

ANDOVER CITY COUNCIL

Tuesday, May 11, 2010

Minutes

The Andover City Council met for a regular meeting on Tuesday, May 11, 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, Sheri Geisler and Dave Tingley. 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, City Clerk Susan Renner, City Financial Advisor Mark Detter, 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.

Angelin Wright, 1248 S Sagebrush, Wichita, requested the Council's approval for the purchase of plots in the Andover Cemetery at the Andover resident rate, although they reside in Wichita they own three properties in Andover.

Public Forum

Agenda

Mayor Lawrence explained Bruno Township is responsible for the cemetery and Kim Quastadt, Bruno Township Trustee, is in attendance.

Kim Quastadt, Bruno Township Trustee, 1607 N Singletree, stated there was some confusion and that this request would need to be made to the Bruno Township Board which had met the night before.

Mayor Lawrence closed the public forum.

Mayor Lawrence introduced Dusty Davis, Insurance Center Inc., who presented the City with a safety program dividend check in the amount of \$7,155.28. This is the 27th year the City has participated in the program and has received a total of approximately \$120,000.

ICI Presentation of dividend check

Sasha Stiles requested the addition of an employee change form to item E) non-elected personnel of the consent agenda.

Agenda

A motion was made by Council Member Hale, seconded by Council Member Geisler, to accept the agenda with the addition to item E. Motion carried 6/0.

Mayor Lawrence requested item G) Mayoral Appointments of the consent agenda be moved to the regular agenda.

Consent Agenda

A motion was made by Council Member Hale, seconded by Council Member Jessen, to approve the consent agenda with the addition to item E and removal of item G.

- A. Approval of Minutes: City Council Workshop, April 26, 2010
City Council Meeting, April 27, 2010
City Council Joint Meeting, April 29, 2010
- B. Receive & file Minutes: Site Plan Review, March 2, 2010
- C. Receive & file reports:
 - i. Finance April 2010
- D. Approval of appropriation ordinance B-08-10 in the amount of \$226,874.84
- E. Approval of non-elected personnel items:
 - Frank Shaw, status change from Firefighter II to Firefighter III effective May 15, 2010.
 - Brian Landers, status change from Firefighter II to Firefighter III effective May 15, 2010.
 - Dawn Hefton, Police Communications Officer, status change from training to regular with a pay increase from \$14.66 per hour to \$14.91 per hour effective April 4, 2010.
 - Jennifer McCausland, new hire as Assistant City Administrator, at a starting salary of \$24.00 per hour effective June 9, 2010 (added).*
- F. Acceptance of Martine Drainage Easement and Right of Way Dedication for 13th St Paving (Prairie Creek Addition)
- G. *Approval of Mayoral Appointments (moved to regular agenda)*
- H. Approve acceptance of a bid for removal and replacement of approximately 4,100 sq ft of the fire station's north driveway from Voegeli Concrete of Maize, Kansas, at a cost of \$4.94 sq ft.
- I. Approval of Police Department General Orders; M1107-Complaints and Internal Investigations; M1108-Victim/Witness Assistance; M1209-Disciplinary Procedures; M1219-Social Networks, Social Media and Personal Web Pages.
- J. Approval of the Police Department's Victims & Witnesses of Crime pamphlet.
- K. Approval of Utility Easement for Sharp Rentals LLC (Summerfield 2nd Addition)

Motion carried 6/0.

Mayor Lawrence stated Michelle Sell had declined the appointment to the Convention and Tourism Committee and he would provide another nominee at the next Council meeting.

