

ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS

January 20, 2009

Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, January 20, 2009 at 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, John Cromwell, Byron Stout, Dan Beck, and Ken Boone. Others in attendance were City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus, Assistant City Administrator Shane Coelho and Administrative Secretary Kandace Hunt. Members absent were Jan Cox and City Council Liaison J.R. Jessen.

Call to order

Review the minutes of the December 16, 2008 Planning Commission meeting.

Review the minutes of the December 16, 2008 Planning Commission meeting.

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

Communications:

Communications

Review the minutes of the December 9, 2008 and December 30, 2008 City Council meetings. The minutes were received and filed.

Review the minutes of the December 2, 2008 Site Plan Review Committee meeting. The minutes were received and filed.

Review the Potential Residential Development Lot Report.

Z-2008-04/SU-2008-02- Continuance of the Public Hearing on a proposed change of zoning classification from the Butler County AG-40 District to the R-4 Multiple Family Residential District with a Special Use request to establish multiple dwelling units for the elderly and handicapped including assisted living and nursing home facilities located at the southwest corner of Allen Street and west Bales Street.

Z-2008-04/SU-2008-02

From Les Mangus' Memo: This application for change of zoning district classification and special use has been continued from the August meeting in order to allow the applicant to gather more information regarding the traffic generated by the proposed development, and that traffic impact on the surrounding road system. New information has been provided, the applicant has provided a traffic impact report, and asked to reduce the area of the application to +/- 6 acres.

Ken Boone stated he would be abstaining from the discussion and vote as this is his first meeting and the case is a continuance.

Les Mangus explained the applicant has requested by email his R-4 zoning application be limited to the six acres in the following legal description:

The premises legally known as; Beginning 233.71 feet south of the Northeast Corner of the Southwest quarter of the Northeast Quarter of section 30,

Township 27 South, Range 3 East of the 6th P.M., thence South 330 Feet, thence West 628 feet, thence North 560 feet, thence East 256 feet, thence South 233.71 Feet, thence East 372.77 to the point of beginning; all in Butler County, Kansas. Subject to Public Road.

The remaining 31 acres will stay AG-40. He continued by saying the applicant has provided the additional information the Commission requested including a traffic impact study.

Applicant David Ray was present to represent the application.

Mr. Ray explained due to the current economy he has scaled down his project from 36 acres to six with a single story assisted living facility providing a total of 70 beds. He stated the building will be landscaped to blend with the area and will not be terribly noticeable from the street. Mr. Ray said he would be dedicating a portion of the 36 acres to a reserve that will house a retention pond, which should resolve many of the areas drainage issues.

Chairman Coon asked if the pond was existing. Les Mangus said no. Byron Stout asked Les Mangus if he felt the retention pond would help the area. Les Mangus said City drainage standards require the retention pond slow the rate of runoff from the site after development to be no more then it was at the 25 year storm prior to the development. This typically results in a small decrease in the rate of drainage from the 100 year storm. Currently the structures in the area can not handle much more then a two to five year storm and would be brought up to today's minimum standards for road crossings exceeding the shape they are in today. He noted the retention pond is a completely separate issue from the upstream drainage pattern.

Chairman Coon asked if the extension to the northwest shown on the site plan was for individual apartments. Mr. Ray said yes they will be separate memory care units. Byron Stout asked if the memory care units would have 24 hour care. Mr. Ray said yes.

Mr. Ray informed the Commission the conclusion of the traffic impact study stated, "Based on the results of the determination of the traffic volumes expected to be generated by the proposed development, it is evident that the development is not projected to have a significant impact on the traffic volumes on the adjacent street system. To support these results, other studies have reported that according to national and local data, less than five percent of residents of assisted living complexes owned cars, which were rarely driven. Employees, visitors and delivery trucks make most of the trips to these facilities. Although truck traffic is expected to be low overall, most truck trips typically occur during the mid-day period on a weekday." He continued by saying the peak hours for traffic generation had been identified 7:00 a.m. and 9:00 a.m. with six trips in and three trips out and 4:00 p.m. and 6:00 pm with seven trips in and nine trips out. The report also recommended that Allen Street from Cloud Street south be widened to a minimum of 26 feet wide and paved as per current city standards. This paving is recommended to extend to just south of the primary access street to the proposed development. It also recommends the method of traffic control at the intersection of Allen Street and Bales Street be changed from the westbound yield control to a westbound stop control.

