

ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
January 15, 2008
Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, January 15th, 2008 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:00 p.m. Commission members present were Lynn Heath, Jan Cox, John Cromwell, Byron Stout, and Jeff Syrios. Others in attendance were City Administrator Jeff Bridges, Director of Public Works and Community Development Les Mangus, and Management Assistant Sasha Stiles. Members absent were Dan Beck and City Council Liaison J.R. Jessen.

Call to order

Review the minutes of the regular December 18th, 2008 Planning Commission meeting.

Review the minutes

Lynn Heath made a motion to approve the minutes as presented. Byron Stout seconded the motion. Motion carried 6/0.

Communications:

Communi-
cations

Review the City Council minutes from the December 11th, 2007 and December 27th, 2007 meetings. The minutes were received and filed.

Review the minutes of the December 4th, 2008 Site Plan Review Committee Meeting. The minutes were received and filed.

Review the Potential Residential Development Lot Report.

SU-2007-03: Special Use requested to establish an automatic carwash in the B – 3 Central Shopping District at 2001 N. Andover Rd.

SU-2007-
03: 2001
N.
Andover
Road.

From Les Mangus Memo: This application arises from the owner’s desire to build a carwash on property that has been zoned B-3 Central Shopping District for many years, but used for a single family dwelling formerly occupied by the developer of Andover Village. The subject lot is a large corner lot on Andover Rd., which abuts a single family home on the south, and businesses on the other three sides. Carwashes are permitted only by special use because of the many negative impacts that could be felt by nearby properties such as noise from automatic dryers and vacuum stations, headlights from approaching vehicles, etc. These negative affects can be mitigated by adequate screening, orientation of the entrance and exit, automatic bay doors, and a host of other improvements. The applicant has not supplied a site plan at this time, but intends to bring one to the meeting. Without site plan details Staff will reserve judgment on the proposed use.

Chairman Coon asked if all notices had been sent out on time. Les responded yes. Chairman Coon asked if any members needed to disqualify themselves for any reason or if any member had received any communications. Responses to both inquires were no from all members. Chairman Coon stated that site plans for the case were provided

on the bench and asked if Les had any additional comments. Les stated that no, but that he reserved judgment on the case due to the lack of a site plan with the application.

Applicant Kevin Burkeholder, 431 Elm St., Marion, KS gave a presentation regarding the project. Mr. Burkeholder began by explaining that the applicants also own the automatic carwash located on south Andover Road. Mr. Burkholder stated that the residential properties adjacent to the project property were taken into consideration when the project site plan was developed. Mr. Burkholder explained that the building had been taken as far east and north on the property as the building setbacks would allow in consideration of the residential properties on the south and west of the project property and in order to allow as much space between the residential lots and the actual carwash structure. Mr. Burkeholder also explained that the entrance to the carwash was positioned on Ira Court and the carwash exit was positioned on Andover Road in order to try and avoid traffic congestion that might occur if the entrance and exit were both positioned on Andover Road. Mr. Burkeholder stated that a meeting had been held with adjacent property owners in order to hear concerns that they might have with the new project. In response to the meeting and concerns that were expressed, an 8 foot concrete barrier fence will be located on the entire length of the south and west property lines. Vacuum cleaners were proposed for the site as well that were positioned on the north side of the building and as close to the building setback as possible in order to keep them as far away from the surrounding residential properties as possible. Landscaping areas were included on the south side of the property to serve as a buffer to surrounding properties. Mr. Burkeholder stated that a landscaping plan had not been included with the site plan because the applicants assumed that the landscaping requirements would be set by the City's Site Plan Review Committee.

Jeff Syrios asked if all of the carwash bays would have an enclosed roof over them. Mr. Burkeholder responded that all the bays would be automatic carwash bays, and that there would be no hand – held wand bays included in the project.

Byron Stout asked how many bays would be included in this project. Mr. Burkeholder stated that there would be three bays in this carwash.

Janice Cox asked how much space would be between the vacuum station and the property line – would there be enough space to drive a car between the vacuum station and the north property line. Mr. Burkeholder explained that the dotted line Mrs. Cox was referring to was the setback line and that there was 20 feet between the vacuum station and where the pavement ends. Mr. Burkeholder also stated that it was his understanding that setbacks could be paved and driven on, but there could not be a structure or building on a setback. Les confirmed that this was correct.