Mayoral Appointments

Mayoral Appointments – May 2010

Appointed Officials

City Treasurer – Julie Spyres	City Engineer – Mike Thompson
City Attorney – Norman Manley	City Accountant – Gary George
Municipal Court Judge – Gene White	Bond Attorney – J.T. Klaus
Prosecuting Attorney – Cami Baker	Financial Advisor – Mark Detter
Chief of Police – Mike Keller	Planning Advisor – Bickley Foster
City Clerk – Susan Renner	

City Council Liaisons

Assistant City Administrator - Chamber of Commerce - P.A.I.	J.R. Jessen - Comprehensive Development Plan - Golf Course Committee - Library
Mayor Ben Lawrence - Convention & Tourism Committee	Jan Cox - P.A.I. – Planning Commission Rep
Clark ‘C.R.’ Nelson - Site Plan Review Committee - WAMPO	Julie Reams - Fire Department - National League of Cities - Planning Commission - Regional Economic Area Partnership - YMCA
Caroline Hale - Butler Community College - Grant of Public Funds - Police Department - Recycling Utility	Les Mangus - REAP – Water Resource Committee
Mike Keller - YMCA	Sasha Stiles - Convention & Tourism Bureau
Dave Tingley - Street Department - Wastewater Department	Sheri Geisler - Grant of Public Funds - Park Department - USD 385

Planning Commission & Board of Zoning Appeals – 3 year term

Byron Stout – inside city limits	Open Position – outside city limits
Open Position – outside city limits	

Site Plan Review Committee – 3 year term

Doug Allison	Open Position – inside city limits
Don Kimble	Open Position – inside city limits
Brandon Wilson	

Comprehensive Development Plan

Sasha Stiles	Mike Rice
Susan Renner	Lynn Heath
Les Mangus	Quentin Coon
Kandace Hunt	Dennis Bush
Leslie Eidem	Michelle Sell
Bickley Foster	Carol Wohlford

Golf Course Committee

Tom Klocek	Les Mangus
Sam Murray	J.R. Jessen
Scott Stauffer	

Convention & Tourism Bureau – not to exceed 4 years

Ben Lawrence (appointed in 2010)	Tim Johnson (appointed in 2007)
Scott Wilson (appointed in 2009)	Hausau Patel (appointed in 2008)
Open (Michelle Sell declined)	

Park Planning Committee

Ben Lawrence	Doug Baber
Sharon Turner	Tracey Dreiling
Doug Carr	Sasha Stiles
Sheri Geisler	Ralph Rust
Dennis Bush	Les Mangus
Carol Wohlford	Jim Sims
David Foster	Jason Pedigo

Health Board – 2 year term

Cathy Harmon	James Hartley
Steve Lemons	

Housing Adjustment & Appeal Board – 3 year term

Mike Ball
Aaron Downing

A motion was made by Council Member Jessen, seconded by Council Member Geisler, to approve the Mayoral appointments with the removal of Michelle Sell from the Convention and Tourism Committee. Motion carried 6/0.

Mike Thompson, POE & Associates, City Engineer, presented the 2010 Annual Street Program final plans for pavement reconstruction on Koob, First Street from Lioba to Koob, and Chapel Streets, and the milling and overlaying of Andover Road from Waggoner to Ira Court. Mr. Thompson stated the current engineer's estimate of \$563,000 is within budget and recommends approval of the design phase and authorization to take bids on May 25, 2010.

2010 Annual Street Program

A motion was made by Council Member Nelson, seconded by Council Member Reams, to accept the plans and authorize the taking of bids on May 25, 2010. Motion carried 6/0.

Mayor Lawrence presented an ordinance approving a special use to establish a physical culture and health services facility, such as a private gymnasium and reducing salon in the I-1 Industrial 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. (SU-2010-01 general location - 118 E 13th Street).

Ordinance 1461
SU-2010-01
118 E 13th Street

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

Les Mangus explained this request would allow one permitted use for the owner to lease to a tenant in the cheerleading training business which requires lots of space and high ceilings that are not found in a typical location.

The Mayor confirmed with the Council that they had received the April 20, 2010, Planning Commission meeting minutes.

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

SU-2010-01: Public hearing on an application to approve a Special Use requested to establish a physical culture and health services facility, such as a private gymnasium and reducing salon in the I-1 Industrial District at 118 E. 13th Street.