Byron Stout asked Les Mangus if the conclusion of the traffic report was what he expected. Les Mangus said yes, the firm the applicant used is also used by

the City so he trust the work has been done accurately. He continued by saying this is a facility where the residents rarely leave the site. The majority of the traffic will be the employees and deliveries with few employees needed. Byron Stout asked how many employees would be on the site. Mr. Ray said during daytime hours there will be approximately one employee per nine residents, at night there will be two employees.

Chairman Coon opened the public hearing at 7:25 p.m.

Louis Harper of 415 W. Partridge stated if approved, this development would force the residents in the area to pay for improvements such as paved streets and water. With many residents living on fixed incomes or dealing with the troubled economy paying for improvements through a benefit district would be a hardship. He suggested the developer pave only two streets and bring water from Kellogg and Allen to the proposed development only. He continued by saying most of the traffic generated by the development will be from visitors on weekends and thinks that should be reflected in the traffic impact report. Mr. Harper asked if Bales will remain gravel. Mr. Harper said he understands the site plan shown is not the final plan, but stated he thinks the developer should have a driveway around the entire facility to accommodate delivery, trash and emergency vehicles. Mr. Harper said he still has concerns regarding the drainage in the area and the impact the new development will have on it. Mr. Harper said he is not in total opposition of the project but does not want to pay for improvements that will help the applicant get rich. He is also concerned the R-4 zoning would give the applicant the ability to construct multi-family dwellings in the future. Mr. Harper said he felt the Commission was opening a can of worms by allowing this type of development to go into a residential area.

Byron Stout noted the applicant was only asking for the six acres housing the assisted living facility to be changed to R-4, the rest will remain agricultural.

Mr. Ray informed the Commission he was not asking residents to participate in the cost of street improvements. He will be paying to pave and install curb and guttering along Allen Street where the traffic report suggested. Bales Street will remain gravel. Mr. Ray noted the traffic impact study was based on national surveys that show numbers on average which includes weekend travel. He also said, at this time, he has no plans to return to the original proposal for this land.

Wade Parsons of 406 W. Partridge asked if the land had been annexed into the City. Chairman Coon said not yet. Mr. Parsons asked if a Butler County Engineer had done a draw-up on the water flow plan. He continued by saying he thought anytime the flow of water on existing drainage was changed in a neighborhood it had to be reviewed by the Butler County Engineer. Les Mangus said it has not been done because no changes have been made to the design, they are only discussing concepts. Drainage, drinking water and street improvements are platting issues not zoning. Mr. Parsons said last time improvements were made in the area he was assured the drainage would not be worse and it is.

Linda Hulstine of 800 S. Allen said she and other residents in the area have large established trees on their property and asked if they would be removed when Allen was widened and paved. Les Mangus said there is 40 feet of existing right-of-way so additional land from the west side of the road would need to be dedicated.

Mary Shackelford of 840 Allen asked if the residents in the area would be forced to hook-up to public water. Les Mangus said City ordinance only requires a property be connected to sewer if it is available. If public water is available it is the property owner's choice.

Keith Treebolt of Allen and Feather Place asked if City ordinances would require all streets in the area to be paved if the applicant paved Allen Street. Les Mangus said no.

Larry Sparks of 701 Daisy asked if a stop light was going to be put in at Bales and Daisy. Les Mangus said no, a stop sign would be going in at Allen and Bales. Larry Sparks said he feels this development will create a lot more traffic on Bales Street.

Pat Malcom of 844 Allen asked if the rules for the R-4 zoning district had changed as this development will not be located on an arterial street. She also asked how the end of Allen Street will be handled because it appears the end of the paving will be right where the crest of water comes down. She asked if residents should anticipate more water on Allen. Les Mangus said the road improvements and drainage will be handled in the platting process.

Sally Brimer of 845 S. Allen said if Allen Street was extended in the future it would basically wipe out her home and asked how that situation would be handled. Les Mangus said the existing right-of-way is 40 feet; typical through residential streets would be 35 feet back to back. If Allen Street were to continue to end at that point the City would want either a hammer head turn around or cul-de-sac turn around. This would change the character of that segment of street from the last intersection, Bales, that now becomes a cul-de-sac street, which does not require as wide of paving and could be cut down as small as 29 feet back to back. He continued by saying the question was way beyond the land use being discussed.

Ms. Brimer said although the applicant used the same company as the City for the traffic impact study, she does not have much faith in it as the residents of the area only have one way out towards Wichita. She continued by saying the traffic coming into the development might take Allen but she is confident they will go out on Bales. Ms. Brimmer stated with a stop sign at Daisy and Bales and the traffic report recommending one at Bales and Allen she would have to stop twice within a quarter mile.

Mr. Ray noted the stop sign at Bales and Allen would only affect westbound traffic.

