

ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS

February 17, 2009

**Minutes**

The Andover City Planning Commission met for a regular meeting on Tuesday, February 17, 2009 at 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:01 p.m. Commission members present were Lynn Heath, John Cromwell, Byron Stout, Dan Beck, and Ken Boone. Others in attendance were City Council Liaison member J.R. Jessen, City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus, Assistant City Administrator Shane Coelho and Administrative Secretary Kandace Hunt. Member Jan Cox was absent.

Call to order

**Review the minutes of the January 20, 2009 Planning Commission meeting.**

Review the minutes of the January 20, 2009 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 January 13, 2009 and January 27, 2009 City Council meetings.** The minutes were received and filed.

**Review the minutes of the January 6, 2009 Site Plan Review Committee meeting.** The minutes were received and filed.

**Review the minutes of the December 9, 2008 Subdivision Committee.** The minutes were received and filed.

**Review the Potential Residential Development Lot Report.**

**Recommendation to the City Council on the annexation of the 2.8 acre property at the northwest corner of East Highway 54 and South McCandless Drive.**

Annexation

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained the property, in part, houses the former J-Mac Feed and an adjacent vacant property that wraps around on the north side of the J-Mac Feed Parcel. It is adjacent to an existing City water line on Highway 54, is served by City sewer and is adjacent to the City on the south and the east. Staff recommends the annexation as it is adjacent to public utilities and is a logical expansion of the City.

Robert Kaplan, agent for the applicant was present to represent the petition.

Mr. Kaplan said the annexation and platting of the property is contingent on approval of the applicants request for a change of zoning district classification and special use.

*Lynn Heath made a motion to recommend the City Council approve the request for annexation of the 2.8 acres located at the northwest corner of East*

*Highway 54 and South McCandless Drive. John Cromwell seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.*

**Z-2009-01/SU-2009-01-** A Public Hearing on a proposed change of zoning classification from the Butler County AG-40 District to the Andover B-5 Highway Business District with a Special Use request to establish the Minneha Township office and maintenance facility.

Z-2009-01/SU-  
2009-01

**From Les Mangus' Memo:** This application for change of zoning district classification and special use has been removed from the Butler County Planning Board jurisdiction and petitioned for annexation in order to be ruled upon by the Andover Planning Commission. The proposed special use is to allow Minneha Township to operate its road maintenance facility and office at this location. The Township has occupied several locations in the last few years as development in the area has moved further east eliminating warehouse or barn type locations. Staff has met with the applicant's agent on the matter and relayed concerns for heavy equipment traffic and outdoor storage. The applicant intends to keep all construction equipment inside the existing building, and use only the property adjacent to the existing building. The application includes adjacent property that is currently vacant and adjacent to existing single family residences. The subject property aligns with and is just a few hundred feet from the former Countryside Mobile Home Park that was rezoned a few months ago for potential B-5 Highway Business uses along US-54 and restricted to B-3 on the property further from the highway. Staff recommends that the B-5 zoning and special use for the Township maintenance facility be limited to the Parcel A in the description with no outdoor storage of equipment or materials, and that the remainder of the subject property be B-2 Neighborhood Business.

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained Parcel A of this property has been used in the past as a feed store and has a conditional use that allows it to operate as a highway business through the County zoning system. Parcel B is a vacant single family parcel with Butler County Agricultural zoning as it is not platted. A few hundred feet to the west of this property the Planning Commission has conditionally recommended the Countryside Mobile Home Park be rezoned to the B-5 Highway Business District with a reverse frontage road that would parallel to the highway with a lesser classification of B-3 Central Shopping District with Protective Overlay restrictions along the backside of the property adjacent to residential areas. He continued by saying the application is for B-5 Highway Business District with a special use for the Minneha Township maintenance facility across both parcels. Staff recommends the B-5 Highway Business District and special use be limited to Parcel A, with Parcel B being granted a lesser zoning classification. Les Mangus explained he was recommending the lesser zone on Parcel B based on the fact that after a frontage road is installed the configuration of the parcel would only allow for lots that are about 120 feet deep and would not support the types of businesses that go along with a B-5 classification.

