

City of Bonner Springs
Planning Commission Agenda
Tuesday, April 27, 2010

Study Session 6:00 p.m.

- Update on the "Preliminary" Flood Insurance Rate Maps; and
- Planning Commission discussion on the Annual Review and Updates being recommended for the Comprehensive Plan *Vision 2025*.

Planning Commission Meeting – 7:00 p.m.

Call to Order: Time: _____

Roll Call:

ITEM NO. 1: Approval of Minutes: The regular Planning Commission meeting held December 15, 2009.

Motion: _____ Second: _____

1. Board Discussion

For: _____ #Against: _____

New Business:

ITEM NO. 2: Lot Split: LS-110: "14130 Minnesota Ave.," 3.75 acres unplatted property. The property is zoned I-1, Light Industrial District. Requested by Wil Anderson, BHC Rhodes for Weston Associates, property owners of record. The request is in order to lot split the property and convey the existing industrial building and maintain the remaining property for other light industrial purposes. The property is located at 14130 Minnesota Ave.

1. Staff Presentation / Applicants Presentation
2. Public Comment

Motion: _____ Second: _____

3. Board Discussion

For: _____ #Against: _____

ITEM NO. 3: Annual Review of the Comprehensive Plan *Vision 2025*: A request by the Planning Department to have the Planning Commission review and consider any changes or amendments if required to the City's adopted Comprehensive Plan *Vision 2025*. This review is required by the Planning and Zoning Laws of the State of Kansas under K.S.A. 12-747(d).

1. Staff Presentation
2. Public Comment

Motion: _____ Second: _____

3. Board Discussion

For: _____ #Against: _____

Adjournment Time: _____



City of Bonner Springs

PLANNING COMMISSION AGENDA

CITY HALL COUNCIL CHAMBERS

TUESDAY, APRIL 27, 2010

STUDY SESSION @ 6:00 P.M.

REGULAR MEETING @ 7:00 P.M.

PLANNING COMMISSION MEMBERS:

PLEASE CONTACT TERRY BARLOW @ 667-1710

NO LATER THAN 12:00 NOON, TUESDAY, APRIL 27, 2010,

IF YOU WILL BE UNABLE TO ATTEND

PREPARED BY:

DON E. SLONE, AICP, CFM
CITY PLANNER / FLOODPLAIN ADMINISTRATOR

PEOPLE

PLANNING

PROGRESS

ITEM NO. 1

ITEM NO. 1: Approval of Minutes: The regular Planning Commission meeting held December 15, 2009

PLANNING COMMISSION AGENDA
TUESDAY, APRIL 27, 2010 at 7:00 P.M.

PRESENT	Gray	_____
	Clements	_____
	Pierce	_____
& VOTE:	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Coleman	_____

MOTION: _____

SECOND: _____

ACTION: MAKE A MOTION TO APPROVE THE MINUTES OF THE PLANNING COMMISSION MEETING ON DECEMBER 15, 2009.

STAFF RECOMMENDATION: STAFF RECOMMENDS APPROVAL OF THE MINUTES

NARRATIVE: The minutes of the December 15, 2009 are attached.

PLANNING COMMISSION MEETING MINUTES

Tuesday, December 15, 2009 AT 7:00 P.M.

MEMBERS PRESENT: Tom Gray Doug Clements Robin Neal
Merle Parks Malisa Wallace Jason Krone Craig Stephan

MEMBERS ABSENT: Dave Pierce

STAFF PRESENT: Don Slone, AICP, CFM, City Planner/Floodplain Administrator
Terry Barlow, Administrative Secretary
Bill Legge, City Engineer

Chairman Parks called the meeting to order at 7:00 p.m. and asked for a roll call to be taken. Commissioners Gray, Clements, Neal, Parks, Wallace, Stephan and Krone were present. Commissioner Pierce was absent.

