Stiles annual pay increase from \$77,250 to \$80,500 with monthly car allowance of \$300.
- E. Approval of Mayor's appointment of Jason Pedigo to the Park Planning Committee.
- F. Approval of Police Department Written Directive M1105 establishing the structure and application of the Written Directive System.
- G. Approval of an agreement with Poe and Associates for professional services involving project administration and inspection services for The Village at Flint Hills Addition.
- H. Approval of a street right of way dedication on Main Street (Dunn-Lot 20-Hodges Second Subdivision)

- I. Approval of a street right of way dedication on Mike Street (Evans)
- J. Approval of a temporary construction easement on Andover Road (Evans)
- K. Approval of change order #20 with Dondlinger & Sons Construction for 13th/KTA Bridge & 13th/Main-grading/bridge rehab, surfacing, and seeding in the amount of -\$55.39.

Motion carried 5/0.

Mayor Lawrence presented an ordinance amending Ordinance No. 915 which approved the Andover Crossing Preliminary Planned Unit Development plan 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. (Z-96-06 426 S Andover Road)

Ordinance 1455
Z-96-06
426 S Andover Road

A motion was made by Council Member Nelson, seconded by Council Member Hale, to approve the change of zoning with the exception as set forth by the Planning Commission finding.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT *

CASE NUMBER: Z-96-06

APPLICANT/AGENT: Atwood Distributing, L.P.

REQUEST: Proposed amendment one to the Andover Crossing Preliminary Planned Unit Development Plan as an overlay on the B-3 Central Shopping District to allow for the following uses on Lot 5, Block 1: A country store including but not limited to retail sales of animal supplies and feeds, lawn and garden supplies, tools and hardware, sporting goods, clothing and gifts. The applicant further requests a reduction from the off-street parking regulation as recorded in Section 4-116 B1a (11) of the Zoning Regulations of the City of Andover, Kansas. The applicant additionally requests a modification of Section 4-111 F3 to allow the proposed outdoor display and sale of farm equipment and landscaping materials.

CASE HISTORY:

LOCATION: 426 S. Andover Road

SITE SIZE: +/- 8.1 acres

PROPOSED USE: B-3 Central Shopping District

ADJACENT ZONING AND EXISTING LAND USE:

North: B-2 Neighborhood Business District & R-4 Multiple Family Residential District

South: B-3 Central Shopping District

East: R-4 Multiple-Family Residential District & B-4 Central Business District

West: B-3 Central Shopping District & B-5 Highway Business District

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-3 Central Shopping District; North: B-2 Neighborhood Business District & R-4 Multiple Family Residential District; South: B-3 Central Shopping District; East: R-4 Multiple Family Residential District & B-4 Central Business District; West: B-3 Central Shopping District & B-5 Highway Business District.

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: Subject property: B-3 Central Shopping District; North: B-2 Neighborhood Business District & R-4 Multiple Family Residential District; South: B-3 Central Shopping District; East: R-4 Multiple Family Residential District B-4 & Central Business District; West: B-3 Central Shopping District & B-5 Highway Business District.

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: This prime location has been vacant for a year as currently zoned.

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: The Dillon’s anchor regional grocery store has moved across the highway.

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 STAFF: All are in place and adequate.

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:

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:

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:

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: Visible outdoor storage could become unsightly if not kept organized and cleanly.
- PLANNING: Visible outdoor storage could create issues if not kept clean and organized.
- 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
X NO

- STAFF: The PUD has mixed zoning districts including B-5 Highway Business District at the corner of US-54 & Andover Rd., which would allow similar permitted uses and outright permitted outdoor storage.
- PLANNING: X
- COUNCIL: Concur

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

YES
X NO

- STAFF: The Comp. Plan pg. 8-10 suggests "major commercial development" along US-54/400
- PLANNING: X
- COUNCIL: Concur

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

YES
X 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
X NO

- STAFF: Approval with careful thought to the placement of the outdoor storage yard.
- PLANNING: X Staff is satisfied with the layout of each storage component.
- 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
X NO

- STAFF:
- PLANNING: X
- 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-96-06 be amended and approved as an overlay on the B-3 Central Shopping District to allow for the following uses on Lot 5,

Block 1, Preliminary Andover Crossing Planned Unit Development Plan: A country store including but not limited to retail sales of animal supplies and feeds, lawn and garden supplies, tools and hardware, sporting goods, clothing and gifts, allow a reduction from the off street parking regulations as recorded in Section 4-116 B1a (11) of the zoning Regulations of the City of Andover, Kansas to allow one (1) parking space per 300 square feet and to allow the proposed modification to Section 4-111 F3 to allow outdoor display of and sale of farm equipment and landscaping materials limited to the areas denoted on Exhibit "B" based on findings 6, 10, 13 and 14 of the Planning Commission as recorded in the summary of this hearing. Byron Stout stated he would like to include findings 7 & 9 in the motion. Lynn Heath amended his motion to include findings 6, 7, 9, 10, 13 and 14. Byron Stout seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 5/0.

Les Mangus noted this case will be heard by the City Council on March 9, 2010.

Motion carried 5/0. Ordinance number 1455 was assigned.

Member Items

Member items

Council Member Reams informed the Council she would be traveling to Washington D.C. for the National League of Cities Conference and has meetings scheduled with Senator Brownback and Congressmen Tiahrt and Roberts concerning appropriations for the wastewater treatment facility expansion.

Council Member Reams stated the National League of Cities has honored her with reappointment to the Steering Committee for the Small Cities Council.

Council Member Nelson had none.

Council Member Hale thanked Council Member Reams for her work with the National League of Cities.

Council Member Haled stated the Leadership Butler Class of 2009 is hosting a roast of Becky Wolfe, Leadership Butler Executive Director, on April 1.

Council Member Jessen congratulated Council Member Reams on her appointment and wished her luck with her meetings during the National League of Cities conference.

Council Member Tingley had none.

A motion was made by Council Member Jessen, seconded by Council Member Reams, at 7:30 p.m. to adjourn. Motion carried 5/0.

Adjourn

Respectfully Submitted by

Susan Renner

City Clerk

Approved this 30th day of March, 2010, by the City Council, City of Andover.