From Les Mangus' Memo: This application arises from the owner's desire to accommodate a cheerleading training facility in the vacant industrial building space at 118 E. 13th. This situation is not uncommon for gymnastics type of operations to be located in an industrial building because of the need for large open spaces with high ceilings. The subject location is already zoned in such a manner as to accommodate mixed retail and services businesses, and industrial uses. Staff supports the application.

Les Mangus explained that the applicant owns two pieces of property at this location. One has some industrial zoning the other has some B-6 Business and some Central Shopping District. The applicant is here tonight because they have a possible tenant that does cheerleading training. This a common use in an industrial area because this type needs large open spaces with high ceilings that don't necessary fit in the neighborhoods and shopping centers.

Kim Quastad of KB Development and Seth Mountain with the cheerleading business to move in were present to represent the application. They are asking for special use on the back end of the new building, 9000 sq.ft., which is approximately half of the building for cheerleading. We do have a signed lease on this contingent upon the special use being approved. South end of the building is being used for business storage and a dividing wall will be installed.

ANDOVER CITY PLANNING COMMISSION
REZONING REPORT *

CASE NUMBER: **SU-2010-01**

APPLICANT/AGENT: **KB Development – Kim Quastad, agent**

REQUEST: **Public hearing on an application to approve a Special Use requested to establish a physical culture and health services facility, such as a private gymnasium and reducing salon in the I-1 Industrial District at 118 E. 13th Street.**

CASE HISTORY: **Vacant industrial building**

LOCATION: **118 E. 13th St.**

SITE SIZE: **+/- 2.2 acres**

PROPOSED USE: **Cheerleading training facility**

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 School District Office across the Kansas Turnpike
South: B-3 Warehouse building owned by the applicant
East: R-1 Single family residences
West: B-3 & B-6 vacant property owned by the applicant

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:
 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
 X STAFF:
 X 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 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:
 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:
 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
STAFF: N.A. – Special use
PLANNING: N.A. – Special Use
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
X STAFF: No detriment to the public is perceived
X PLANNING: No detriment to the public is perceived
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 STAFF:
X 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 STAFF:
X PLANNING:
COUNCIL: Concur

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

YES NO
STAFF: None at this time
PLANNING: None noted during the public hearing.
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.
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

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. SU-2010-01 be approved to allow I-1 District based on findings 10 through 14 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Byron Stout. Chairman Heath asked if there was any further discussion. There was none. Motion carried 6/0.

Les Mangus informed everyone that this special use ordinance will be heard by the City Council on May 11 at 7 p.m.

A motion was made by Council Member Nelson, seconded by Council Member Geisler, to approve zoning case SU-2010-01 based upon the findings of the Planning Commission. Motion carried 6/0. Ordinance number 1461 was assigned.

Mayor Lawrence presented an ordinance approving a special use to establish a 385 foot self-supported emergency communications tower facility in the R-1 Single 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. (SU-2010-02 & BZA 2010-01 general location – Kansas Turnpike mile marker 56.24)

Ordinance 1462
SU-2010-02
BZA 2010-01
KTA Marker 56.24
Emergency
Communications Tower

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.

Council Member Nelson stated he did not believe it would be a conflict but he would like it known that he attended the Site Plan Review Committee meeting that supported this proposition.

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 April 20, 2010, Planning Commission meeting minutes.

The Mayor asked Zoning Administrator Mangus to give a brief description of the case.

Mr. Mangus explained the wireless communication facility regulations within the zoning regulations use a special use for additional height as opposed to a variance.

SU-2010-02: Public hearing on an application to approve a Special Use requested to establish a 385 foot self-supported Emergency Communication’s Tower Facility in the R-1 Single-Family Residential District located on the North side of the Kansas Turnpike at mile marker 56.24.