Chairman Parks introduced **Item No. 1: Approval of Minutes** and called for a motion to approve the minutes from the November 24, 2009 Planning Commission meeting. Commissioner Clements made a motion to approve the minutes as written, seconded by Commissioner Wallace. Chairman Parks asked if there were any questions or comments concerning the minutes. Seeing none he called for the vote. The motion passed unanimously.

NEW BUSINESS

Chairman Parks introduced **Item No. 2: "Special Use Permit: SUP-122: "Best Brands Uniform Locker Facility"**, a request for a Special Use Permit in order to allow a 10' x 40' temporary/portable/pre-manufactured locker facility in order to accommodate an influx of 54 additional associates, as additional locker space is required for the additional associates. The property is platted as Tract C., Wolf Creek Industrial Park and is zoned I-2, Heavy Industrial District. Requested by George Fulghum, Plant Manager for Best Brands Corporation, property owners of record. The property is located at 2410 Scheidt Lane.

Chairman Parks opened the public hearing at 7:01 p.m. and asked for Staff presentation. Staff presented its recommendations to the Planning Commission. Staff recommends approval of this item subject to the conditions listed in the Staff Report. Mr. Slone stated that he would be glad to answer any questions the Planning Commission may have.

Chairman Parks asked if the applicant would like to address the Planning Commission. **Mike Brune, Corporate Engineer, Best Brands**, stated they were in agreement with all of the conditions. The reason for the locker facility is because their business is growing and they have new employees and no space for them to put their belongings during their working hours.

Chairman Parks asked for any further questions or comments from the audience. Seeing none, he closed the public hearing at 7:03 p.m. and called for a motion. Commissioner Clements made a motion to approve the item with the conditions listed in the Staff Report. Commissioner Neal seconded the motion.

Chairman Parks asked if the Planning Commission had any questions or comments. Commissioner Stephan asked Mike Brune how long this temporary situation would last. Mr. Brune stated that they hoped to be able to construct an addition to the building depending on how the economy goes for the company.

Chairman Parks asked for any further questions or comments from the Planning Commission. Seeing none, he called for the vote. Motion passed unanimously.

Mr. Slone stated that this item will go before the Governing Body on January 11, 2010.

Chairman Parks introduced **Item No. 3: Subdivision Regulation Amendments**: A request by the Bonner Springs Planning Department to amend the Subdivision Regulations dealing with the requirement for public easements as specified under Article VI: Minimum Design Standards, Section 4, Easements, paragraph 1 and Section 5, Subdivision Design by adding a new paragraph dealing with Regional Stormwater Detention.

Chairman Parks opened the public hearing at 7:07 p.m. and asked for Staff presentation. Staff presented its recommendations to the Planning Commission. Staff recommends approval of this item. Mr. Slone also stated that this item has been under review by the Planning Commission since September of this year and would be glad to answer any questions the Planning Commission may have.

Chairman Parks asked for any questions or comments from the audience. Seeing none, he closed the public hearing at 7:08 p.m. and called for a motion. Commissioner Stephan made a motion to approve the item as recommended in the Staff Report. Commissioner Krone seconded the motion.

Chairman Parks asked if the Planning Commission had any questions or comments. Seeing none, he called for the vote. The motion passed unanimously.

Mr. Slone stated that this item will go before the Governing Body on January 11, 2010.

Chairman Parks introduced **Item No. 4: Zoning Ordinance Amendments: BSZP-114: "Off Street Parking and Loading Regulations"**: A request by the Bonner Springs Planning Department to consider several amendments to the Zoning Ordinance Article XXIII: Off-Street Parking and Loading Regulations.

Chairman Parks opened the public hearing at 7:09 p.m. and asked for Staff presentation. Staff presented its recommendations to the Planning Commission. Staff recommends approval of this item. Mr. Slone also stated that this item has been under review by the Planning Commission since April of this year. Staff feels that the changes will make the Off-Street Parking and Loading Regulations much easier to regulate and enforce. Mr. Slone stated that he would be glad to answer any questions the Planning Commission may have.