Lynn Heath explained Allen Street is a right-in-right-out only off of US 54 because of KDOT requirements, it has nothing to do with the City.

Mr. Harper said he appreciated Mr. Ray paying to have Allen Street paved, but thought that would require the entire neighborhood to be paved. Les Mangus said there is no directive to pave the entire neighborhood. When it comes to platting the Commission will look at the needs of the project and make sure those needs are satisfied. Mr. Harper asked if the City Council could require it. Les Mangus said he can not imagine the City Council would spread a paving project for the needs of one development. Mr. Harper said if Mr. Ray is willing to pave Allen Street, Bales would stay gravel and water would be brought to only his site he feels certain this project will fly through

as those are the main concerns of the residents.

Chairman Coon closed the public hearing at 7:57 p.m.

Chairman Coon asked if the applicant had any additional comments.

Mr. Ray said he wants to be neighbor friendly and is willing to discuss relocation of large, healthy trees if need be.

Lynn Heath asked if the applicant had done studies to see if this was the best location for the development. Mr. Ray said yes and it has been determined to be a good location especially with the proximity to the Marketplace development.

Lynn Heath asked if the recommendation of annexation needed to be amended to reflect only the six acres. Mr. Ray said yes. Les Mangus said there could be a problems with not annexing the entire 37 acres as the engineering of the retention pond would have to be handled by the Butler County Planning Commission not the City of Andover. Mr. Ray agreed to annex the entire 37 acres.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT *

CASE NUMBER: Z-2008-04/SU2008-02

APPLICANT/AGENT: David & Donna Ray

REQUEST: Case No. Z-2008-04. Proposed change of zoning district classification from the Butler County AG-40 District to the R-4 Multiple-Family Residential District.

Case No. SU-2008-02 Special Use request to establish an assisted living facility for the elderly and handicapped.

CASE HISTORY: Vacant agricultural land

LOCATION: Southwest corner of Allen & Bales streets

SITE SIZE: +/-6 acres

PROPOSED USE: Assisted living facility

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County Ag-40 former Charlie’s Salvage and single family residence

South: A-1 Agricultural Transition land owned by the applicant

East: R-1 Bales single family residential neighborhood

West: A-1 Agricultural Transition land owned by the applicant

Background Information:

This property lies south of the former Charlie’s Salvage, and is adjacent to the City Limits on the east and west. Public sewer is available adjacent to the property and public water is nearby at Allen St. & Cloud Ave. Allen St. is paved to Cloud Ave., and the remainder is gravel. The only through east west street in the area is Bales St., which is gravel over to Andover Rd. The applicant has amended the original application for 37 acres down to +/-6 acres and the traffic impact report has been provided.

* 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: Butler County Ag-40; North: Butler County AG-40 former Charlie’s Salvage and single-family residence; South: A-1 Agricultural Transition land owned by the applicant; East: R-1 Bales single-family residential neighborhood; West: A-1 Agricultural Transition land owned by the applicant.

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: Butler County Ag-40; North: Butler County Ag-40 former Charlie’s Salvage and single-family residence; South: A-1 Agricultural Transition land owned by the applicant; East: R-1 Bales single-family residential neighborhood; West: A-1 Agricultural Transition land owned by the applicant.

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:
X PLANNING: The growth of the City, specifically in this area near Marketplace development.
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 available, or easily extended.
X 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 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: The assisted living facility could require screening from the adjacent residence
X 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:
X PLANNING: The area behind the current Dillon's is zoned R-4.
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: The aging population requires more housing opportunities.
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
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: Increased lighting, traffic, drainage, noise, emergency vehicle responses, etc.
PLANNING: Increased lighting, traffic, drainage, noise, emergency vehicle responses, etc
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
STAFF: The intent of the zoning district is to place medium density multiple family development along an arterial or collector street due to the traffic generation. The R-4 district is the only district where a special use is listed for multiple dwelling units for the elderly and handicapped.
X PLANNING: Based on the Special Use request and limited to an assisted living facility by Protective Overlay.
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 Comprehensive Plan Chapter 3 GOALS FOR PLANNING goes to great lengths to suggest a variety of quality housing alternatives including specialized facilities for the elderly and disabled. Chapter 8 LAND USE PLAN recognizes the need for multiple family residential development, but suggests some guiding policies for future locations, which includes “along arterial and collector streets but not on local streets mixed within single-family neighborhoods”.
X PLANNING:
COUNCIL:
15. What is the support or opposition to the request?
- YES NO
STAFF: Increased traffic, lighting, drainage, noise, emergency vehicles, and perceived devaluation of adjacent residential properties.
PLANNING: Increased traffic, lighting, drainage, noise, emergency vehicles, and perceived devaluation of adjacent residential properties. Support for the project was shown when noted the applicant would not be asking residents to participate in the cost of improvements.
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: In its current configuration the subject property does not meet the intent for location of medium density multiple family residential

development due to the lack of adequate street connections to the collector or arterial streets in the area. However, if the application were limited to multiple dwelling units for the elderly and handicapped, which generate significantly less traffic than single or multiple family dwellings, and the street network were expanded to meet the zoning district criteria, then the proposed uses would likely not have the affect of overwhelming the neighborhood or adjacent street system.