Robert Kaplan, agent for the applicant, was present to represent the application.

Mr. Kaplan explained he originally filed this case as a Special Use request with Butler County but upon the advice of the City Administrator and Zoning Administrator he withdrew the application to pursue zoning through the City.

He continued by saying he would like to orally amend the application to limit the special use request for the Minneha Township office and maintenance facility to accompany the B-5 Highway Business District zoning on Parcel A. He said the applicants have no objection to reducing the zoning on Parcel B to B-2.

Chairman Coon asked if the Township will be utilizing the existing building. Mr. Kaplan said yes.

Ken Boone asked if the building was large enough to house all of the Township's equipment. Mr. Kaplan said yes. The only item that may be housed outside would be a dumpster to accommodate the trash tossed in ditches the Township is required to pick-up.

Former trustee of the Minneha Township Charles Wiggins explained the Township has two options of how to handle the trash disposed of in ditches. The first option is to rent a burn yard in Sedgwick County the second is to have trash service to the location in Andover. It is the Townships intent, at this time, to rent the burn yard property.

Chairman Coon opened the Public Hearing at 7:21 p.m. With no public input Chairman Coon closed the Public Hearing at 7:21 p.m.

Les Mangus stated he and City Council Liaison member J.R. Jessen had discussed some concerns about this piece of property being used for less than what the highest and best use for the property could be as it is adjacent to Highway 54 with 25,000 cars a day and is across the street from a brand new 125,000 square foot YMCA. The City and the applicant realize this is a temporary situation. As properties are developed down the highway and a freeway is built, a lot of things will change including this use and zoning classification.

**ANDOVER CITY PLANNING COMMISSION**

Agenda Item No. 6

REZONING REPORT \*

CASE NUMBER: Z-2009-01/SU-2009-01

APPLICANT/AGENT: Marvin D. & Carole F. Moser/Robert W. Kaplan

REQUEST: Change zoning district classification from Butler County AG w/special use to City B-5 Highway Business District w/Special Use for Minneha Township office and maintenance facility

CASE HISTORY: Operated as a feed store since built in the early 1990's

LOCATION: Northwest corner of US-54 and S. McCandless Dr.

SITE SIZE: +/- 2.9 acres

PROPOSED USE: Minneha Township office and maintenance facility

**ADJACENT ZONING AND EXISTING LAND USE:**

North: Butler County - single family residence  
 South: B-4 Central Business District – YMCA

East: A-1 Agricultural Transition – single family residence  
West: Butler County - warehouse

**Background Information:** The property is currently vacant, but has been operated as a feed store in the past

\* 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 – single family residence; South: B-4 Central Business District – YMCA; East: A-1 Agricultural Transition – single family residence; West: Butler County – warehouse.

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 – single family residence; South: B-4 Central Business District – YMCA; East: A-1 Agricultural Transition – single family residence; West: Butler County – warehouse.

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:  
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 and readily extended  
X PLANNING: All are readily available  
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:  
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

STAFF: N.A. for special use  
N PLANNING: Not for the special use request  
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: But the use is restricted to the feed store  
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, light, noise, etc.  
 PLANNING:        Increased noise  
 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  
 X
- STAFF:  
 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  
 X
- STAFF:  
 PLANNING:  
 COUNCIL:
15. What is the support or opposition to the request?
- YES    NO
- X
- STAFF:            Increased traffic, light, noise, etc.  
 PLANNING:        None presented during the public hearing.  
 COUNCIL:
16. Is there any information or are there recommendations on this request available from knowledgeable persons which would be helpful in its evaluation?
- YES    NO
- X
- STAFF:            Approval of B-5 w/special use on the Tract A with a limitation to prohibit outdoor storage of equipment or construction materials. B-2 on Tract B.
- 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:

*Having considered the evidence at the hearing and the factors to evaluate the rezoning application, I Lynn Heath, move that we recommend to the Governing Body that Case No. Z-2009-01/SU-2009-02 be modified and approved to change the zoning district classification from the Butler County AG-40 District to the Andover B-5 Highway Business District with a special use to establish a public building limited to indoor storage on Parcel A and to change the zoning district classification from Butler County AG-40 to Andover B-2 Neighborhood Business District on Parcel B based on findings 7, ,10, 13 and 14 of the Planning Commission as recorded in the summary of this hearing, and that the following conditions be attached to this recommendation. Motion seconded by John Cromwell. Chairman Coon asked if there was any further discussion. Byron Stout asked if the motion*

*needed to be amended to state the special use is to establish the Minneha Township office and maintenance facility. Les Mangus said yes. Byron Stout amended the motion to state the zoning district classification shall be changed from the Butler County AG-40 District to the Andover B-5 Highway Business district with a special use to establish the Minneha Township office and maintenance facility limited to indoor storage only on Parcel A. Lynn Heath seconded the amendment. Motion carried 6/0.*

**CONDITIONS:**

1. **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.
2. **Screening Plan:** That a screening plan be submitted to the Planning Commission for approval prior to the issuing of a zoning permit.
3. **Annexation:** That an annexation ordinance be approved and published prior to the effectuating ordinance for the rezoning amendment.

**SU-2009-02-** A Public Hearing on a request of a Special Use to establish a storage warehouse in the B-2 Neighborhood Business District.

SU-2009-02

**From Les Mangus' Memo:** The proposed special use to allow a storage warehouse in the B-2 Neighborhood Business District at 1627 N. Andover Road is the result of the need for the additional storage parts and equipment for Andover Lawn Equipment at 1635 N. Andover Road across the street from the subject property. The applicant's have acquired the subject property in order to expand the existing business, which sells and services lawn care equipment. Staff supports the application limited to indoor storage only.

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained this site is located just north of the BNSF railroad on Andover Road. The applicants have outgrown their facility north of Market Street and need more warehouse space for their business. They have bought the property that houses Glen's Auto to the south and intend to build a warehouse to store mowers and yard equipment. The property is zoned B-2 and does not allow for warehouses in the permitted uses, creating this special use request.

Applicant Ken Huston was present to represent the applicant.

Mr. Huston said he would be happy to answer any questions the Commission might have.

Lynn Heath asked if Glen's Auto building would remain. Mr. Huston said the building will remain at this time. Lynn Heath asked if the storage building will be located behind Glen's Auto. Mr. Huston said yes.

Lynn Heath asked if the special use applied to the entire property. Les Mangus said yes.

Chairman Coon opened the Public Hearing at 7:38 p.m. With no public input Chairman Coon closed the Public Hearing at 7:38 p.m.

**ANDOVER CITY PLANNING COMMISSION**

Agenda Item No. 7

**REZONING REPORT \***

CASE NUMBER: SU-2009-02

APPLICANT/AGENT: Lesta Berta Dodge Estate & Miller Parts Co. Inc./Ken Huston

REQUEST: Special use to allow a storage warehouse to store parts, equipment, merchandise, etc. for Andover Lawn Equipment in the B-2 Neighborhood Business District.

CASE HISTORY: Vacant land behind Glenn’s Service

LOCATION: 1627 N. Andover Rd.

SITE SIZE: 21,477 sq. ft.

PROPOSED USE: Storage warehouse

**ADJACENT ZONING AND EXISTING LAND USE:**

North: B-3 Andover Lawn Equipment  
 South: B-2 vacant lot  
 East: R-1 Andover Middle School  
 West: B-3 Jayhawk Landscape contractor’s warehouse

**Background Information:**

\* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission’s considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

**FACTORS AND FINDINGS:**

1. What is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?

YES NO

STAFF:

PLANNING: Subject Property: B-2 Neighborhood Business District; North: B-3



Andover Lawn Equipment; South: B-2 vacant lot; East: R-1 Andover Middle School; West: B-3 Jayhawk Landscape contractor's warehouse.

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: Current Zoning: B-2 Neighborhood Business District; North: B-3 Andover Lawn Equipment; South: B-2 vacant lot; East: R-1 Andover Middle School; West: B-3 Jayhawk Landscape contractor's warehouse.