Chairman Parks asked for any questions or comments from the audience. Seeing none, he closed the public hearing at 7:10 p.m. and called for a motion. Commissioner Stephan made a motion to approve the item as recommended in the Staff Report. Commissioner Clements seconded the motion.

Chairman Parks asked if the Planning Commission had any questions or comments. Commissioner Clements said he was in favor of all the proposed changes but was somewhat concerned that the Parking Lot Construction Standards may be a deterrent to development in Bonner Springs. Commissioner Clements asked if Staff had researched other communities and Mr. Legge stated that he had not. Mr. Slone stated that the standards provided by Bill Legge were being used in Overland Park and Johnson County for all the public school projects. Commissioner Clements stated that they are doing a project in Overland Park and using 9" of fly ash base which is more than what is being recommended. Commissioner Clements also stated that Overland Park does not have Parking Lot Construction Standards. Commissioner Stephan stated that he thought the Parking Lot Construction Standards would help the image of Bonner Springs as they have had a lot of problems with substandard parking lots in the past. He thought the public has had a bad impression of Bonner Springs due to these substandard parking lots and wanted that to end.

Chairman Parks asked for any further questions or comments from the Planning Commission. Seeing none, he called for the vote. Motion passed unanimously.

Mr. Slone stated that this item will go before the Governing Body on January 11, 2010.

Chairman Parks asked if there was any further discussion or other items. Seeing none, he adjourned the meeting at 7:18 p.m.

Planning Commission Secretary

ITEM NO. 2

ITEM NO. 2: Lot Split: LS-110: "14130 Minnesota Ave.", 3.75 acres unplatted property. The property is zoned I-1, Light Industrial District. Requested by Will Anderson, BHC Rhodes for Weston Associates, property owners of record. The request is in order to lot split the property and convey the existing industrial building and maintain the remaining property for other light industrial purposes. The property is located at 14130 Minnesota Ave.

PLANNING COMMISSION AGENDA
TUESDAY, APRIL 27, 2010 at 7:00 P.M.

PRESENT	Gray	_____
	Clements	_____
	Pierce	_____
& VOTE:	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Coleman	_____

MOTION: _____

SECOND: _____

ACTION: MAKE A MOTION TO APPROVE

STAFF RECOMMENDATION: STAFF IS RECOMMENDING APPROVAL OF THIS ITEM SUBJECT TO THE LISTED CONDITIONS

NARRATIVE: A staff report is included in the agenda. Staff will be present to answer any questions.

LOT SPLIT: "14130 MINNESOTA AVE."

Case No.: LS-110
Applicant: Wil Anderson, L.S., BHC Rhodes
Surveyor: Wil Anderson, L.S., BHC Rhodes
Property Owner: Weston Associates
Location: 14130 Minnesota Ave.
Zoning: I-1, Light Industrial District
Overall Tract Size: 3.75 acres
Tract I: 2.00 acres (14130 Minnesota Ave.) (Parcel No. 963803)
Tract II: 1.75 acres (New Address: 14110 Minnesota Ave.)

Staff Analysis:

The requested lot split for the 3.75 acres of unplatted property that is zoned I-1, Light Industrial District is being requested by Wil Anderson, BHC Rhodes for Weston Associates, property owners of record. Tract I is 2.00 acres with an existing industrial building (Kansas Home Insulation) and Tract II is 1.75 acre vacant tract. The request is in order to lot split the property and convey the existing industrial building and 2.00 acres of property and maintain the remaining property for a future light industrial use. Both Tracts I and II have direct access to Minnesota Ave. that was constructed by KDOT during the State Ave. / K-7 Hwy interchange project.