Byron Stout asked if the facility would be a 24 hour self – serve carwash. Mr. Burkeholder stated that yes it was a 24 hour automatic carwash.

Chairman Coon asked if there would be doors installed on the bays. Mr. Burkeholder stated that whether or not doors were installed would depend on the type of equipment that was installed.

Chairman Coon asked if the entire pad on the west side of the property was lighted.

Mr. Burkeholder responded that lighting plan had been done yet as they assumed that would be a part of the Site Plan Review Committee process. However, they planned to have some lighting on the west side of the property for cars that were lining up to use the carwash, but they would try to avoid having light spill over onto adjacent properties.

The public hearing for case SU – 2007 – 03 was opened at 7:10pm. The public was invited to comment.

Mel Shriver 108 Aaron Drive, adjoining property on the south. Mr. Shriver stated that there is currently a wooden fence on the south end of the project property and he asked how close the concrete barrier fence would be to the existing wooden fence. Mr. Shriver also asked who would be responsible for maintaining the property between the two fences. Mr. Shriver also voiced concerns about trash and 24 hour lighting on the carwash property.

David Forwalter, 124 Aaron Drive, stated that he did not want a carwash in his back yard. Mr. Forwalter stated that the existing businesses on Ira Court were quiet and kept regular business hours. Mr. Forwalter voiced concerns that area residential properties surrounding the project property would not be able to sell due to a carwash being located in such close proximity and that the resale value of his home would be adversely effected. If the carwash was located closer to 21st Street Mr. Forwalter would not have a problem with it. Mr. Forwalter also stated that if the project was approved there should be at least an 8 foot wall and ‘half-way’ mature trees to serve as a buffer between the carwash and the residential properties.

Jeff Syrios asked Les when the property had been zoned B – 3. Les stated that it had been zoned in the late 1970’s when the property was originally subdivided and platted.

Bill King, 3663 S.W. Prairie Creek Road. Mr. King stated that he owns the building across Ira Court to the north of the project property. He also stated that he did not object to the carwash being located on the property, but he did have a problem with the entrance being located on Ira Court. Mr. King stated that there is an existing traffic problem on Ira Court and an existing parking on the street problem on Ira Court. Mr. Kings’ concern is that locating the entrance to the carwash on Ira Court would add traffic to an area where a traffic problem already exists. Mr. King stated that a combined entrance/exit like the entrance and exit to the automatic carwash located on south Andover Road might be a possible solution to the traffic problem.

Chairman Coon closed the public comments.

Mr. Burkeholder responded to the public comment by stating that the concrete fence could be located on the property line if the wooden fence was removed in order to alleviate the need to maintain property between the two fences, but he was unsure what regulations would allow.

Jeff Syrios asked whether or not the applicants would be willing to use a combined entrance/exit off of Andover Road. Mr. Burkeholder stated that his concern was that there would not be enough room on the Andover Road side of the lot to include another

curb cut for another entrance or exit drive. He also expressed concern that stacking cars off of an Andover Road entrance would cause a traffic congestion problem on Andover Road.

Byron Stout asked Les if there was enough room for both an entrance and exit on Andover Road. Les stated that most likely there could be but that it would put the two drives awfully close together and one of the driveways really close to Ira Court.

Mr. Burkeholder stated that adding another driveway on Andover Road would put it right on top of Ira Court and that the reasoning behind putting the entrance off of Ira Court was to keep the carwash building as far away from the adjacent properties by positioning it as far to the north and east as was possible.

Jeff Syrios asked how many cars the lot could accommodate before entering the carwash bays. Busy days can create a lot of congestion at carwashes and Mr. Syrios stated that he had concerns about congestion and cars parked on Ira Court.

Mr. Burkeholder stated that there was 78 feet between the west side of the building and the west property line. He also stated that architects generally use 18 feet to estimate the space needed for a vehicle.

Byron Stout asked how much business the carwash on south Andover Road experiences.

Mr. Burkeholder responded that 80 to 85 cars a day was the average.

Byron Stout commented that the average was 40 cars per bay and that with an additional bay the average for the new carwash would be around 120 cars per day.

Mr. Burkeholder responded that it was possible, but that some days there were very few cars at the carwash on south Andover Road.

Lynn Heath stated that most business was probably during evenings and weekends and asked the applicant if that was true.