From Les Mangus' Memo: This application for special uses arises from the regulations regarding wireless communication facilities. The regulations require any deviations from the maximum height limitations to be reviewed as a special use. In this case the Butler County Emergency Communications Department has identified the need for a tower in the Andover area to accommodate the upcoming switch of all emergency communications to 800 mH. The County has made a conscious decision to limit the number of towers to service the entire county and a good portion of Sedgwick County with six towers in the 400 foot tall range. Any smaller towers would require more tower locations. This tower location would provide in building coverage for emergency personnel in the area, and provide capabilities for communications between Butler & Sedgwick county emergency personnel. Staff supports the proposed special use because the taller tower height would reduce the number of towers while providing adequate emergency communications service to the area. The proposed location provides a separation from any potential development on three sides and fits within the grid of conflicts with existing towers and airport restricted airspaces.

Les Mangus explained that this is unusual in that a special use is being applied for a tower that exceeds the maximum limitations in that zoning district. In the zoning regulations a section that covers wireless communication facilities specifically calls out that any exception to the height requirements in a district is a special use to the planning commission not a variance.

Trevor Wood of SSC, Jim Nies with Butler County Emergency Communications System and David Blahaugh of SSC were present to represent the application. Mr. Wood said what they are proposing is a project of great value to the community for the public health, safety and welfare. Butler County will lease a 10,000 sq.ft. portion of this parcel from the Kansas Turnpike Authority for the tower.

Brad White, adjacent property owner, presented his concerns for this project. The first being the height of the tower. The second being the beacon system on the tower.

**ANDOVER CITY PLANNING COMMISSION
REZONING REPORT ***

CASE NUMBER: SU-2010-02

APPLICANT/AGENT: Kansas Turnpike authority – Selective Site Consultants, agent

REQUEST: Special Use in the to allow the Butler County Emergency Communications System to construct, operate, and maintain a 385 foot self support emergency communications tower facility in the R-1 single Family Residential District.

CASE HISTORY: Former site of a Kansas High Patrol shooting range.

LOCATION: North side of Kansas Turnpike at mile marker 56.24.

SITE SIZE: +/- 4.4 acres

PROPOSED USE: Emergency communications tower.

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County agriculture
 South: Kansas Turnpike
 East: Kansas Turnpike
 West: R-1 Single Family Residential – USD 385 Andover High School and Middle School

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:
 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
 X
 X STAFF:
 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 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:
 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:
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:
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:
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

STAFF: N.A. – Special use
PLANNING: N.A. – Special Use
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

STAFF: N.A.
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
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
X

STAFF: No detriment to the public is perceived
PLANNING: No detriment to the public is perceived
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

STAFF:

X

PLANNING:

COUNCIL: Concur

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

YES NO

STAFF: None at this time

PLANNING: Concerns expressed on the height of structure.

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.

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

STAFF:

X

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-2010-02 be approved to allow R-1 District based on the findings 5, 8, 13, 14, 16 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Lynn Heath. Motion carried 6/0.

Les Mangus informed everyone that this special use ordinance will be heard by the City Council on May 11 at 7 p.m.

Adjourn the Planning Commission and convene the Board of Zoning Appeals.

Byron Stout made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Lynn Heath seconded the motion. Motion carried 6/0

BZA_CU-2010-01: Public hearing on an application filed by Butler County Emergency Communications System, requesting a conditional use to modify the review criteria for a 385 foot Emergency Communications Tower Facility in the R-1 Single-Family Residential District located on the North side of the Kansas Turnpike at mile marker 56.24.

From Les Mangus' Memo: This application proposes to modify the setback required by the Regulations for siting of a wireless communication facility. The application is justified by the self supporting design and the ability of the tower to "fall within itself" in the event of a catastrophic failure. Staff supports the application based on those criteria.

Les Mangus explained that this pertains to the regulations regarding wireless communications. This case is about not meeting all of the requirements of that chapter and section. That chapter and section requires that all towers be of a mono-pole design. This is a lattice-type, self supported no gye, tower.

Trevor Wood of SSC, Jim Nies with Butler County Emergency Communications System and David Blahaugh of SSC were present to represent the application.