Review Comments Received from Other Departments/Agencies**City Planner:**

1. Add the following to the title under Lot Split: "14130 Minnesota Ave.";
2. Add LS-110 and Lot Split 14130 Minnesota Ave. to the lower right hand corner of the drawing;
3. Add the property address under Tract I: 14130 Minnesota Ave. and under Tract II: new address 14110 Minnesota Ave.;
4. Add Light Industrial District after the I-1 under General Notes No 4;
5. Correct the spelling of "Riviewed by:" to "Reviewed by:" under the Unified Government Surveyor and add L. Allen Greenwood, KS P.L.S. 645 under the Unified Government Surveyors signature block;
6. Change the dashed line to a straight line above the Planning Commission signature blocks and add Merle E. Parks, Chairman and Don E. Slone, AICP, CFM, Secretary in the signature blocks;
7. The surveyor shall furnish two (2) original signed/sealed mylars along with the filing fee of \$20.00 made payable to the Register of Deeds, the "Section Corner Tie Report" and fee as required by KSA-58-2003; and
8. The Planning Department will file the Lot Split and provide the filed Lot Split mylar to the surveyor to reproduce four (4) copies to be returned to the Planning Department to complete the Lot Split.

City Engineer: Concur with WYCO Mapping comments and I have no additional comments.

Utilities: No comments.

Public Works: No comments.

Building Official: No comments.

Economic Development: No comments.

WYCO Mapping:

1. There appears to be an error in the description. For Tract I the description on the survey as well as the description on the separate word document says the following. "Thence North 86°41'49" East 78.56 feet on said South right of way line to a point monumented by a five-eighths inch reinforcing rod with KS CLS 175 survey cap;" This is about the 4th course called by the description. The bearing appears to be wrong. If the description is strictly followed then the figure will not close. The descriptions also contradict the bearing that appears on the drawing.

Westar Energy: This is KCP&L's service area.

KCP&L: KCP&L has no objections to the proposed lot split.

Atmos Energy:

1. Atmos Energy does not have gas service to these tracts. The closest gas service is located at 912 N. 141st Street and would require a main extension to provide gas service.

AT&T:

1. AT&T has no objections to proposed lot split. However, any relocation of AT&T facilities to accommodate this proposed lot split will be billable to the property owner.

Time Warner: No services in this area.

Staff Recommendation:

The Development Staff recommends approval of the submitted lot split subject to the following conditions:

1. Add the following to the title under Lot Split: "14130 Minnesota Ave.";
2. Add LS-110 and Lot Split 14130 Minnesota Ave. to the lower right hand corner of the drawing;
3. Add the property address under Tract I: 14130 Minnesota Ave. and under Tract II: new address 14110 Minnesota Ave.;
4. Add Light Industrial District after the I-1 under General Notes No 4;
5. Change the dashed line to a straight line above the Planning Commission signature blocks and add Merle E. Parks, Chairman and Don E. Slone, AICP, CFM, Secretary in the signature blocks;
6. Correct the spelling of "Riviewed by:" to "Reviewed by:" under the Unified Government Surveyor and add L. Allen Greenwood, KS P.L.S. 645 under the Unified Government Surveyors signature block;
7. There appears to be an error in the description. For Tract I the description on the survey as well as the description on the separate word document says the following. "Thence North 86°41'49" East 78.56 feet on said South right of way line to a point monumented by a five-eighths inch reinforcing rod with KS CLS 175 survey cap;" This is about the 4th course called by the description. The bearing appears to be wrong. If the description is strictly followed then the figure will not close. The descriptions also contradict the bearing that appears on the drawing;
8. The surveyor shall furnish one (1) copy of the revised Lot Split to the Planning Department addressing all the above conditions. This drawing may be email in PDF to the City Planner;
9. The surveyor shall furnish two (2) original signed/sealed mylars along with the filing fee of \$20.00 made payable to the Register of Deeds, the "Section Corner Tie Report" and fee as required by KSA-58-2003; and
10. The Planning Department will file the Lot Split; provide the filed Lot Split mylar to the surveyor to reproduce four (4) copies to be returned to the Planning Department to complete the Lot Split.

