

ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
August 19, 2008
Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, August 19, 2008 at 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:03 p.m. Commission members present were Lynn Heath, Jan Cox, John Cromwell, Byron Stout and Jeff Syrios. Others in attendance were Mayor Ben Lawrence, Interim City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus and Administrative Secretary Kandace Hunt. City Council Liaison J.R. Jessen and member Dan Beck were absent

Call to order

Review the minutes of the July 15, 2008 Planning Commission meeting.

Lynn Heath made a motion to approve the minutes as presented. Jan Cox seconded the motion. Motion carried 5/0/1 with John Cromwell abstaining.

Review the minutes of the July 15, 2008 Planning commission meeting.

Communications:

Review the minutes of the July 8, 2008 and July 29, 2008 City Council meetings. The minutes were received and filed.

Communications

Chairman Coon noted in the July 29 City Council meeting minutes there was a request to add to the agenda a discussion on sidewalks along Harry at Heather Lakes, but he never saw anything in the minutes about the discussion. Les Mangus explained there was a question by a homeowner in the Heather Lakes area about whether sidewalks to connect the Andover Road Hike and Bike Path were planned down Harry Street to Heather Lakes. The homeowner was told there is not as it was well out of the scope of the project.

Review the minutes of the July 1, 2008 Site Plan Review Committee meeting. The minutes were received and filed.

Review the minutes of the July 10, 2008 Subdivision 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 a change of zoning district classification and special use was continued from the July meeting in order to allow the applicant time to gather more information regarding the traffic generated by the proposed development, and that traffic impact on the surrounding road system. I have met with the applicant, but no new information has been provided at this time.

Applicant David Ray was present to represent the application.

Mr. Ray informed the committee the R-4 zone was proposed to be confined to six acres and its location defined. He has also further restricted the use of the ground by defining limits in each zone. The six acres would be limited to an assisted living facility with the 31.25 acres being R-3 limited to 78 senior housing villas. Mr. Ray continued by saying he felt this was the best use and lowest utilization for the acreage.

Mr. Ray informed the Commission the engineers would address the drainage in the platting process and will insure there will be no more water coming off the lot then there is today. Mr. Ray said he would like to handle the traffic in platting when the actual number of lots and streets are defined.

Mr. Ray explained the six acres is defined by feet from the south corner and is in the process of being surveyed.

Lynn Heath asked if the 78 villas would be duplexes. Mr. Ray said yes. Chairman Coon asked if the duplexes would all be on individual lots. Mr. Ray said yes. Les Mangus asked if the 78 villas meant 78 dwelling units or 78 buildings. Mr. Ray said there will be 78 buildings. Les Mangus noted with 78 buildings there would be 156 dwelling units.

Jan Cox asked Mr. Ray if he had an idea of where the roads would go. Mr. Ray said he only had a rough idea at this point. He continued by saying the engineers he has spoke with agree, without doing a full traffic study on each road, that the light at Cloud will handle the entire development. Jeff Syrios asked if the applicant had reports from the engineers he spoke with for the Commission to review. Mr. Ray said not at this time as it takes months to assemble reports.

Chairman Coon asked Les Mangus how many lots 31 acres would support with an R-3 zone. Les Mangus said the applicant is offering to impose a limitation by Protective Overlay on himself that would limit it to 156 dwelling units or 78 buildings. Chairman Coon asked if that was less then what the R-3 zone would allow for. Les Mangus said it was considerably less. If developed at maximum density there could be around 500 dwelling units.

Jeff Syrios asked how many rooms would be in the assisted living facility. Mr. Ray said there would be 66 rooms.

Chairman Coon asked if there were any further questions for the applicant at this time. There were none.

Jeff Syrios asked Les Mangus for his thoughts on the proposal. Les Mangus said the restriction of the 31 acres to the R-3 district would relieve the concern he had based on the application for the R-4 district as the opening paragraph of the intent of an R-4 zone says the property has to be located on an arterial or collector street. Since the bulk of the property would be R-3, the extension of a collector street at the half mile line could be accomplished at platting. Les Mangus continued by saying he is still concerned about the general traffic created by the area and what affect it will have on the connections to the existing neighborhood. He had hoped for information from a traffic engineer to give a better plan for where the trips will actually go. The numbers from the trip generation can be looked at with the ITE but it can not predict where those trips are going to go. Les Mangus said he is not concerned with the

drainage because part of the platting process would be to develop a drainage plan with retention and detention. Jeff Syrios asked if the drainage plan would be similar to one created for a single-family development. Les Mangus said the requirements would be the same, the rate of run off from the site can be no greater after development then it was before development.

Lynn Heath asked if there was a flood plain map of the area. Les Mangus said the area is nowhere close to a mapped flood plain.

Chairman Coon asked if traffic flow could be controlled in the platting. Les Mangus said he did not believe the flow of traffic could be controlled in platting because wherever the connection is made it will be the driver's choice which way they go. Chairman Coon asked how that could be determined. Les Mangus said it could be determined with an experienced traffic engineer.

Chairman Coon asked if this development would fit under category 250, Retirement Community, of the Traffic Generation Report. Les Mangus said only if it is limited by Protective Overlay for the elderly and handicapped. If not limited area would go to category 210 which generates 10 trips per dwelling unit per day. Byron Stout asked if the intent of the applicant was for senior residents only. Mr. Ray said yes. Jan Cox asked if the applicant had a set age for who would be considered a senior citizen. Mr. Ray said 55 is the age legally considered to be senior citizens. Chairman Coon asked Les Mangus how age could be dictated in zoning. Les Mangus said it could be done by Protective Overlay.

Byron Stout noted at this point the Commission is supposed to be considering a zoning change. The concern does not seem to be with what is going to go into the location but rather how it will go into the location. Byron Stout said as he understood it, how the project was going to fit would address during the platting process. Jan Cox stated she felt the more the Commission could put into the application at this point the better off it would be.

Lynn Heath said he had expected the six acres zoned R-4 to be in the northwest corner with the collector street coming down from Kellogg into the area. Lynn Heath asked Les Mangus how the Commission could approve the application if a collector street had to be used. Les Mangus explained the requirement is for the entirety of the permitted uses in the R-4 district. In this case the applicant has narrowed it down to a much less dense subdivision. He continued by saying he did not think the Commission would be violating the spirit and intent of the zoning regulations if they were to consider the R-4 limited to the assisted living facility.

