

City of Bonner Springs
Planning Commission Agenda
Tuesday, September 28, 2010

Study Session 6:00 p.m.

- Planning Commission discussion on dealing with Public Hearing items;
- Planning Commission discussion to review and update the By-Laws of the Planning Commission; and
- Planning Commission discussion on possible changes to the Zoning Ordinance under Special Use Permits.

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 August 24, 2010.

Motion: _____ Second: _____

1. Board Discussion

For: _____ #Against: _____

ITEM NO. 2: Election of Officers:

Chairman Nominations: _____

Motion: _____ Second: _____

For: _____ #Against: _____

Vice-Chairman Nominations: _____

Motion: _____ Second: _____

For: _____ #Against: _____

New Business:

ITEM NO. 3: Special Use Permit: SUP-124: “Bonner Springs Quarry” a request for a Special Use Permit to continue the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant approved for the Shawnee Rock Company by the City on September 20, 1993 by Ordinance No. 1675; on March 24, 2003 by Ordinance No. 1996 and on April 11, 2005 by Ordinance No. 2089. APAC-Kansas, Inc. purchased the mineral rights, to include the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant from Shawnee Rock Company. The change in operator requires a new special use permit. The property is 420 acres zoned I-2, Heavy Industrial District. Requested by Pete Heaven, Lathrop & Gage LLP, for APAC-Kansas, Inc. under contract from Shawnee Rock Company, property owners of record. The property will remain under the ownership of the Shawnee Rock Company. The property is located at 1800 S. 121st Street. *(This item will be forwarded to the Governing Body on October 25, 2010)*

Open Public Hearing Time: _____

1. Staff Presentation / Applicant Presentation
2. Public Comment

Close Public Hearing Time: _____

Motion: _____ Second: _____

3. Board Discussion

For: _____ #Against: _____

ITEM NO. 4: Amending the Planning Commission Bylaws: a request from the City Planner to amend the Bylaws of the Planning Commission.

Motion: _____ Second: _____

For: _____ #Against: _____

Adjournment Time: _____



City of Bonner Springs

PLANNING COMMISSION AGENDA

CITY HALL COUNCIL CHAMBERS

TUESDAY, SEPTEMBER 28, 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, SEPTEMBER 28, 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 of Planning Commission Meeting August 24, 2010

PLANNING COMMISSION AGENDA
TUESDAY, SEPTEMBER 28, 2010, 7:00 P.M.

PRESENT	Gray	_____
	Carter	_____
	Pierce	_____
& VOTE:	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Krone	_____

MOTION: _____

SECOND: _____

ACTION: MAKE A MOTION TO APPROVE THE MINUTES OF THE PLANNING COMMISSION MEETING ON AUGUST 24, 2010.

STAFF RECOMMENDATION: STAFF RECOMMENDS APPROVAL OF THE MINUTES

NARRATIVE: The minutes of the August 24, 2010 meeting are attached.

PLANNING COMMISSION MEETING MINUTES

Tuesday, August 24, 2010 AT 7:00 P.M.

MEMBERS PRESENT: Tom Gray Robin Neal Merle Parks Dave Pierce
Malisa Wallace Jason Krone Craig Stephan Dan Carter

STAFF PRESENT: Don Slone, AICP, CFM, City Planner/Floodplain Administrator
Terry Barlow, Administrative Secretary
Bill Legge, P.E., City Engineer
Rick Sailer, Utilities Director

Chairman Parks called the meeting to order at 7:00 p.m. and asked for a roll call to be taken. All Planning Commissioners were present.

Chairman Parks introduced **Item No. 1: Approval of Minutes** and called for a motion to approve the minutes from the April 27, 2010 Planning Commission meeting. Commissioner Pierce made a motion to approve the minutes as written, seconded by Commissioner Stephan. 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-123: "CSM Bakery Products Locker Facility"**, a request for a Special Use Permit in order to allow the placement of a temporary/portable/pre-manufactured locker room facility. A Special Use Permit was approved by the City on January 11, 2010 under Ordinance No. 2274 for Best Brands Corporation that has been sold to CSM Bakery Products that requires a new permit for the existing facility. The property is platted as Tract C, Wolf Creek Industrial Park and is zoned I-2, Heavy Industrial District. Requested by Mike Brune, Corporate Engineer for CSM Bakery Products Corporation, property owners of record. The property is located at 2410 S. Scheidt Lane. The property is located at 2410 S. Scheidt Lane.

Chairman Parks opened the public hearing at 7:02 p.m. 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 for CSM Bakery Products Corporation**, stated they are in agreement with all the listed conditions. He would be happy to answer any questions.