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

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:  
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:  
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:  
 X PLANNING: Not required between two businesses  
 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:  
 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:  
 PLANNING:  
 X 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:  
 PLANNING: NA  
 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:  
 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 as applied for.  
               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:

*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-2009-02 be approved to establish a storage warehouse in the B-2 Neighborhood Business District limited to indoor storage based on findings 5, 6, 10, 11, 13 and 14 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Byron Stout. Motion carried 6/0.*

**Review and approve the Preliminary Plat of the Moser Addition.**

Review and approve the Preliminary Plat of the Moser Addition

**From Les Mangus’ Memo:** The proposed plats of the Moser Addition are the result of Staff’s recommendation to condition zoning of the property on satisfactory platting. The applicant owns two adjacent parcels at the northwest corner of US-54 & South McCandless Drive. The property adjacent to US-54 has an existing commercial building. The proposed preliminary plat conforms with the reverse frontage road design on the former Countryside Mobile Home Park property located just a few hundred feet to the west. Staff supports the design of the proposed preliminary plat.

Lynn Heath explained the Subdivision Committee discussed not requiring the improvement of McCandless Drive since it is not know what will happen with the future highway expansion and the delay of naming the reverse frontage road.

Kenny Hill of Poe & Associates was present to represent the application.

Mr. Hill said all issues discussed at the Subdivision Committee meeting have been addressed. He also noted that at this time the applicant will only be platting the parcel that will be used by the Minneha Township.

*Lynn Heath made a motion to approve the preliminary plat of the Moser Addition as presented. Ken Boone seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.*

**Review and approve the Final Plat of the Moser Addition**

Review and approve the Final Plat of the Moser Addition

**From Les Mangus’ Memo:** The proposed plats of the Moser Addition are the result of Staff’s recommendation to condition zoning of the property on satisfactory platting. The applicant owns two adjacent parcels at the northwest corner of US-54 and South McCandless Drive. The property adjacent to US-54 has an existing commercial building. The proposed final plat includes only the parcel which abuts US-54 and is proposed for use by the Minneha Township. Staff supports the design of the proposed final plat.

Kenny Hill of Poe & Associates was present to represent the application.

Mr. Hill stated all issue discussed at the Subdivision Committee meeting had been addressed.

*Lynn Heath made a motion to approve the final plat of the Moser Addition as presented. Byron Stout seconded the motion Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.*

**Member Items:** Les Mangus noted he had forwarded Commission members an email concerning an open public forum with Wichita at Summit Church regarding the design concept for the Highway 54 freeway from the County line to Cypress Street in Wichita.

Member Items:

Chairman Coon asked if this was coordinated with what will happen through Andover. Les Mangus said the City is negotiating with Parson, Brinker, Hoff, the engineers handling Wichita’s design, to do a conceptual design through the City over to a half mile beyond Prairie Creek Road. This will allow the City to have a plan to point to for zoning cases along Highway 54 showing our expectations for the future.

Chairman Coon asked if there would be a bridge at Andover Road. Les Mangus said all of the mile intersections will be grade separated in some matter. He noted they have stressed to the engineers this is more then a highway project to the City it is a planning project as well.

J.R Jessen asked Les Mangus how many years he thought it would be before the highway project was to Andover Road. Les Mangus said that would be hard to predict.

Byron Stout stated that 159<sup>th</sup> Street between 13<sup>th</sup> Street and 21<sup>st</sup> Street is in such despair that it is almost dangerous. Sasha Stiles explained Sedgwick County had been contacted about the condition of the road and it was patched, but because the sub grade of the road is deteriorated the surface treatment does not last much longer then a few weeks. John Cromwell asked if Harry Street had the same problem. Les Mangus said yes.

*John Cromwell made a motion to adjourn the meeting at 7:57 p.m. Dan Beck seconded the motion. Motion carried 6/0.*

Respectfully Submitted by

\_\_\_\_\_  
Kandace Hunt  
Administrative Secretary

Approved this 17<sup>th</sup> day of March 2009 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.