Jeff Syrios asked what the traffic impact would be if the land was developed as a single-family neighborhood. Les Mangus explained 37 acres of single-family development will net somewhere between two and three dwelling units per acre. This would mean upwards of 115 to 120 single-family dwelling units generating 10 trips per unit per day. Around 40 percent less traffic would be generated by the current proposal then a single-family development.

Chairman Coon asked Commission members if the traffic issue was their biggest concern. Lynn Heath stated his other concern was if this is the best location for an assisted living facility.

Les Mangus said the traffic had two different issues as traffic generation and traffic impact are two separate concerns. Jeff Syrios asked Les Mangus to

clarify what he meant by traffic impact. Les Mangus explained traffic impact is the different characteristics of the traffic such as what type of traffic and the hours of traffic.

Lynn Heath asked if there was any information on how often emergency vehicles go into assisted living facilities versus a nursing home versus a residential area. Les Mangus said a traffic expert would be able to provide that type of information.

Jan Cox stated she thought the Comprehensive Plan showed the area to the north of this property as future commercial and that it continued down to the subject property. After review of the Comprehensive Plan it was determined the subject property was shown as future residential development.

Chairman Coon asked Commission members if they felt there was enough information to deliver a decision. Byron Stout said he would like to have seen more information on how the traffic and will work, but he has seen applications come before the Commission that are fairly blank slate and receive approval. Lynn Heath noted this application is somewhat unique.

The Commission moved to its checklist of 17 factors and findings to determine if further information was needed to make a decision.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 6

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 multiple dwelling units for the elderly and handicapped including assisted living and nursing home facilities.

CASE HISTORY: Vacant agricultural land

LOCATION: Southwest corner of Allen & Bales streets

SITE SIZE: 37.25 acres

PROPOSED USE: Mixed use/density retirement community

ADJACENT ZONING AND EXISTING LAND USE:

North: Butler County Ag-40 former Charlie's Salvage

South: Butler County Ag-40 agricultural land

East: R-1 Bales single family residential neighborhood

West: R-1 Mecca Acres single family residential neighborhood

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.

* 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; South: Butler County AG-40 agricultural land; East: R-1 Bales single-family residential neighborhood; and West: R-1 Mecca Acres single-family residential neighborhood.

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; South: Butler County AG-40 agricultural land; East: R-1 Bales single-family residential neighborhood; and West: R-1 Mecca Acres single-family residential neighborhood.

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

STAFF:

PLANNING:

COUNCIL:

4. Would the request correct an error in the application of these regulations?

YES NO
 STAFF:
 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
 STAFF:
 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
 STAFF: All are available, or easily extended.
 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
 STAFF:
 PLANNING:
 COUNCIL:

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

YES NO
 STAFF: The skilled nursing facility could require screening depending on location
 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:
 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
 STAFF: The aging population requires more housing opportunities.
 PLANNING:
 COUNCIL:

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

YES NO

<input checked="" type="checkbox"/> STAFF: <input checked="" type="checkbox"/> PLANNING: <input checked="" type="checkbox"/> COUNCIL:	<p>12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?</p> <p>YES NO</p> <p>STAFF: Increased lighting, traffic, drainage, noise, emergency vehicle responses, etc. PLANNING: Increased traffic, drainage, noise, emergency vehicle responses, etc. COUNCIL:</p>
<input checked="" type="checkbox"/> PLANNING: <input checked="" type="checkbox"/> COUNCIL:	<p>13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?</p> <p>YES NO</p> <p>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.</p>
<input checked="" type="checkbox"/> PLANNING: <input checked="" type="checkbox"/> COUNCIL:	<p>14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?</p> <p>YES NO</p> <p>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". Chapter 9 TRANSPORTATION would suggest that the western boundary of the subject property is a potential location for a collector street because "In general, they [collector streets] should occur at half-mile intervals, but not necessarily form a rigid north-south and east-west axis."</p>
<input checked="" type="checkbox"/> PLANNING: <input checked="" type="checkbox"/> COUNCIL:	<p>15. What is the support or opposition to the request?</p> <p>YES NO</p> <p>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. COUNCIL:</p>
<input checked="" type="checkbox"/> NO	<p>16. Is there any information or are there recommendations on this request available from knowledgeable persons, which would be helpful in its evaluation?</p> <p>YES NO</p> <p>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</p>

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.

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:
 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.

Mr. Ray stated he felt there was an agenda to kill the application by some members of the Commission. Mr. Ray said he thought the emergency vehicle traffic was figured into the 3.3 traffic count and would not be additional traffic. He said he is trying to accommodate as much as he can and still get the project developed to bring tax dollars to the city. Mr. Ray said he could move the six acres up to the northwest corner if that is where the Commission would like to see it and could also drop the R-3 completely and just go for the R-4 since that request is the lowest impact. He continued by saying Jeff Syrios had made a comment at last month's meeting that the developer has the right to develop his land and he is trying to work with the City and residents to do so. Jeff Syrios said he appreciated that fact but the Commission did not see any plans in advance, and there is still no traffic study or conceptual design all of which the Commission had asked for at the previous meeting. Mr. Ray informed the Commission there was not enough time to produce a real traffic report. Jeff Syrios said he understood, but Mr. Ray knew what the Commission wanted to see at this meeting, the concern is will this project work at this location. Mr. Ray said he would like to do the study and address the traffic issue where it is normally addressed which is in the platting process. He continued by saying he is not going to build anything until it is approved, traffic should not be an issue tonight because he will not be building until a traffic study has been completed and it fits this property. Mr. Ray said he would like to wait until the platting process to handle the studies that needed he has investors to help with the cost. John Cromwell explained to Mr. Ray the reason the Commission would like to see the traffic study before the platting process is there is less opportunity to impose restrictions at that time. Mr. Ray asked if dropping the R-3 district request would help. The Commission said no the parcel needs to be considered as a package.