Mr. Wood explained that due to the height of the structure the lattice design minimizes the twist and sway significantly. That is the reason 385 foot mono-pole structures are not used.

CONDITIONAL USE REPORT

CASE NUMBER: BZA-CU-2010-01

APPLICANT/AGENT: Butler County Emergency Communications System

REQUEST: To modify the review criteria for a 385 foot Emergency Communications Tower Facility in the R-1 Single-Family Residential District.

CASE HISTORY: Former Kansas Highway Patrol shooting range

LOCATION: North side of the Kansas Turnpike at mile marker 56.24.

SITE SIZE: 4.4 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County Agriculture

South: Kansas Turnpike

East: Kansas Turnpike

West: R-1 USD 385 Andover High School and Middle School

NOTE: This report is to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing in order to decide whether a conditional use as an exception should be granted with the evidence and reworded as necessary to reflect the Board of Zoning Appeals 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.

BACKGROUND INFORMATION: The grid of the new Butler County 800mH emergency communication system requires a tower in this vicinity. The subject property fits within the grid, is owned by a public entity, and surrounded by public uses on three sides. Conflicts with existing towers, airport flight paths, and existing developments led Butler County to this site.

HAS THE APPLICANT SUBMITTED STATEMENTS ATTACHED TO THIS REPORT COMPLYING WITH SECTION 10-108A 1-4? Yes

If no, provide explanation:

IN WHAT ZONING DISTRICT(S) IS THE CONDITIONAL USE REQUESTED EXPRESSLY AUTHORIZED TO BE PERMITTED? Any

DOES THE EVIDENCE SUPPORT THE CONCLUSION THAT:

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance. The proposed conditional use would allow the modification of the bulk regulations for the tower site. **YES**
2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood. Because the location of the tower further from adjacent properties

would have no less effect than the proposed location and the tower is designed so as to fall within itself in the event of a catastrophic failure. **YES**

3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:

a. The location, nature, size and height of building, structures, walls and fences on the site; and the location chosen is one of the few in the area not encumbered by airport flight paths, adjacent development, or required separation from nearby towers.

b. The nature and extent of landscaping and screening on the site. A site plan with some screening has been approved by the Site Plan Review Committee contingent on zoning approvals.

4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects. N.A.

5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees. **YES**

6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads. The property is a remnant from KTA right of way acquisition and has no access, except from the KTA for maintenance purposes.

YES

SAMPLE MOTIONS:

To Approve a Conditional Use:

Having considered the evidence at the hearing for Case No. BZA-CU-2010-01 and determined that the findings of fact in the conditional use report support the conclusions which are necessary for granting a conditional use as set out in Section 3-103 Q. 22. of the Zoning Regulations. I (Byron Stout) move that the Chairperson be authorized to sign a Resolution granting the conditional use as (requested) (modified) (subject to the following conditions:) Lynn Heath seconded the motion. Motion carried 6/0.

A motion was made by Council Member Hale, seconded by Council Member Reams, to approve cases SU-2010-02 and BZA 2010-01.

Mayor Lawrence explained the tower is for the emergency system for Butler County and the City of Andover.

Motion carried 6/0. Ordinance number 1462 was assigned.

Les Mangus presented an application for funding through the WAMPO 2011 Transportation Improvement Program and asked for approval to submit the application. Mr. Mangus added there were three City of Andover projects currently in the program.

WAMPO 2011
Transportation
Improvement Program

A motion was made by Council Member Reams, seconded by Council Member Geisler, to approve the application for submittal to WAMPO. Motion carried 6/0.

Mayor Lawrence presented information regarding the Federal-Aid Safety Program (physical years 2012 & 2013) for the Andover Road and 13th Street intersection. He had been contacted about the accident ratio at that intersection.