Mr. Burkeholder stated that computer tracking keeps track of that information and that 80 – 85 percent of cars washed were between the hours of 7am and 8pm.

Byron Stout asked if lights could dim when there was no traffic.

Mr. Burkeholder responded that there was currently no lighting plan but that the lighting plan would probably just follow the zoning regulations and that the carwash on south Andover Road was a 24 hour facility.

Byron Stout asked if the applicant would still be interested if the hours of operation were limited.

Mr. Burkeholder stated that he would be interested in hearing the limitations and would have to look at it from a business standpoint to see if the project would still be

justifiable.

Jeff Syrios asked if doors on the bays would make the operation noiseless or quieter.

Mr. Burkeholder stated that it would be quieter but not noiseless.

Jeff Syrios asked of requiring doors would be a deal breaker for the applicants.

Mr. Burkeholder stated that they would have to consider the cost of the equipment before making that decision.

Chairman Coon closed the public hearing at 7:31 p.m.

Jeff Syrios asked Les to detail pros and cons of the project.

Les stated that adjacent property owners had listed cons – traffic, lights, noise and blowing trash. Les stated that all of these issues could be mitigated with buffer walls, doors on the bays and trash dumpsters.

Jeff Syrios stated that his biggest concern was traffic congestion on Ira Court.

Les stated that by looking at the site plan he estimated that approximately 14 cars can be stacked on the property waiting for use of the carwash, which would equal more that 4 cars per bay.

Jeff Syrios asked Les if he was saying that stacking on Ira Court would not be a big concern. Les responded that no, it would not be a big concern.

Lynn Heath stated that he felt there is a better location than this one for the carwash.

Byron Stout stated that he felt there could be a compromise.

Chairman Coon began review of the rezoning report.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT *

CASE NUMBER: **SU-2007-07**

APPLICANT/AGENT: **Kahns, Fenske, & Burkholder**

REQUEST: **Special use to establish a carwash in the B-3 Central Shopping District**

CASE HISTORY: **Existing single family dwelling to be removed from currently zoned B-3 property.**

LOCATION: **2001 N. Andover Rd.**

SITE SIZE: **128' X 168'**

PROPOSED USE: **2-bay automatic carwash**

ADJACENT ZONING AND EXISTING LAND USE:

- North: B-3 Commercial strip center
- South: R-2 Andover Heights single family residences
- East: B-1 Countryside Pet Clinic
- West: B-3 Commercial storage building

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: See Adjacent Zoning and Existing Land Use listed above.
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

STAFF: See Adjacent Zoning and Existing Land Use listed above.
PLANNING:
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

N.A. STAFF:
X PLANNING: The property has been zoned B – 3 since the late 1970’s but the current and historical use has been legal non-conforming – a private residence has been located on this

property.

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:

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 STAFF: All are in place & adequate

X PLANNING: Agree

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 STAFF:

X PLANNING:

COUNCIL:

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

YES NO

X STAFF: Visual and sound screening should be required for the residences to the south

X PLANNING: Agree

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

N.A. STAFF:

X PLANNING: Property is available but not on the north end of Andover.

COUNCIL:

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:

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

YES NO

X

STAFF: The traffic volumes and commercial surroundings make the subject property less than desirable for a single family residence.

X

PLANNING: The property is suitable for commercial use with the B-3 zoning.

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

X

STAFF: Increased traffic, noise, lighting, trash, etc.

X

PLANNING: Agree

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: Case by case review of listed special uses.

X

PLANNING: Agree

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 case by case review of commercial properties along Andover Rd.

X

PLANNING:

COUNCIL:

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

YES NO

STAFF: None at this time

PLANNING: Traffic, noise, trash – the same as #12

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: A site plan is necessary to evaluate this proposed use. The orientation of the carwash is very important to assess the ability to adequately screen the car headlights and noises from the residences adjacent to the south. If the carwash is oriented with an east-west orientation with an east entry from Andover Rd. and a north exit onto Ira Ct., then screening/buffering can be accomplished fairly effectively.

PLANNING: Site plan received 1/15/2008 and presented to Planning Commission on the bench

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:

CONDITIONS: (Determine conditions, if any, applicable to the case with rewording if necessary and add additional conditions as deemed desirable.)

1. **Platting:** N.A.
2. **Dedication:** N.A.
3. **Screening Plan:** An 8 foot concrete or brick type wall as screening on the south and west sides of the property should be required.
4. **Annexation:** N.A.
5. Hours of operation for washing and vacuuming (all business) should be limited to the hours of 7:00a.m. through 11:00p.m.