ITEM NO. 3

ITEM NO. 3: Annual Review of the Comprehensive Plan Vision 2025: A request by the Planning Department to have the Planning Commission review and consider any changes or amendments if required to the City's adopted Comprehensive Plan *Vision 2025*. This review is required by the Planning and Zoning Laws of the State of Kansas under K.S.A. 12-747(d).

PLANNING COMMISSION AGENDA
TUESDAY, APRIL 27, 2010 at 7:00 P.M.

PRESENT	Gray	_____
	Clements	_____
	Pierce	_____
& VOTE:	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Coleman	_____

MOTION: _____

SECOND: _____

ACTION: MAKE A MOTION TO APPROVE

STAFF RECOMMENDATION: STAFF IS RECOMMENDING APPROVAL OF THIS ITEM AS LISTED IN THE STAFF REPORT

NARRATIVE: A staff report is included in the agenda. Staff will be present to answer any questions.

To: Planning Commission

From: Don E. Slone, AICP, CFM, City Planner / Floodplain Administrator

RE: Annual Review of the Comprehensive Plan Vision 2025: A request by the Planning Department to have the Planning Commission review and reconsider the City's adopted Comprehensive Plan *Vision 2025* to ensure the Plan is still valid and relevant.

Discussion:

The City's Comprehensive Plan *Vision 2025* was adopted by the Governing Body on March 24, 2008 under Ordinance No. 2213. State Law, specifically K.S.A. 12-747(d) states "At least once each year, the planning commission shall review or reconsider the plan or any part thereof and may propose amendments, extensions or additions to the same. The procedure for the adoption of any such amendment, extension or addition to any plan or part thereof shall be in the same as that required for the adoption of the original plan or part thereof." (*See page 1-2 from the Comprehensive Plan and State Statutes attached*)

Since the Comprehensive Plan *Vision 2025* was adopted last year in total, I have two (2) recommendations for changes or amendments this year. First, there is a typo in Chapter 1, page 1-2 dealing with the enabling Statutes for Planning and Zoning. Somehow the referenced State Statutes were missed identified. I have shown the recommended changes in legislative format.

Second, we need to amend the Future Land Use Map and the Transportation Map to be consistent with the changes made by KDOT for the K-7 / I-70 Interchange. We will be working on the Transportation Map changes later this year to have the map consistent with the approved K-7 / I-70 Interchange design.

Recommendation:

I have made the corrections to the State Statute references on pages 1-2 and recommend acceptance by the Planning Commission. Also discuss any other changes or amendments to the Comprehensive Plan *Vision 2025* that the Planning Commission desires to be considered.

CHAPTER 1 COMPREHENSIVE PLAN OVERVIEW

been used to uphold laws mandating historic preservation, natural resource protection, zoning, signage restriction, aesthetic regulation, impact fees, excise taxes and required dedications. Euclid is still the law today. The government cannot single out individual property owners, nor can it act in an arbitrary manner. The ends must justify the means.

Kansas State Statutes provide cities with the authority to prepare and adopt a Comprehensive Plan, Zoning Regulations and Subdivision Regulations. The authority to prepare a Comprehensive Plan is stated in KSA 12-746-747 (a).

A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part.

Under current planning and zoning statutes, however, the City is under no obligation to prepare a Comprehensive Plan unless it wants to adopt subdivision regulations (KSA 12-748-749). Similarly, the City is not required by statute to follow the recommendations of the Plan unless so specified by City ordinance. In spite of this, case law within Kansas and throughout the nation has effectively established that the Comprehensive Plan forms the basis for enforcing zoning regulations. Without a Comprehensive Plan, determining and justifying specific zoning districts within a city is arbitrary at best.