X PLANNING:
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:

Platting: That all of such property be platted and recorded within one year from the date of Governing Body approval or the case be considered disapproved and closed, and that the Ordinance effectuating the zone change not be published by the City Clerk until the final plat has been recorded with the Register of Deeds during the period stated above.

Lynn Heath made a motion to recommend the City Council approve case Z-2008-04 and SU-2008-02 with the restriction by Protective Overlay to limit the use of the six acres to an assisted living facility for the elderly and handicapped based on findings 10, 13 and 14. Byron Stout seconded the motion. Chairman Coon asked if there was any further discussion. Chairman Coon asked if the Special Use needed to be restricted. Les Mangus said no the applicant only applied for the Special Use of an assisted living facility. Motion carried 5/0/1 with Ken Boone abstaining.

Z-2008-09- A Public Hearing on a proposed change of zoning classification from the R-2 Single-Family Residential District to the B-3Central Shopping District located at 1519 N. Andover Road.

From Les Mangus Memo: The proposed change of zoning district classification from R-2 Single-Family Residential District to the B-3 Central Shopping District is the result of the applicant’s purchase of this property adjacent to the property at 1509/1513 N. Andover Road that she was successful in getting rezoned to B-2 Neighborhood Business District. Staff recommends the approval be restricted to the same use as the previous case – B-2 Neighborhood Business District with the following limitations established by the Protective Overlay District:

1. To limit uses to any permitted use allowed in the B-2 Neighborhood Business District except for the following: Package liquor stores, self-service laundries and dry cleaning stores, service stations, automobile parts stores and child care centers and preschools. Restaurants will be allowed with the exclusion of drive-thru style restaurants.

Applicant BJ Sheu was present to represent the application.

Ms. Sheu informed the Commission she has spoken with people in the area including Butler County Community College students and they all had stated they would like to have a bakery/deli with the convenience of a drive-thru in the area, she is requesting to change the home from R-2 to B-3 to allow her to develop this type of business.

Lynn Heath asked why she was asking for B-3 instead of B-2. Ms. Sheu said she was asking for B-3 to be allowed a drive-thru restaurant.

Chairman Coon opened the public hearing at 8:32 p.m. With no public input Chairman Coon closed the public hearing at 8:32 p.m.

Chairman Coon asked Les Mangus for staff comments. Les Mangus said his opinion is a drive-thru restaurant would be totally out of character with the discussions the Commission has had about preserving the old, original Andover character while allowing it to change to more business uses. He reminded the Commission if a B-3 zone is approved all the uses in the district are allowed on that lot, most of which do not fit in the area. If the Commission would like to approve this request they can write a Protective Overlay to put whatever restrictions on the district they see fit.

Ms. Sheu stated she is not interested in the other B-3 permitted uses she only wants a restaurant with a drive-thru. She understands there are physical limitations based on the size of the lot but feels an architect could resolve them and a landscape architect could conceal the drive-thru.

Byron Stout said he knows this applicant has intentions of fitting in with the area, but if the site was ever sold the new owner could take the drive-thru restaurant to the extent that it would no longer fit the character of the neighborhood. He continued by saying he felt the site should be restricted to B-2.

Ms. Sheu said once she had completed the remodel of the structure it would be difficult for a new owner to change the design. Lynn Heath said that would not stop someone from tearing down the property for new construction.

Ms. Sheu asked if it would be possible to have B-2 zoning with a Special Use for a drive-thru. Les Mangus said drive-thru style restaurants are allowed in the B-2 district, but a drive-thru restaurant with a string of cars going in and out until 11:00 p.m. is completely out of character for the neighborhood.