Chairman Coon asked Mr. Ray if the location of the six acres with an R-4 zoning request was absolute. Mr. Ray said no. Jan Cox asked Mr. Ray if the six acres was moved to the northwest corner and a collector street was put in what he would do with Allen Street. Would he have anyone exiting on Allen

or would he internally have everyone exiting onto the collector. Mr. Ray said if the collector went all the way down the property they would probably use the collector. Jan Cox asked if Mr. Ray would put in an internal road to allow the residents of the development to exit onto the collector. Mr. Ray asked if there would be a light at Highway 54. Jan Cox said possibly if it is the collector street at the half mile. Mr. Ray asked if there were plans to do so. Jan Cox said that is what she wanted to hear from the applicant. Mr. Ray noted that he did not own any land in that area. Jan Cox said half of the collector road would be his and her question is if the applicant has a paved road on the west would Allen also be paved. Mr. Ray said if there is a paved road on the west it would not make sense for him to pave Allen. Jan Cox asked if he would be encouraging people from his development to exit on the west. Mr. Ray said yes.

Jan Cox made a motion to continue case Z -2008-04/SU-2008-02 until additional information is received from the applicant. The additional information requested is traffic flow, location of the R-4 district if changed, internal drawings, a plan for pavement and ingress and egress. Lynn Heath seconded the motion. Chairman Coon asked if there was any further discussion. Byron Stout asked if the developer could still accomplish the 156 dwelling units in the R-4 district. Les Mangus explained the number dwellings per acre in the R-3 and R-4 districts are the same; it is the style of buildings that is different. The R-3 is limited to four family attached dwellings; the R-4 allows an unlimited multi-family dwelling. Lynn Heath said he did not know if there was anything to gain by continuing the case and asked Les Mangus if it would be possible to approve the zoning contingent on the approval of the plat. Les Mangus explained the satisfaction of platting is a standard contingency on zoning. Lynn Heath noted the Commission had in a sense been spoiled by the fact that many developers bring plans along with them when applying for a zoning change which allows the Commission to handle a zoning case and review of a sketch plat at one time, but Mr. Ray is correct that zoning should be approved then the applicant could move onto the development of the plat. Jeff Syrios asked if by moving forward and approving the zoning request with Protective Overlays any chance to pull back would be lost. Les Mangus said in his opinion all of the risk lies with Mr. Ray because during the platting process required improvements may come up that he may not be able to afford. If that was to happen and Mr. Ray decided not to move forward with the plat his zoning request is automatically null and void. Chairman Coon asked if in the platting process the Commission said ingress and egress has to be on the collector would that force the applicant to arrange things to make that happen. Les Mangus said yes that would force the applicant to come up with the collector street connection up to Highway 54 where there would potentially be a traffic signal at Onewood Drive. Byron Stout asked what the problem would be with approving the application tonight if conceptually there is no problem with the type of zoning being requested and Protective Overlays are placed on the district. Lynn Heath said he was more comfortable with the R-3 and R-4 zones now than he was last month because of the restrictions to the number of dwelling units and the fact that retirement communities generate less traffic. Jan Cox said she did not feel comfortable approving the application because she does not feel she has enough information. Chairman Coon asked if it could all be handled in the platting process. John Cromwell noted Les Mangus had commented earlier there would be less flexibility at that time and there is a perception there would be less options if the Commission waited until the platting. Les Mangus said that was not correct. The platting process is where the rubber hits the road and Mr. Ray would have to put up letters of credit and guarantees for

whatever improvements the Commission requires. Byron Stout asked what would happen to the zoning if the Commission's requirements could not be met at platting. Les Mangus said the typical condition attached to a zoning case is that it be satisfactorily platted and approved in one year. If a year passes and that plat has not been approved the case is null and void. Byron Stout asked if that meant it would go back to AG-40. Les Mangus said the zone will not change until the plat has been filed. Motion tied 3/3.

Lynn Heath made a motion to approved case Z-2008-04/SU-2008-02 with the restrictions by Protective Overlay that there be only on building limited to 66 rooms on the six acres zoned as R-4 and that the R-3 zoning district be limited to 78 housing villas restricted to senior citizens ages 55 and older with the condition that the property be platted and approved within one year. Jeff Syrios asked if the motion should include moving the R-4 district to the northwest corner. Lynn Heath stated he thought that could be handled in platting. John Cromwell noted if the application is approved without moving the six acres it would have to be rezoned at a later date. Les Mangus said John Cromwell was correct. If the motion was approved as is changing the location of the six acres zoned as R-4 would require another application and public hearing. Lynn Heath withdrew his motion.

Les Mangus noted that in the case of a tie vote the Zoning Regulations state "if the Commission fails to make a recommendation on a rezoning request the Commission shall be deemed to have made a recommendation of disapproval."

Jeff Syrios asked if the Commission could move the R-4 district with the metes and bounds description provided. Les Mangus suggested the Commission consult with the applicant as to whether he is willing to take the metes and bounds description and move it somewhere else.

John Cromwell asked if the collector coming down from Highway 54 has sufficient right-of-way along the boundary of this property has well as to the north to have a full collector street. Les Mangus said there is no right-of-way to the north of the property. It would be part of the platting process for this parcel to dedicate the necessary right-of-way for a collector street. For some reason the County has put a name on what is a private driveway between several property owners. Les Mangus said he has researched the area and to the best of his knowledge there is no dedicated public street right-of-way. Jan Cox stated this area bonds Mecca Acres and asked if the Commission would be assuming it will take half from the subject property and half from Mecca Acres. Les Mangus said he did not know how it could be assumed half would be taken from Mecca Acres as they are platted, developed lots. It would be awfully intrusive to expect to acquire right-of-way from those existing platted lots. Jan Cox asked if Mr. Ray would be asked to dedicate 100 percent of the right-of-way if it is a collector street. Les Mangus said yes.

Louis Harper presented Les Mangus with a dedicated deed from Butler County stating Frey Street is 581 feet of dedicated road. Les Mangus reviewed the letter and deed.

The question was raised as to whether or not the public would be allowed to speak. Chairman Coon noted the Public Hearing had been held at the previous meeting. The Commission decided it would hear any new information the public might have.

Chairman Coon opened the public hearing at 8:27 p.m.