To this extent, the Comprehensive Plan is often primarily used by the Planning Commission as a guide when presented with rezoning requests. In considering a rezoning request, state statutes (KSA 12-756-757) require the City to review the application in relation to "matters to be considered" as adopted in the Zoning Regulations. These considerations should include review of the application's consistency with the Comprehensive Plan. Although the City is not required to follow the Plan's recommendations regarding future land use, state statutes specifically provide that rezoning requests that are consistent with the Plan are presumed to be reasonable (KSA 12-756-757).

Any such (proposal for zoning) amendment, if in accordance with the land use plan or the land use element of a comprehensive plan, shall be presumed to be reasonable.

It must be clear that the Plan is not a set of regulations or a zoning ordinance. The Plan is a guide for development within the City, providing direction regarding the community's preferred future, goals, objectives, priorities and policies. For this reason the Plan must be kept up to date. KSA 12-746-747 requires the Planning Commission to review or reconsider the Plan at least once each year in order to ensure that the Plan is still valid and relevant. During this review the Planning Commission is authorized to propose amendments, extensions or additions to the Plan following the same procedure for adoption of the original Plan. Future "corridor plans", "neighborhood plans" and "sub-area plans" should serve as the basis for updates to the Comprehensive Plan.

CHAPTER 1 COMPREHENSIVE PLAN OVERVIEW

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A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part.

Under current planning and zoning statutes, however, the City is under no obligation to prepare a Comprehensive Plan unless it wants to adopt subdivision regulations (KSA 12-749). Similarly, the City is not required by statute to follow the recommendations of the Plan unless so specified by City ordinance. In spite of this, case law within Kansas and throughout the nation has effectively established that the Comprehensive Plan forms the basis for enforcing zoning regulations. Without a Comprehensive Plan, determining and justifying specific zoning districts within a city is arbitrary at best.

To this extent, the Comprehensive Plan is often primarily used by the Planning Commission as a guide when presented with rezoning requests. In considering a rezoning request, state statutes (KSA 12-757) require the City to review the application in relation to "matters to be considered" as adopted in the Zoning Regulations. These considerations should include review of the application's consistency with the Comprehensive Plan. Although the City is not required to follow the Plan's recommendations regarding future land use, state statutes specifically provide that rezoning requests that are consistent with the Plan are presumed to be reasonable (KSA 12-757).

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It must be clear that the Plan is not a set of regulations or a zoning ordinance. The Plan is a guide for development within the City, providing direction regarding the community's preferred future, goals, objectives, priorities and policies. For this reason the Plan must be kept up to date. KSA 12-747 requires the Planning Commission to review or reconsider the Plan at least once each year in order to ensure that the Plan is still valid and relevant. During this review the Planning Commission is authorized to propose amendments, extensions or additions to the Plan following the same procedure for adoption of the original Plan. Future "corridor plans", "neighborhood plans" and "sub-area plans" should serve as the basis for updates to the Comprehensive Plan.

Kansas Legislature

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12-747**Chapter 12.--CITIES AND MUNICIPALITIES
Article 7.--PLANNING AND ZONING**

12-747. Same; comprehensive plan; contents; procedure for adoption; annual review of plan. (a) A city planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city but within the same county in which such city is located, which in the opinion of the planning commission, forms the total community of which the city is a part. The city shall notify the board of county commissioners in writing of its intent to extend the planning area into the county. A county planning commission is authorized to make or cause to be made a comprehensive plan for the coordinated development of the county, including references to planning for cities as deemed appropriate. The provisions of this subsection may be varied through interlocal agreements.