Chairman Parks asked for any further questions or comments from the audience. Seeing none he closed the public hearing at 7:04 p.m. and called for a motion. Commissioner Stephan made a motion to approve the item with the conditions listed in the Staff Report. Commissioner Krone seconded the motion. Commissioner Krone asked Mr. Brune if he was ok with the listed conditions. Mr. Brune stated that he was in agreement with the listed conditions.

Chairman Parks asked if the Planning Commission had any questions or comments. The Planning Commission had no comments. Chairman Parks stated that Mr. Bill Miller, an adjacent property owner gave him a note that he is in agreement with the SUP as long as the conditions stated by Staff are followed.

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

Mr. Slone stated that this item will go before the Governing Body on September 13, 2010 with a Planning Commission recommendation of approval.

Chairman Parks introduced **Item No. 3: Comprehensive Plan Change: BSCP-18: "Dollar General"** a request to amend the Future Land Use map of the Comprehensive Plan by changing the land use designation for 2.3 acres from a Low-Density Residential to a Commercial designation; requested by Bob Gage, GBT Realty Corporation for Westar Energy, property owners of record. This request is in order to construct a new Dollar General store. The property is located at 900 N. Nettleton Ave.

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 subject to the one (1) condition as listed in the Staff Report. Mr. Slone stated that he would be glad to answer any questions. Mr. Slone also pointed out that Bill Booe from Cornerstone Regional Surveying is present as the applicants' representative on this item as well as the second item on the Dollar General.

Chairman Parks asked the Planning Commissioners if any of them had any outside contact prior to the meeting that needed to be disclosed.

Commissioner Stephan said he had been contacted by Jason Stram letting me know his likes and dislikes but that his opinion would in no way influence my decision on this item.

Chairman Parks stated that he had a comment made by Rodger Shannon regarding this item and also stated that he and his wife had been discussing this item but that would not interfere with his decision.

Chairman Parks informed the audience that there were two items on the agenda for the Dollar General. The Comprehensive Plan Change which is the document that the City goes by to decide any future land uses or land use changes within the City. The second item is that if this item is approved then the second comes into play as to whether the change in zoning should be approved. We will allow you to speak on both items. We will have a public hearing on the rezoning as well.

Chairman Parks asked for any questions or comments from the audience.

Stan Roush, 747 N. Nettleton Ave., does not think this is good place to put a Dollar General. His general concerns are the high traffic volume that will come with this and the safety of the neighborhood.

Shyrlve White, 905 N. Nettleton Ave., feels this is the most dangerous intersection in Bonner Springs. When they come around the curve they are moving very fast. Her aunt sold the land to Kansas Power & Light and she was told they would be putting a new transformer in that area, but nothing has been done down there. I am very much against this project. The hill going down Metropolitan Ave. is very slippery in the winter. You cannot have an exit coming off Nettleton Ave. as it is a very dangerous situation.

Ron Wray, 800 N. Nettleton Ave., stated that they moved to Bonner over thirty years ago. Their house sits back off the road and they don't like the way the traffic will increase. He does not understand why the city planners are opening this area up for commercial business when we have commercial business spaces vacant. He does not want the bright lights and the traffic in the area.

Chairman Parks informed Mr. Wray that the city planner did not decide any of this. Chairman Parks said city staff makes the recommendations and then those recommendations come to the Planning Commission for their recommendation.

Dennis Hubbel, 807 N. Nettleton Ave., Assistant Fire Chief of Bonner Springs said he was not speaking on behalf of the City but on behalf of the safety of his firefighters. We will be having over 900 calls with fire and ambulance from the new station within the next year. I live on the blinding curve on Nettleton Ave. It is a very dangerous intersection and it is a very nice residential area. We were very happy with the way the City made Nettleton wider and with the new yards. If the Dollar General is allowed to locate there it will bring a lot more traffic and make this a much more dangerous intersection.

Chairman Parks stated that in the interest of full disclosure, his nephew was in the audience and is a volunteer firefighter.

Kenny Wilcox, 819 N. Nettleton Ave., stated that he is a school bus driver and the intersection is very dangerous. There is too much traffic and he is not in favor of the Dollar General store in the proposed area at all.

Sara Niemann, 145 Tiblow Lane, stated that she grew up in Bonner and loves the community. They just bought a house on Nettleton to refurbish and she wants to see Nettleton as a show place when you enter Bonner Springs. You have the beautiful new fire and ambulance department and then all the lovely houses on the street. This is the entrance to our town and we don't need a Dollar General in this location.

A resident in the audience asked about the entrances. Chairman Parks stated that they have to get past this part and that would come in later discussions and meetings. There is a drawing but not a formal proposal.

Tillie LaPlante, 13145 Swartz Rd., stated that her main concern is getting across the street especially in the mornings and evenings. There are a lot of walkers in the neighborhood and a lot of nice houses and thinks it should be kept that way.