Sally Brimer of 845 S. Allen said her home is the one right next to where the applicant is proposing to construct the assisted living facility. She does not want an assisted living facility next to her home. Ms. Brimer built her home in the area 40 years ago so she would not have businesses on top of her. She said she felt it would be better to have this proposed development located closer to Kellogg where there is a collector street. Ms. Brimer asked if the Commission would be willing to watch a Power Point presentation detailing the flooding issue in the area. Chairman Coon asked how long the presentation was. Ms. Brimer said 13 minutes and 44 seconds. Chairman Coon asked if the presentation addressed the majority of the comments from the public. Ms. Brimer said many residents had contributed. Chairman Coon agreed to see the presentation.

Pat Malcom of 844 Allen assisted Ms. Brimer in presenting the presentation.

Ms. Brimer informed the Commission she had four points to present as to why they do not believe this is the type of development that would benefit their neighborhood at this time. The first is the flooding of the neighborhood. Ms. Brimer said the neighborhood has shallow ditches, inadequate drainage culverts and the retention pond is kept to full and the water flow is redirected against the natural drainage. Since the Holiday Inn Express was built the pond is kept to a certain level, drains can not handle the runoff. Ms. Brimer said she had investigated retention ponds and found several websites that mention putting asphalt, paving and housing in and blocking natural water ways is one of the causes for the flooding. She feels putting more paving and housing into the neighborhood will only make the situation worse. Ms. Brimer said the developer wants to put another pond in the area and as she understands it will be kept the same as the current pond. Residents feel if a second pond is placed in the area and kept full there will be more flooding to the north and south. Ms. Brimer showed photos of what the area looks like after rains and noted that with the last rain the water in her drainage ditch reached 12 to 16 inches.

The Commission next viewed a video filmed on July 9 of last year by the Parsons family who lives at 406 W. Partridge Lane.

Ms. Malcom stated the second point which was the traffic on the neighborhood roads. The Commission viewed photos of the roads and intersections in the area. Ms. Malcom spoke of the intersection of Bales and Andover Road and stated there can be extreme waits to get onto Andover Road which became worse when the neighborhood to the east was put in. The residents are concerned that with the opening of Dillon's and other new businesses not only will the waiting increase, but accidents as well. Therefore for if traffic was increased in the Bales addition, waiting and accidents, especially with the elderly drivers, would increase. Ms. Malcom noted street expansion would cause exceptional problems for the homeowners. The last intersection shown is across from the only entrance and exit into the new Dillon's, which is the largest Dillon's in the state. This intersection and Bales is the only access to go west bound on Kellogg and to enter Andover. Ms. Malcom said this is a traffic problem in the making without the additional traffic from Mr. Ray's development.

Ms. Malcom next showed photos the roads in the area. She noted at last months meeting it had been stated the type of development proposed produce less traffic then a single-family housing area. Residents disagree with this

study because seniors and handicapped people will have family visiting and homecare workers that come and go. The assisted living facility will also have paid and volunteer employees as well as delivery trucks and emergency vehicles.

Ms. Malcom showed the Commission photos of Frey Road and noted it was a dedicated road and shown on the Butler County GSI map as going through to Mr. Ray's property. She continued by saying it is a half mile marker which makes it a collector street and the street runs into the property approximately 581 feet. While looking at maps showing Frey, the residents happened to notice a road running through the old salvage yard and down to Mr. Ray's property. They suggested investigating this road as an outlet/inlet for the development.

Ms. Malcom stated if Allen was widened and made adequate for the proposed street many homeowners would have to remove existing structures on their property and many easements would be moved closer to homes.

Ms. Brimer stated the residents concern for the cost of development as they are not asking for these improvements. There is concern that added special taxes could not be afforded by current residents and that older homes with special versus new homes with specials would be less appealing to potential homebuyers. The risk of the proposed development failing and not being maintained is also a concern for residents as they feel it would lower their property value.

Ms. Brimer next stated several questions she had for the application and the Commission.

1. If the villas are sold to individuals that are seniors with disabilities, will the property be maintained by a service?
2. Will neighborhood residents or business owners pay for a stop light at Andover Road and Bales if the traffic begins to "warrant" it? Who will decide this?
3. Will the commercial signs be put in the neighborhood? Will they be lighted? Will there be a height requirement?
4. Will the emergency vehicles sound sirens and lights within the neighborhood limits?
5. Will there be a fence or wall constructed? Will the neighborhood have access to those plans?

Daniell Dodds of 650 Daisy informed the Commission that the school bus stops at Bales and Daisy and Bales and Allen.

Ms. Brimer stated she felt the Commission should be very particular about where the assisted living facility is placed if the zoning is approved. She also said she thought it was funny the applicant had chose to place the assisted living facility around her neighborhood versus the homes the applicant is building.

Chairman Coon thanked Ms. Brimer and Ms. Malcom for their presentation.

Louis Harper of 415 W. Partridge had four items he wanted to present to the Commission. First Mr. Harper stated in 1965 Mr. Frey had the foresight to see he needed a road back to the property Mr. Ray has purchased. Mr. Harper spoke with Butler County about Frey Street and they felt very certain, seeing how all the maps show the roads go completely through, that somewhere in

the records it would show Frey Street does go through. Mr. Frey saw the need and it is still needed today. Andover needs an arterial road other then Andover Road. Second Mr. Harper discussed the pond issue. The water that comes down through the property comes from north of Kellogg and into the existing pond. Mr. Harper said the pond was engineered perfectly, but he is flooding more today then he has in any of the 20 years he has lived in the area. Third Mr. Harper noted it would not matter if there are two entrances and two exits as people will go out the same way they came in. Lastly Mr. Harper informed the Commission all the streets in the area are 40 foot wide. After reading the City's Street Policy Mr. Harper determined every property owner in the area is going to be asked to either donate or sale their land to the City. Mr. Harper stated as he understands it, the expense of buying the land comes from the City but when they are done with the road development that cost is added on to the cost of the road development. Mr. Harper stated he did not see where they would be getting paid for their property in this process.

Chairman Coon thanked Mr. Harper for his comments.

Corey Bevan of 844 S. Daisy Lane stated the land to the north of Mr. Ray's property is commercial and suggested looking at the overall development of that land and looking at Frey as a better possibility as well as placing the R-4 district of Mr. Ray's development as close as possible to the future commercial area.