Jeff Syrios made a motion to recommend to the City Council that the special use be approved with the following conditions; an 8 foot concrete or brick type wall as screening on the south and west sides of the property must be installed and the hours of operation shall be limited to 7:00 a.m. through 11:00 p.m. for all activities and business at the carwash based upon findings 11, 13, 14, 17 and 10 of the Rezoning Report. Byron Stout seconded the motion. Motion carried 6/0.

Recess 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. Jeff Syrios seconded the motion. Motion carried 6/0.

BZA-V-2007-07: Public Hearing on a variance of 12 feet from the required 25 foot front yard building setback limitation for the purpose of construction of a 12 foot x 22 foot covered patio on property zoned as the R-3 Multiple Family Residential District located at 702 Autumn Ridge.

BZA-V-2007-07: Public Hearing on a variance at 702 Autumn Ridge.

From Les Mangus Memo: This application arises from the owner’s desire to build a roof over an existing concrete patio, 12’ feet into the required 25’ building setback on the side street side of the house. The subject property is a corner lot, which requires 25’ setbacks on both street frontages. As you will see in the photos provided by the applicant, the street right of way and rear yard have considerable landscaping and the masonry wall required by the development. Staff supports the variance as presented, limited to a covered patio not fully enclosed living space.

Chairman Coon asked if any members needed to disqualify themselves for any reason or if any member had received any communications. Responses to both inquires were no from all members.

Chairman Coon asked Les if all notices had been sent out. Les responded yes.

Chairman Coon asked Les if he had any additional comments on the case. Les responded by stating that the case was self – explanatory. The applicants desired to put a cover over an existing patio on the street side of their home. The zoning regulations do not allow the cover because it would encroach into the building setback. The applicants were present to request a variance from the building setback requirement.

Lynn Heath asked Les how far the patio was from the curb of the street. Les responded that there was approximately 15 feet of road right of way before the beginning of the building setback, therefore there is around 40 feet between the curb and the existing residence. With the addition of the cover over the patio there would be approximately 27 feet between the covered patio and the street.

Chairman Coon opened the public hearing at 8:00 p.m.

Applicant Virginia Ward, 702 W. Autumn Ridge. Mrs. Ward read from the statement that she had submitted to the Planning Commission. Mrs. Ward explained that she had applied for a building permit to build a roof over the existing patio and was informed that the zoning regulations only allowed for an 8 foot roof over the patio. Les explained to Mrs. Ward that she would need to apply to the Planning Commission for a variance from the zoning regulations. Mrs. Ward stated that she had obtained signatures from all 24 adult residents of Autumn Ridge in favor of the variance being approved.

Chairman Coon asked if any other audience members wished to speak.

Carly Anderson, lives directly across the street from the applicant. Mrs. Anderson

stated that the applicants take tremendous pride in their property and maintain it meticulously. A covered patio would allow more freedom and protection to Mrs. Ward’s wheelchair bound husband. Mrs. Anderson feels that this will not infringe on the rights of any other residents of the Autumn Ridge development.

Mark Isaacs, 621 Autumn Ridge. Mr. Isaacs agreed that the Wards meticulously maintain their property and that the project would include quality materials and construction and would add to the existing property.

Chairman Coon closed the public hearing at 8:14 p.m.

Chairman Coon began the 9 findings of fact for the decision made on the variance.

BOARD OF ZONING APPEALS ACTION

December 20, 2007

Publication Date

VARIANCE

January 15, 2008

Hearing Date

R-3 Multiple Family Residential

Zoning District

Case No. BZA-V-2007-07

A. Variances from the provisions of the zoning regulations shall be granted by the Board only in accordance with the standards in Section 10-1077(d), and only in the following instances and NO others: (A through G).

- 1. To vary the applicable lot area, lot width, and lot depth requirements, subject to the following limitations
 - a. The minimum lot width and lot depth requirements shall not be reduced more than 25%.
 - b. The minimum lot area for a single or two-family dwelling shall not be reduced more than 20%.
 - c. The minimum lot area per dwelling unit requirements for multiple-family dwellings shall not be reduced more than 10%.