Lynn Heath informed Ms. Sheu the Commission would not be willing to approve her request for B-3 zoning and asked if she would be willing to accept a B-2 zone with the same restrictions she received when zoning her property at 1509 and 1513 N. Andover Road. Ms. Sheu said she would prefer to leave the property zoned R-2 because of the economy. Les Mangus informed Ms. Sheu she could accept a B-2 zoning classification and use the property as R-2 until she was ready to operate under B-2, but once the property was used as B-2 it could not return to R-2 without going through the change of zoning process. Ms. Sheu said with that in mind she would accept a B-2 zoning classification.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 6

REZONING REPORT *

CASE NUMBER: Z-2008-09

APPLICANT/AGENT: Bih Jau Sheu

REQUEST: Proposed change of zoning district classification from the R-2 Single Family Residential District to the B-3 Central Shopping District.

CASE HISTORY: Existing single family dwelling

LOCATION: 1519 N. Andover Rd.

SITE SIZE: 158' X 100' = +/- 15,800 s.f.

PROPOSED USE: Re-development of existing single family dwelling to business uses

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 legal nonconforming multiple family residences

South: B-2 multi-family residence owned by the applicant

East: R-2 single family residences

West: R-2 single family residence

Background Information: The subject property was the subject of a previous application for change of zoning district classification that was recommended for change by the Planning Commission, but never completed by the owner.

* 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: R-2 Single-Family Residential District; North B-1 legal nonconforming multiple-family residences; South: B-2 multi-family residence owned by the applicant; East: R-2 single-family residences; West: R-2 single-family residence.

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: R-2 Single-Family Residential District; North B-1 legal nonconforming multiple-family residences; South: B-2 multi-family residence owned by the applicant; East: R-2 single-family residences; West: R-2 single-family residence

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: The school campuses, district office, large church, and heavy traffic on Andover Rd. in the area have changed the residential character.

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 available.

X 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 STAFF: Dedications could be made in lieu of re-platting.

X PLANNING: Dedications could be made in lieu of re-platting.

COUNCIL:

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
- YES NO
 X STAFF:
 X 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: Vacant land is available in the area.
 X PLANNING: The applicant wants to utilize an existing building.
 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: Not suitable for residences to be adjacent to, and face Andover Road with 15,000 cars a day across the frontage.
 X 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: Increased traffic, lighting, noise, etc.
 PLANNING: Increased traffic, lighting, noise, etc.
 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:
 X PLANNING:
 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: Case by case review.
 X PLANNING:
 COUNCIL:
15. What is the support or opposition to the request?
- YES NO
 STAFF: None at this time
 PLANNING: None presented.
 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: Approval with a Protective Overlay to restrict some of the permitted uses.

X PLANNING:
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

X STAFF:

X PLANNING:
COUNCIL:

John Cromwell made a motion to recommend the City Council approve case Z-2008-08 limited to B-2 Neighborhood Business District and to limit uses to any permitted use allowed in the B-2 Neighborhood Business District except the following permitted uses: number 13, Package liquor stores; number 14, Restaurants, will be allowed with the exclusion of drive-thru style restaurants; number 15, Self-service laundries and dry cleaning stores; number 16, Service stations; number 19, Automobile parts stores; and number 22, Child care centers and preschools based on findings 5, 8, 10, 13, 14 and 16. Byron Stout seconded the motion. Motion carried 6/0.

VA-2008-08- A Public Hearing on a petition for a vacation of the plat of the Final Planned Unit Development Plan – Phase 2 Cottonwood Point Addition.

VA-2008-08

From Les Mangus’ Memo: This petition for vacation of the Final Planned Unit Development Plan – Phase 2 Cottonwood Point Addition is the result of the developer’s desire to postpone the development of the next phase of Cottonwood Point until the economy improves, after already having filed the final PUD document. The vacation of the final PUD would allow the City to release the developer’s guarantees for the installation of public improvements.

Les Mangus explained the Final Planned Unit Development Plan – Phase 2 Cottonwood Point Addition has been recorded with the County along with the guarantees for improvements for water, sewer and streets, putting the project in cue to have public infrastructure financed by a benefit district. Because of the economy and the escalating price of construction the developer has chosen to not construct the public infrastructures at this time. The developer has also asked that his letters of credit guaranteeing the improvements be returned. In order for the City to return the letters of credit the PUD has to be removed from the record.

Chairman Coon opened the Public Hearing at 9:02 p.m. With no public input Chairman Coon closed the Public Hearing at 9:02 p.m.

Byron Stout made a motion to recommend the City Council approve case VA-2008-08 as presented. John Cromwell seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

Member Items: New Planning Commission member Ken Boone was

Member Items:

welcomed by all members.

John Cromwell made a motion to adjourn the meeting at 9:03 p.m. Lynn Heath seconded the motion. Motion carried 6/0.

Respectfully Submitted by

Kandace Hunt
Administrative Secretary

Approved this 17th day of February 2009 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.