The Commission thanked Mr. Bevan for his input.

Chairman Coon closed the Public Hearing at 8:56 p.m.

Les Mangus explained the dedication deed Mr. Harper presented is for a 40 foot public street from Highway 54 south 581 feet. This would line up with the west edge of the subject property, but there is almost 700 feet in between the end of this dedication and the subject property. There is no connection for the full length of the Mecca Acres subdivision. Les Mangus continued by saying Ms. Dunham at Butler County had clarified in her letter to Mr. Harper that the County's map is incorrect; Frey Road should not have been mapped south of west Clyde Street.

Lynn Heath asked if the applicant had indicated whether or not he was receptive to moving the R-4 district. Chairman Coon said he was. Byron Stout asked if there was enough information to specify where the R-4 district will go. Les Mangus said no.

Mr. Ray came to the podium to address questions presented during the public hearing.

Mr. Ray said there is a water problem in the area, but in the engineers will design the neighborhood to ensure there is no more water leaving the property then does so today. Mr. Ray informed the Commission the property will be maintained by a homeowners association so the elderly residents will not be responsible for the upkeep of the property. Mr. Ray said he would be willing to drop the R-4 until the engineer study with the traffic was complete and just address the R-3 district at this time. Jan Cox asked if the entire area would be zoned R-3. Mr. Ray said yes. Byron Stout asked Les Mangus if the R-4 was dropped at this time would the applicant have to reapply. Les Mangus said it would require a new application and public hearing.

Jeff Syrios asked if the Commission was in agreement that the R-4 district would work better in the northwest corner. The Commission was in agreement. Jeff Syrios asked if the applicant was willing to move the R-4 district to the northwest corner. Mr. Ray asked if he agreed to putting the R-4 in the northwest corner with the remainder being R-3 could it be approved tonight. Jeff Syrios said the Commission will need a metes and bounds description before they can do so. He continued by saying at last month's meeting he had stated that "although it might be backwards he would like to see a conceptual plan so the Commission can find a way to make it work for everyone". There is so much concern and so much opposition to this somewhat odd idea for development for the area that it would help to go through the process a little backwards. Jeff Syrios said he is fairly sure this land will not remain agricultural, it will get developed. The owner of the land wants to develop it and he has a right to do so and the residents of the area have the right to object, but the Commission can not say it won't happen because the residents don't like it.

Jan Cox made a motion to continue case number Z-2008-04/SU-2008-02 until further information is provided on the traffic, location of the R-4 district, the internal roads, future use of Frey and Allen and ingress and egress. Lynn Heath seconded the motion. Byron Stout asked if emergency vehicles are included in the traffic counts for a retirement community. Les Mangus said the study includes all trips including emergency vehicles, mail, school buses, deliveries and employees. Motion carried 6/0.

SU-2008-03 - A Public Hearing on a Special Use request to establish retail and service business uses in the I-1 and B-6 zoning districts.

SU-2008-03

From Les Mangus' Memo: This application for a special use reflects virtually the same requested uses as the previous case in the B-6 Business District in the Andover Commercial Subdivision across the street, only this application includes a parcel of property zoned I-1 Industrial. As you know the B-6 and I-1 are very similar with the exception of the B-6 requirement for "the entire frontage to be used for office space or display for wholesale or retail sales." Staff is concerned about the incompatibility of what could be dock high loading spaces or heavy manufacturing operations with the people spaces necessary in the retail and service business uses requested. Staff recommends approval of the request for that portion of the property zoned B-6 but not for the I-1.

Chairman Coon asked Les Mangus for staff comments. Les Mangus explained this application is for the same uses granted to a B-6 property located a few 100 feet away. The only difference is part of this applicant's property is zoned I-1 Industrial.

Kim Quastad of KB Development was present to represent the application.

Mr. Quastad explained his application for a Special Use was to allow mixed use businesses in the area. Lynn Heath asked if the application was for the entire area. Mr. Quastad said the application is for the areas of the property zoned I-1 and B-6.

Chairman Coon asked if the applicant wanted the I-1 and B-6 to remain along with the Special Use. Mr. Quastad said yes.

Jan Cox asked Les Mangus to clarify the last sentence of his memo regarding

this application. Les Mangus said he is not at all concerned about allowing the retail and service business uses in the B-6 zone because it is supposed to be a transition between the Industrial Park and the retail and service businesses. His concern is the interface between pure industry and the list of retail and service businesses the applicant would like to add. In the B-6 zone there is a mandate that the front end of the industry be offices or retail space, not dock high loading which could, if this Special Use is granted, be next to any of the remaining retail businesses and services. He continued by saying he did not think the market should be the decider in the combination of uses because there are a lot of uses that are absolutely incompatible. Lynn Heath noted the application previously approved for a similar request is on Andover Road, this property is behind B-3. There is a difference between the two situations. Les Mangus said Lynn Heath was absolutely right. The building on Andover Road is required by the zone to have an office or retail front, it can not have dock high loading or trucks in and out; it has to be people space up front. In the industrial zone it could be any of those permitted uses next door to any of the permitted uses the applicant is asking to insert from the B-2 and B-3 zone. Jan Cox asked what Les Mangus would suggest for a solution. Les Mangus said he would suggest the Special Use being requested be limited to the property zoned B-6. Mr. Quastad said the industrial building currently under construction is being built for flexibility and has no dock high areas and no dock bays. Lynn Heath asked if Mr. Quastad would consider changing the I-1 to B-6 to allow for the Special Use on the entire property. Mr. Quastad said at his time he did not want to drop the I-1.

Jan Cox stated her concern was even though the building does not have docks today, it does not mean they would not be there someday because the I-1 district allows for them. Lynn Heath said it could be prevented with restrictions. Les Mangus said it would be difficult to write an ordinance that would restrict the I-1 district to a point that it would be compatible with uses from B-2. Jan Cox asked if in Les Mangus' opinion the Special Uses in the I-1 would not be a good decision. Les Mangus said in his opinion they would not be.