B. To vary the applicable bulk regulations, including maximum height, lot coverage and minimum yard requirements:

- 1. The bulk regulations for this district are: 25 foot front yard building setback on all yards abutting a street.
- 2. Variance would change bulk regulations as follows: Allow a 12 foot variance from the front yard setback on the Autumn Ridge Street frontage for a covered patio.

- C. To vary the applicable off-street parking and off-street loading requirements. (Must establish time schedule for compliance) N.A.
- D. To vary the sign provisions of Section 7-102 regarding general standards and Section 7-104 regarding nonresidential district regulations: N.A.
- E. To vary certain provisions of the FP Flood Plain District as provided for in Section 4-114(L): N.A.

F.	The Board shall not grant a variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it which support all the conclusions as required by K.S.A. 12-715 as listed below:	True/ Yes	False/ No
		_____	_____
1.	The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owners or the applicant;	TRUE X	_____
2.	The granting of the variance will not adversely affect the rights of adjacent property owners or residents;	TRUE X	_____
3.	The strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.	TRUE X	_____
4.	The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and	TRUE X	_____
5.	Granting the variance desired will not be opposed to the general spirit and intent of these regulations.	TRUE X	_____

G.	In determining whether the evidence supports the conclusions required by Section 1-107(D)(1), the Board shall consider the extent to which the evidence demonstrates that:		
1.	The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee, or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced.	TRUE X	_____
2.	The request for a variance is not based exclusively	TRUE	

- upon a desire of the owner, lessee, occupant or applicant to make more money out of the property. X _____
- 3. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, and TRUE X _____
- 4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood. TRUE X _____

- H. Restrictions imposed by the Board of Zoning Appeals as per Zoning Regulations Section 10-5G:
 - 1. None required.

Jeff Syrios made a motion to approve the variance as requested. Byron Stout seconded the motion. Motion carried 6/0.

Date Granted: 1/15/2008

Valid Until (date) _____
(180 days Sec. 10-107G)

Quentin Coon, Chairman

Janice Cox, Secretary

Certified to the Zoning Administrator on this date of:
1/15/2008

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission.
Byron Stout made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Jeff Syrios seconded the motion. Motion carried 6/0. Planning Commission reconvened at 8:20 p.m.

VA-2007-08: Recommendation on a petition for vacation of the south 2’ of the 10’ rear yard utility easement at 720 W. Verona Court.

VA-2007-08: 720 W. Verona Court.

From Les Mangus Memo: This petition for vacation of a portion of the rear yard utility easement at 720 W. Verona Ct. in the Winchester Estates Addition arises from a water well being drilled in the easement. The utility companies have been notified and no conflicts have been received. Staff supports the vacation as applied for.

Chairman Coon opened the floor to the applicant.

Randy Stovall, Stovall Construction. Mr. Stovall stated that he was the builder of the home at 729 W. Verona Court. Mr. Stovall stated that his contracted well driller had drilled a well 20 inches inside the utility easement. Mr. Stovall stated that he was unaware that it was in the easement until he requested a final inspection and Certificate of Occupancy – following the completion of all landscaping on the lot. Mr. Stovall requests the variance to allow the well and landscaping to remain where they currently are.

Byron Stout inquired about who had discovered that the well was located in a portion of the easement.

Applicant stated that the city inspector had informed him of the problem at the time of the final inspection.

Chairman Coon asked what utilities exist in the easement.

Les responded that electric, phone and cable television utilities were present in the easement. Les also stated that letters had been sent to all utilities and the electric and telephone utilities had responded. Both responded there were no conflicts.

Byron Stout made a motion to approve the petition for variance as stated. Jeff Syrios seconded the motion. Motion carried 6/0.

VA-2007-09: Recommendation on a petition for vacation of the north 5’ of the 25’ front yard utility easement at 704 Gatewood.

VA-2007-09: 704 Gatewood.

From Les Mangus Memo: This petition for vacation of a portion of the front yard utility easement at 704 Gatewood in the Cedar Park Addition arises from a water well being drilled in the easement. The utility companies have been notified and the only conflict is an AT&T cable in the side yard easement. Staff supports the vacation, limited to the front yard easement.

Chairman Coon opened the floor to the applicant.

Eric Tornquist, representative of Weninger Drilling Inc. Applicant stated that they had received the plot from the City of Andover and drawn the well in the setback without realizing that the setback was also a utility easement. Mr. Tornquist stated that the applicant is requesting a variance of 5 feet in the 25 foot building setback.