(b) The planning commission may adopt and amend a comprehensive plan as a whole by a single resolution, or by successive resolutions, the planning commission may adopt or amend parts of the plan. Such resolution shall identify specifically any written presentations, maps, plats, charts or other materials made a part of such plan. In the preparation of such plan, the planning commission shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources and may include any other element deemed necessary to the comprehensive plan. Such proposed plan shall show the commission's recommendations for the development or redevelopment of the territory including: (a) The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary; (b) population and building intensity standards and restrictions and the application of the same; (c) public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods; (d) public improvement programming based upon a determination of relative urgency; (e) the major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private; (f) utilization and conservation of natural resources; and (g) any other element deemed necessary to the proper development or redevelopment of the area. Before adopting or amending any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the date of the hearing. Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by a majority vote of all members of the planning commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the governing body. No comprehensive plan shall be effective unless approved by the governing body as provided by this section. The governing body either may: (1) Approve such recommendations by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a 2/3 majority vote; or (3) may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or it need take no further action thereon. If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly. The comprehensive plan and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

(c) An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan. Such plan or part thereof shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the

health, safety, morals, order, convenience, prosperity and general welfare as well as wise and efficient expenditure of public funds.

(d) At least once each year, the planning commission shall review or reconsider the plan or any part thereof and may propose amendments, extensions or additions to the same. The procedure for the adoption of any such amendment, extension or addition to any plan or part thereof shall be the same as that required for the adoption of the original plan or part thereof.

History: L. 1991, ch. 56, § 7; L. 1997, ch. 147, § 4; May 1.

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12-749**Chapter 12.--CITIES AND MUNICIPALITIES
Article 7.--PLANNING AND ZONING**

12-749. Same; subdivision regulations; adoption and amendment; notice and hearing. (a) Following adoption of a comprehensive plan, a city planning commission may adopt and amend regulations governing the subdivision of land. A city planning commission shall apply subdivision regulations to all land located within the city and may apply such regulations to land outside of but within three miles of the nearest point of the city limits provided such land is within the same county in which the city is located and does not extend more than 1/2 the distance between such city and another city which has adopted regulations under this section. A county planning commission may establish subdivision regulations for all or for parts of the unincorporated areas of the county.

(b) Subdivision regulations may include, but not be limited to, provisions for: (1) Efficient and orderly location of streets; (2) reduction of vehicular congestion; (3) reservation or dedication of land for open spaces; (4) off-site and on-site public improvements; (5) recreational facilities which may include, but are not limited to, the dedication of land area for park purposes; (6) flood protection; (7) building lines; (8) compatibility of design; (9) stormwater runoff, including consideration of historic and anticipated 100-year rain and snowfall precipitation records and patterns; and (10) any other services, facilities and improvements deemed appropriate.

(c) Subdivision regulations may provide for administrative changes to land elevations designated on a plat. Such regulations may provide for plat approval conditional upon conformance with the comprehensive plan. Such regulations may provide for the payment of a fee in lieu of dedication of land. Such regulations may provide that in lieu of the completion of any work or improvements prior to the final approval of the plat, the governing body may accept a corporate surety bond, cashier's check, escrow account, letter of credit or other like security in an amount to be fixed by the governing body and conditioned upon the actual completion of such work or improvements within a specified period, in accordance with such regulations, and the governing body may enforce such bond by all equitable remedies.

(d) Before adopting or amending any subdivision regulations, the planning commission shall call and hold a hearing on such regulations or amendments thereto. Notice of such hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county. Such notice shall be published at least 20 days prior to the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. In the case of a joint committee on subdivision regulations, such notice shall be published in the official city and official county newspapers. The hearing may be adjourned from time to time and at the conclusion of the same, the planning commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the commission adopt the same in the form of proposed subdivision regulations and shall submit the same, together with the written summary of the hearing thereon, to the governing body. The governing body either may: (1) Approve such recommendations by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a 2/3 majority vote; or (3) may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or it need take no further action thereon. If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly. The proposed subdivision regulations and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

History: L. 1991, ch. 56, § 9; L. 1997, ch. 72, § 2; July 1.