Mr. Quastad noted there are very few differences between the permitted uses in the I-1 and B-6 districts. Les Mangus explained the difference is in the B-6 zone it is required that the frontage of the building be office or retail. Mr. Quastad asked what the classification of office and retail is. Les Mangus explained the Zoning Regulations state under number four of the Use Limitations "all buildings shall be of such kind or character that the entire frontage of the ground floor along the principal access street is to be used for office space or display or wholesale or retail sales." The intent is for people transaction space, not sheer industry. He continued by saying his concern was for the noise, traffic, smells, etc. that go along with an industrial business being located next to a service or retail business.

Chairman Coon asked if the frontage of the current building faced west. Mr. Quastad said yes. He continued by saying the developer's have designed the building to have two story offices and the lower portion of the building has been designed with store front glass. Chairman Coon asked if the applicant was leaning towards lowering the I-1 to B-6. Mr. Quastad the developer's were not sure the I-1 would flourish with the B-2 and B-3 in front but they would like to have the capability. He continued by saying many of the uses allowed in the I-1 District are allowed in the B-6 district so the noise, traffic, etc. Les Mangus had previously spoke of would still be present, the only difference is the store front feel. The developer's are trying to give the store

frontage feel on the west side of the building.

Chairman Coon asked if there was anything specific the applicant wanted to add to the I-1 district. Mr. Quastad said the developer's goal is to maintain the greatest flexibility of mixed use business in the I-1 district they possibly can. The concern with loosing the I-1 is he does not know how much of an effect it will have on the development with future tenants.

Chairman Coon opened the public hearing at 9:49 p.m. With no input from the public the public hearing was closed at 9:49 p.m.

The Commission next reviewed its checklist of 17 factors and findings.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 6

REZONING REPORT *

CASE NUMBER: **SU-2008-03**

APPLICANT/AGENT: **KB Development**

REQUEST: **Special use to establish retail and service businesses in the B-6 Business and I-1 Industrial Districts**

CASE HISTORY: **Vacant lot & spec. building under construction**

LOCATION: **Northeast corner of Andover Rd. & 13th St.**

SITE SIZE: **+/-2 acres**

PROPOSED USE: **Retail & service businesses integrated with commercial & industrial uses**

ADJACENT ZONING AND EXISTING LAND USE:

North: Kansas Turnpike

South: B-6 Andover Commercial Subdivision vacant property

East: R-2 single family neighborhood

West: B-2 Timbuktu bar and Westar electric transmission station

Background Information: There is an industrial building under construction on the I-1 portion of the subject property, and a site plan has been approved for the eastern portion of the property.

* 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
	<p>STAFF: See Adjacent Zoning and Existing Land Use listed above.</p> <p>PLANNING: Subject property: B-6 Business and I-1 Industrial; North: Kansas Turnpike; South: B-6 Andover Commercial Subdivision vacant property; East: R-2 single family neighborhood; and West: B-2 Timbuktu bar and Westar electric transmission station.</p>
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
	<p>STAFF: See Adjacent Zoning and Existing Land Use listed above.</p> <p>PLANNING: Current Zoning: B-6 Business and I-1 Industrial; North: Kansas Turnpike; South: B-6 Andover Commercial Subdivision vacant property; East: R-2 single family neighborhood; and West: B-2 Timbuktu bar and Westar electric transmission station.</p>
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
<input checked="" type="checkbox"/>	STAFF:
<input checked="" type="checkbox"/>	PLANNING:
COUNCIL:	

4. Would the request correct an error in the application of these regulations?

YES	NO
<input checked="" type="checkbox"/>	STAFF:
<input checked="" type="checkbox"/>	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
<input checked="" type="checkbox"/>	STAFF: The increased traffic and activity in the area make the property more suitable for mixed commercial uses
<input checked="" type="checkbox"/>	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
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<input checked="" type="checkbox"/>	STAFF:	All are in place & adequate
<input checked="" type="checkbox"/>	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	
<input checked="" type="checkbox"/>	STAFF:	
<input checked="" type="checkbox"/>	PLANNING:	
	COUNCIL:	
		8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
YES	NO	
<input checked="" type="checkbox"/>	STAFF:	An approved screening plan is in place.
<input checked="" type="checkbox"/>	PLANNING:	An approved screening plan exists.
	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	
<input checked="" type="checkbox"/>	STAFF:	A similar building is being built south of the subject property
	PLANNING:	Yes with B-6, no with I-1
	COUNCIL:	
		10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
YES	NO	
<input checked="" type="checkbox"/>	STAFF:	
<input checked="" type="checkbox"/>	PLANNING:	
	COUNCIL:	
		11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?
YES	NO	
<input checked="" type="checkbox"/>	STAFF:	
<input checked="" type="checkbox"/>	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	
<input checked="" type="checkbox"/>	STAFF:	No detriment is perceived compared to the existing permitted uses
	PLANNING:	None
	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	
<input checked="" type="checkbox"/>	STAFF:	Page 1-1 of the Zoning Regulations lists the purposes of zoning, one of which is "To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone".

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: 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
X	STAFF: None at this time
X	PLANNING: None
X	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 limited to the B-6 portion of the application.
X	PLANNING:
COUNCIL:	
17. If the request was <u>not</u> 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:
X	COUNCIL:

John Cromwell made a motion to approve the Special Use of the B-6 property with B-2 and B-3 permitted uses except the exclusions listed on page three of the application and proposes the Commission reject the variations to the I-1 portion of the application. Byron Stout seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

Byron Stout made motion at 9:55 p.m. to take a five minute break. Chairman Coon seconded the motion. Motion carried 6/0.

The Planning Commission returned from a five minute break at 10:00 p.m.

VA-2008-03- A Public Hearing on a petition for a vacation of the south 10 feet of the 25 foot front yard setback and utility easement of Lot 11, Block 2, Crescent Lakes Fourth.

VA-2008-03

From Les Mangus' Memo: This petition for vacation of the south 10 feet of the 25 front yard utility easement is the result of the owner's desire to place a private water well in the front of the house. The subject property is somewhat of a corner lot, being on the corner of an eyebrow cul-de-sac. AT&T and Westar have responded that they believe that they may have facilities in the ground in conflict with the request. The petitioner has been asked to provide

clarification of the location of the utility facilities and the existing utility facilities.