Federal-Aid Safety Program

Les Mangus explained for this program we have to provide information proving it to be a high accident location and then compete against applications all over the state for 90/10 funding and would need approval through WAMPO. Change in signalization cost is estimated at \$6.5 million.

A motion was made by Council Member Hale, seconded by Council Member Reams, to approve submittal of the application. Motion carried 6/0.

Mark Detter, DeWaay Financial, City Financial Advisor, presented information regarding refinancing the 2005 Sewer Revenue Bonds with the potential for an interest cost savings of approximately \$180,000.

2005 Sewer Revenue Bonds

The Council concurred staff should move forward and prepare the documents for the next Council meeting.

A motion was made by Council Member Geisler, seconded by Council Member Reams, at 7:40 p.m. to recess the Andover City Council meeting and convene the Andover Public Building Commission meeting. Motion carried 6/0.

Recess to Public Building Commission Meeting

Public Building Commissioner President Caroline Hale called the meeting to order. Public Building Commissioners Julie Reams, Sheri Geisler, Clark Nelson, Ben Lawrence, J.R. Jessen, and Dave Tingley were present. Also present was Public Building Commission Secretary Susan Renner.

A motion was made by Public Building Commissioner Reams, seconded by Public Building Commissioner Geisler, to approve the minutes of March 30, 2010. Motion carried 7/0.

March 30, 2-010 minutes

Sasha Stiles presented Key Construction change order one in the amount of \$1,542 and explained the changes were necessary for drainage issues and an electrical change for the alarm and the audio/video system.

Key Construction change order \$1,542

A motion by Public Building Commissioner Nelson, seconded by Public Building Commissioner Geisler, to approve the change order as presented. Motion carried 7/0.

A motion was made by Public Building Commissioner Lawrence, seconded by Public Building Commissioner Jessen, at 7:42 p.m. to adjourn the Andover Public Building Commission meeting and reconvene the Andover City Council meeting. Motion carried 7/0.

Reconvene Council meeting

Member items

Member items

Council Member Reams congratulated all of the area graduates.

Council Member Reams congratulated Rose Hill Mayor Mark Conway for receiving the Mayor of the Year award presented by the Mayors Association at the League of Kansas Municipalities conference. Council Member Hale and Reams attended the conference May 7 and 8, 2010.

Council Member Reams welcomed Jennifer McCausland to the staff.

Council Member Reams gave kudos to all emergency service for their weather alerts through nixel.com and suggested everyone sign up.

Council Member Geisler welcomed Jennifer McCausland.

Council Member Geisler inquired if any follow up information was available regarding the 159th and US Highway 54 intersection.

Les Mangus stated discussion brought an offer from KDOT to fund a traffic signal if the local entities would split an estimated cost of \$200-250,000 for preliminary engineering. Parsons Brinkerhoff P.E. of Wichita is currently working on the US Highway 54 project and already has the information.

Council Member Nelson acknowledged the new Council Liaison appointments.

Council Member Hale welcomed Jennifer to staff.

Council Member Hale stated the Kansas League of Municipalities Conference was great.

Council Member Hale stated the State 1-cent sales tax was approved and will go in to effect July 1, 2010.

Council Member Hale stated there will be a yard waste location at Central Park for Stutzmans solid waste customers only.

Council Member Jessen had none.

Council Member Tingley inquired about the Girl Scouts doing landscaping around the library. Sasha Stiles stated she was not aware of that but knew the Audubon Society was doing some work.

Mayor Lawrence stated there will be Town Hall Meetings held on June 24th and July 22nd to discuss and hear citizens opinions regarding the proposed City sales tax to finance the new city hall building.

Jennifer McCausland, stepped to the podium to thank the Council for the opportunity to begin serving the community of Andover as Assistant City Administrator.

A motion was made by Council Member Reams, seconded by Council Member Geisler, at 8:00 p.m. to adjourn. Motion carried 6/0.

Adjourn

Respectfully Submitted by

Susan Renner
City Clerk

Approved this 25th day of May, 2010 by the City Council, City of Andover.