Kansas Legislature

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12-757**Chapter 12.--CITIES AND MUNICIPALITIES
Article 7.--PLANNING AND ZONING**

12-757. Same; zoning; downzoning or rezoning, amendments and revisions; procedure; notice and hearing; protest petition; signs to notify of proposed rezoning. (a) The governing body, from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the governing body or the planning commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Any such amendment, if in accordance with the land use plan or the land use element of a comprehensive plan, shall be presumed to be reasonable. The governing body shall establish in its zoning regulations the matters to be considered when approving or disapproving a rezoning request. The governing body may establish reasonable fees to be paid in advance by the owner of any property at the time of making application for a zoning amendment.

(b) All such proposed amendments first shall be submitted to the planning commission for recommendation. The planning commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations provided in K.S.A. 12-756, and amendments thereto. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of real property within the area to be altered and to all owners of record of real property located within at least 200 feet of the area proposed to be altered for regulations of a city and to all owners of record of real property located within at least 1,000 feet of the area proposed to be altered for regulations of a county. If a city proposes a zoning amendment to property located adjacent to or outside the city's limits, the area of notification of the city's action shall be extended to at least 1,000 feet in the unincorporated area. Notice of a county's action shall extend 200 feet in those areas where the notification area extends within the corporate limits of a city. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the planning commission or the governing body. Such notice is sufficient to permit the planning commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation of a zoning classification of lesser change than that set forth in the notice shall not be valid without republication and, where necessary, remailing, unless the planning commission has previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.

(c) (1) Whenever five or more property owners of record owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by publication and hearing in like manner as required in subsection (b) of this section. Such zoning amendment shall not require written notice and shall not be subject to the protest petition provision of subsection (f) of this section.

(2) Whenever a city or county initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, such amendment shall require notice by publication and hearing in like manner as that required by subsection (b) of this section. In addition, written notice shall be required to be mailed to only owners of record of the properties to be rezoned and only such owners shall be eligible to initiate a protest petition under subsection (f) of this section.

(d) Unless otherwise provided by this act, the procedure for the consideration and

adoption of any such proposed amendment shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of the members of the planning commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the governing body. If the planning commission fails to make a recommendation on a rezoning request, the planning commission shall be deemed to have made a recommendation of disapproval. When the planning commission submits a recommendation of approval or disapproval of such amendment and the reasons therefor, the governing body may: (1) Adopt such recommendation by ordinance in a city or by resolution in a county; (2) override the planning commission's recommendation by a 2/3 majority vote of the membership of the governing body; or (3) return such recommendation to the planning commission with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendation, the planning commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit new and amended recommendation. Upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or resolution, or it need take no further action thereon. If the planning commission fails to deliver its recommendation to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.

(e) If such amendment affects the boundaries of any zone or district, the respective ordinance or resolution shall describe the boundaries as amended, or if provision is made for the fixing of the same upon an official map which has been incorporated by reference, the amending ordinance or resolution shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment, shall amend the section of the ordinance or resolution incorporating the same and shall reincorporate such map as amended.

(f) (1) Whether or not the planning commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the office of the city clerk or the county clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total real property within the area required to be notified by this act of the proposed rezoning of a specific property, excluding streets and public ways and property excluded pursuant to paragraph (2) of this subsection, the ordinance or resolution adopting such amendment shall not be passed except by at least a 3/4 vote of all of the members of the governing body.

(2) For the purpose of determining the sufficiency of a protest petition, if the proposed rezoning was requested by the owner of the specific property subject to the rezoning or the owner of the specific property subject to the rezoning does not oppose in writing such rezoning, such property also shall be excluded when calculating the "total real property within the area required to be notified" as that phrase is used in paragraph (1) of this subsection.

(g) Zoning regulations may provide additional notice by providing for the posting of signs on land which is the subject of a proposed rezoning, for the purpose of providing notice of such proposed rezoning.

History: L. 1991, ch. 56, § 17; L. 1995, ch. 211, § 1; L. 1995, ch. 249, § 1; L. 2000, ch. 75, § 1; Apr. 20.