Matt Peters was present to represent the application.

Mr. Peters informed the Commission the vacation request was located at 601 Crescent Lakes Drive and is for the south 10 feet of the 25 foot setback and utility easement for the use of a water well.

Jan Cox asked why there was not a utility response from Westar. Les Mangus explained three utility companies say they have lines in the area but no one has identified exactly where the lines are located or done a survey to determine whether or not they are in conflict. The utility companies are putting the responsibility on the applicant to provide the information. He continued by saying based on the information presented tonight, the Commission could not recommend the vacation be approved. Lynn Heath asked if the applicant needed to call 1-800-DIG. Les Mangus said that had already been done, now someone needs to physically survey where this 10 foot vacation is and determine if any facilities are in the area proposed to be vacated.

Lynn Heath asked Mr. Peters if anything was hit when the well was drilled. Mr. Peters said no.

Jeff Syrios asked how the applicant could determine if the utility facilities were located in the portion of the easement he needs. Les Mangus said it is done by a survey to establish where the 10 foot line would be in relation to the locate flags.

John Cromwell asked who the applicant would need to contact to get the information needed. Les Mangus said the applicant would need to contact a surveyor to locate the property irons, make the measurements and show the lines on an exhibit to prove to the utility companies there would be no conflict.

Mr. Peters asked if he changing his request to two foot would solve the problem. Les Mangus said the issue would remain the same.

Chairman Coon opened the public hearing at 10:06 p.m. with no public input to come before the Commission. Chairman Coon closed the public hearing at 10:06 p.m.

Jeff Syrios moved to continue case VA-2008-03 until the September 16, 2008 meeting. Byron Stout seconded the motion. Motion carried 6/0.

VA-2008-04- A Public Hearing on a petition for a vacation of the west 10 feet of the 25 foot front yard setback and utility easement of Lot 8, Block 3, Green Valley 9th.

VA-2008-04

From Les Mangus Memo: This petition for vacation of the west 10 feet of the 25 foot front yard utility easement is the result of the owner's desire to place a private water well in the front of the house. The well has already been drilled in conflict with the platted easement. The utility companies have been notified and responded with no conflicts. Staff recommends approval as petitioned for.

Eric Tanner was present to represent the application.

Mr. Tanner stated he was confused about the 25 foot setback and asked someone to tell him where the sidewalk was located on his property plot. Les Mangus explained the sidewalk is adjacent to the Douglas Avenue right-of-way line. There is 25 feet behind the sidewalk that is a utility easement. Mr. Tanner asked where the 25 foot setback began. Les Mangus said it starts behind the sidewalk.

Mr. Tanner stated Chase Drilling, the company that drilled the well, contacted the City and was provided with a plot drawing. He feels this plot is misleading because it does not show the location of the sidewalk. He continued by saying his well is almost 36 feet away from the road, but short of the 25 foot setback because the setback starts at the edge of the sidewalk closest to the home. Mr. Tanner stated he felt this meant he loses 25 feet of property value because he does not own it and he can not use it. He continued by saying he is asking for a vacation of the last six feet of the setback.

Jeff Syrios asked if there was any problem with granting the vacation. Les Mangus said all three utility companies have responded that they are clear of the requested 10 feet although they do have facilities in the 20 foot utility easement that runs up the south side. The utilities have requested the 25 feet not be vacated along the 10 feet of lot number seven and eight.

Mr. Tanner stated his well project was on hold for two months because the drillers wanted to make sure it was placed in the right location. He again stated the plot plans given to contractors are somewhat misleading. Les Mangus responded by saying there is absolutely nothing misleading about the plot plan. The right-of-way line is clearly marked; the center line of the road is clearly marked. Someone did not completely understand the plan and went ahead and drilled. This has been heard 100 times before and contractors need to understand the plans and not make assumptions.

Jan Cox asked if the letter received from Westar regarding this case was still valid since it referred to the request of the south 10 feet when the request is for the west 10 feet. Les Mangus explained the request is for the west 10 feet of the 25 foot front. The utilities concern is that the south 10 feet remain in the easement.

Chairman Coon opened the Public Hearing at 10:15 p.m. There was no public input. Chairman Coon closed the public hearing at 10:15 p.m.

John Cromwell made a motion to approve the vacation for the west 10 feet of the 25 foot front yard setback and utility easement of Lot 8, Block 3, Green Valley Greens 9th except for the south 10 feet. Byron Stout seconded the motion. Motion carried 6/0.

VA-2008-05- A Public Hearing on a petition for a vacation of the west 10 feet of the 25 foot front yard setback and utility easement of Lot 9, Block 3, Green Valley Greens 9th.

VA-2008-05

From Les Mangus' Memo: This petition for vacation of the west 10 feet of the 25 foot front yard utility easement next door to the previous case is the result of the owner's desire to place a private water well in the front of the house. The well has already been drilled by the same contractor in conflict with the platted easement. The utility companies have been notified and

responded with no conflicts. Staff recommends approval as presented.

Travis Stowell was present to represent the application.

Mr. Stowell stated his situation was similar to Mr. Tanner's and he had nothing to add.

Chairman Coon opened the public hearing at 10:17 p.m. There was no public input. Chairman Coon closed the public hearing at 10:17 p.m.

Lynn Heat made a motion to approve the vacation of the west 10 feet of the 25 foot front yard setback and utility easement of Lot 9, Block 3, Green Valley Greens 9th. John Cromwell seconded the motion. Chairman Coon asked if the vacation had needed the same 10 foot exception as the previous vacation case. Les Mangus said no. Jan Cox noted Westar had again referred to the request as the south 10 feet. Les Mangus said there are no facilities in the west 10 feet. Motion carried 6/0.

Review and approve the Final Plat for the Andover Industrial Park 2nd Addition located at the SE corner of Andover Road and King Street.

From Les Mangus' Memo: The proposed final plat is a matter of platting a +/- 4 acre parcel of land adjacent to the existing transportation facility that USD 385 bought with metes and bounds description from Promote Andover Inc. just before the City assumed ownership of the Industrial Park. The transaction was exempt from platting at that time because it was considered a boundary shift between owners. USD 385 has proposed making improvements to the property for additional bus parking, which triggers the requirement for platting. The plat represents the boundaries of that metes and bounds property.