Jeff Syrios asked how the well was placed in the easement.

Mr. Tornquist stated that the plot plan shows a setback but does not label it an easement.

Les stated that this was an early PUD which used the entire frontyard setback as a utility easement and that the easement is not shown on the plat drawing but is only listed in the plat text. Plats now show on drawings that setbacks are used as easements.

Byron Stout asked how this can be prevented in the future.

Les stated that the State of Kansas writes permits for wells and in doing so does not consult local jurisdictions in consideration of easements and local laws. Staff does not feel it is the City's responsibility to write a redundant law to enforce the State's regulations along with protecting easements.

Lynn Heath asked the applicant what his company has done to prevent this from happening since.

Mr. Tornquist stated that city staff is very helpful and that they now make a point to ask about easements and setbacks to be sure.

Byron Stout made a motion to approve the petition for variance as stated. Lynn Heath seconded the motion. Motion carried 6/0.

Recommendation on Butler County case RZ-08-01, change in zoning district classification from AG-40 to Rural Residential at 1116 N. Prairie Creek Road.

Recommendation on Butler County case RZ-08-01, 1116 N. Prairie Creek Road.

From Les Mangus Memo: Butler County Case RZ-08-01 Is a recommendation to the Butler County Planning Commission on a change of zoning district classification from a legal nonconforming AG-40 to Rural Residential on 17.4 acres at 1116 N. Prairie Creek Rd. The property was considered Rural Residential when the house was built in 1994, but through several changes in zoning administration and zoning regulations it is currently classified legal nonconforming AG-40 because it does not meet the 40 acre minimum lot size for the district.

Chairman Coon introduced the agenda item and gave the applicant the floor.

Les Mangus, 1116 N. Prairie Creek Road. Mr. Mangus stated that he owns 17.4 acres at that address and his is in the process of building a home for his son on the property. Since 1994 when Mr. Mangus' home was built, Butler County has changed the zoning from Rural Residential to legal non-conforming Ag 40. Mr. Mangus is requesting a recommendation to the Butler County Planning Commission that the zoning be changed back to Rural Residential. This zoning change will allow Mr. Mangus to deed 5 acres to his son for the home building project. That 5 acres will be what is required for private sewage system and water well.

Lynn Heath asked Jeff Bridges if there were any negatives for the City from this action.

Jeff stated that no there were no negatives. As soon as the zoning change is approved Mr. Mangus will have to comply with the subdivision regulations of the City of Andover. Mr. Bridges also stated that this action is only a recommendation to the Butler County Planning Commission and that they will have the final say in the zoning change.

Lynn Heath made a motion to recommend the requested zoning change to the Butler County Planning Commission. John Cromwell seconded the motion. Motion carried 6/0.

Staff Report from Les Mangus regarding Butler County Zoning Case PL – 08 - 03. Les stated that this particular case straddles the City’s and the County’s subdivision jurisdiction. The portion of the case in the City’s jurisdiction was exempt from platting requirements, but the portion in the County’s jurisdiction was not. The applicants had to file for a lot split for the portion within the County’s jurisdiction. This information was included in the packet for informational purposes to the Andover Planning Commission.

Adoption of the Official Zoning Map for the City of Andover: The City Staff has been building a Geographic Information System (GIS) map of the City over the last few years. The current map is outdated, and became too large of a file to maintain in Autocad format. Rick Lanzrath has refined the GIS based map to include parcel, zoning, and platting information, utility location information, and street addresses and parcel information from the Butler County GIS Map. The map is a work in progress since new information is being added as time allows, but the zoning information and city boundary are correct for reference at this point in time. A new map will be available to adopt each year with the annual city boundary ordinance, since information is added.

Adoption of the Official Zoning Map for the City of Andover.

Byron Stout made a motion to recommend to the City Council that map presented be adopted as the Official Zoning Map for the City of Andover, KS. Jeff Syrios seconded the motion. Motion carried 6/0.

Member Items: None stated.

Member Items:

Jeff Syrios made a motion to adjourn the meeting at 8:47 p.m. Byron Stout seconded the motion. Motion carried 6/0.

Respectfully Submitted by

Sasha Stiles, Management Assistant

Approved this 25th day of February 2008 by the Andover City Planning Commission/
Board of Zoning Appeals, City of Andover.