Review and
approve the Final
Plat for the
Andover Industrial
Park 2nd Addition

The issues at hand with this plat are not about the lines on the plat, but rather the dedications and improvements required with platting. The parcel sold by PAI represented the next lot area to be platted with the expansion of the Industrial Park, which did not include the logical extension of King Street Right of Way. The Subdivision Regulations require any new area to be platted to provide direct access to a public street, public water source and public sewer. This requirement would engage the need for guarantees for the extension of a water line and paving across the property, and any necessary storm sewer.

The expansion of the Industrial Park is on the City Council agenda, and really needs to be decided before the plat is finalized because if the required improvements were to have to stand alone to support this lot only, the costs would probably be prohibitive.

Staff has no opposition to the plat, but feels that the improvements issue needs to be resolved at the City Council level.

Phil Meyer of Baughman Company was present to represent the application.

Mr. Meyer explained the final plat is for a piece of property that sets immediately adjacent to the school district's bus barn. The school district would like to expand the facility for more storage. The property was purchased by a metes and bounds legal description prior to the City acquiring the land. At the time of purchase the land had not been platted and before

improvements can be made platting has to occur. Mr. Meyer continued by saying the developers will cross the existing drainage ditch at the north end of the lot for which drainage engineering plans have already been approved. At this time the school district does not need access to the street on the south line. Mr. Meyer said sewer, water and streets were discussed in the Subdivision meeting and it was determined the improvements were issues that would need to be worked out with the City Council.

Chairman Coon asked Les Mangus if all staff comments had been addressed. Les Mangus said the issues with the black and white lines of plat have all been taken care of. The requirements for improvements will need to be handled by the City Council.

Byron Stout made a motion to approve the Final Plat of the Andover Industrial park as presented. Jan Cox seconded the motion. Motion carried 6/0.

Review and approve the revised Planned Unit Development Plan of the Marketplace Commercial Second Addition located at the SE corner of US 54 and Andover Road.

From Les Mangus Memo: This final PUD has returned to the Planning Commission as a result of a proposed change in allowing one access point to Plaza Street between US-54 and Cloud Avenue. Staff has had many discussions with the developer, design engineer, KDOT and City Engineer on the relaxation of the complete access control, and agreed that one point appropriately spaced from the highway is acceptable.

Mark Buckingham of MKEC was present to represent the application.

Mr. Buckingham explained the revision to the PUD was to allow a right-in-right-out access off of US 54 on the west side of Reserve D onto lot seven. Lynn Heath asked if the road would be single or two lanes. Mr. Buckingham said coming down off of US 54 the road will be a divided two lane with a raised median. Lynn Heath asked if there would be one or two lanes going south. Mr. Buckingham said there would be one lane going south. Lynn Heath noted the Lowes on East Kellogg had two lanes going north and two lanes going south. Mr. Buckingham explained the Lowes is different in the fact that it is signalized at US 54; the proposal is for right-in-right-out access. Les Mangus explained the Lowes intersection at Zelta is a full function four way intersection so they have to provide for left and right turns. This case is similar to the intersection a few hundred yards west at the Burger King that is only a one way lane sweeping right turn.

Lynn Heath asked how far the proposed entrance was from the highway. Mr. Buckingham said it is a minimum of 75 feet south of the south US 54 right-of-way line. Lynn Heath asked Les Mangus what the normal distance is. Les Mangus explained it is 85 feet from the center of the median between the east and west bound lanes to the right-of-way line. The south edge of the east bound lanes are going to be more in the neighborhood of 40 feet so there is probably +/- 45 feet from the south edge of the lanes to the right-of-way line plus another 75 feet.

Chairman Coon asked if lot seven has a drive off of Cloud Avenue. Mr. Buckingham said yes. There is complete access control on the radius of the southeast corner of lot seven, but moving west there is a drive allowed on to

Review and
approve the revised
Planned Unit
Development Plan
of the Marketplace
Commercial
Second Addition

Cloud Avenue. Chairman Coon asked if lot seven could have three drives. Mr. Buckingham said there will only be two, one on the south side connecting to Cloud Avenue and another on the east side connecting to Plaza Road.

Chairman Coon asked Les Mangus for his opinion on the revisions. Les Mangus said after discussion with several traffic engineers, he has softened to allow the revision because it is a right-in-right-out both off of the highway and into and out from the property.

Lynn Heath made a motion to approve the right-in-right-out street into lot seven off of Plaza Road in the revised Final Planned Unit Development Plan of Marketplace Commercial Second Addition. Jeff Syrios seconded the motion. Motion carried 6/0.

Review and approved the revised Planned Unit Development Plan of the Andover Farm at Cedar Park-Fourth Phase located north of 13th Street and east of 159th Street.

Review and
approve the revised
Planned Unit
Development Plan
of the Andover
Farm at Cedar
Park-Fourth Phase

From Les Mangus' Memo: This final PUD has returned to the Planning Commission as a result of a proposed change in a street entry reserve, the elimination of a reserve between Windgate Court and South Wind Court and the creation of four additional lots. Staff feels the changes aren't significant and recommends approval.

Phil Meyer of Baughman Company was present to represent the application.

Mr. Meyer explained the revisions to the plat where the addition of four lots and the removal of interior islands throughout the plat. These changes are being made for economic purposes. Two lots were added along Andover Farm Court and the reserve between Windgate Court and South Wind Court was eliminated to create two additional lots. The entry road was moved east slightly but the 40 to 50 foot reserve will remain as will the hedge row.

Chairman Coon asked if there were any amenities removed along with the north reserve to create additional lots. Mr. Meyer said no.

Lynn Heath made a motion to approve the revised Final Planned Unit Development Plan of Andover Farm at Cedar Park-Fourth Phase as presented. John Cromwell seconded the motion. Motion carried 6/0.

Member Items: There were no member items.

Member Items:

Jeff Syrios made a motion to adjourn the meeting at 10:40 p.m. John Cromwell seconded the motion. Motion carried 6/0.

Adjourn

Respectfully Submitted by

Kandace Hunt
Administrative Secretary

Approved this 16th day of September 2008 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.