Janice Creason, 810 N. Nettleton Ave., wants the area to remain residential. The traffic gets worse every year. It is not a place for commercial construction.

Doug Rohr, 753 N. Nettleton Ave., agrees with everyone about the traffic and the safety of the walkers, the summer programs going on with the children.

Mrs. Wray asked if the City had a comprehensive plan. Chairman Parks stated that we do have a plan. Mr. Slone stated that since their desired use is different than the Comprehensive Plan, they are asking for it to be changed.

Ms. White stated that Mr. Laws across the street is currently in a nursing home and when they sell his home she is afraid that it will become commercial as well.

Mr. Rohr asked about the size of the lot and didn't think it was big enough.

Robert Chadwick, 642 MacGrantwood, uses Nettleton on a regular basis. I am a real estate developer. The gateway to Bonner is this access will change the entire area to commercial rather than residential. Making this change to commercial

will not be able to change back to residential and then you will end up with a Bonner triangle. It will end up being an issue with the traffic and there is no need for another Dollar General. Isn't there a better place for this?

Chairman Parks asked if there were any other comments or questions from the audience. Chairman Parks closed the public hearing at 7:40 p.m. and asked for a motion. Chairman Parks indicated to the audience that they had to have a motion in order for the Planning Commission to ask questions.

Commissioner Pierce made a motion to approve with the listed conditions in the Staff Report. Commissioner Stephan seconded.

Chairman Parks asked the applicant if they were in agreement with all the listed conditions. Mr. Bill Booe stated that they were in agreement with all the conditions.

Commissioner Stephan asked if they were in agreement with the fact that they could not use the grinder pump and the applicant stated they were in agreement with everything including putting in the gravity sewer system as recommended by staff.

Mr. Slone stated that staff has recommended five (5) conditions to this project that are listed in the Staff Report for the Rezoning.

Commissioner Pierce asked about a traffic study. Mr. Slone stated that the traffic issue is one of the conditions listed in the Staff Report for the Rezoning.

Chairman Parks asked if the Planning Commission had any questions or comments. Seeing none, he called for the vote. The motion was denied on an 8-0 vote.

Mr. Slone stated that this item will go before the Governing Body on September 13, 2010 with a Planning Commission recommendation of denial.

Chairman Parks introduced **Item No. 4: Rezoning: BSZ-124: "Dollar General"** a request to rezone 2.3 acres from an A-1, Agricultural District to a C-2, General Business District classification. Requested by Bob Gage, GBT Realty Corporation for Westar Energy, property owners of record. This request is in order to construct a new Dollar General store. The property is located at 900 N. Nettleton Ave.

Chairman Parks opened the public hearing at 7:48 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.

Chairman Parks asked if the applicant had any comments and Mr. Bill Booe stated that he had no comments.

Chairman Parks asked for public comment and stated that he assumed they would be the same comments as made in the previous item. Seeing no comments he closed the public hearing at 7:51 p.m.

Commissioner Stephan made a motion to approve with the five (5) listed conditions in staff report with a second from Commissioner Wallace.

Chairman Parks asked if the Planning Commission had any other questions or comments. Seeing none, he called for the vote. The motion was denied on an 8-0 vote.

Mr. Slone stated that this item will go before the Governing Body on September 13, 2010 with a Planning Commission recommendation of denial.

Chairman Parks asked if there was any further discussion or other items. Seeing none, he adjourned the meeting at 7:53 p.m.

Planning Commission Secretary

ITEM NO. 2

ITEM NO. 2: Election of Officers:

Chairman

Nominations: _____

Motion: _____ Second: _____

For: _____ #Against: _____

Vice-Chairman

Nominations: _____

Motion: _____ Second: _____

For: _____ #Against: _____

PLANNING COMMISSION MEETING

TUESDAY, SEPTEMBER 28, 2010 at 7:00 P.M.

PRESENT

Gray _____

Carter _____

Pierce _____

& VOTE:

Neal _____

Parks _____

Wallace _____

Stephan _____

Krone _____

MOTION: _____

SECOND: _____

ACTION: MAKE A MOTION TO APPROVE THE SELECTION OF THE CHARIMAN AND VICE-CHAIRMAN

ITEM NO. 3

ITEM NO. 3: Special Use Permit: SUP-124: "Bonner Springs Quarry" a request for a Special Use Permit to continue the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant approved for Shawnee Rock Company by the City on September 20, 1993 by Ordinance No. 1675; on March 24, 2003 by Ordinance No. 1996 and on April 11, 2005 by Ordinance No. 2089. APAC-Kansas, Inc. purchased the mineral rights, to include the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant from Shawnee Rock Company. The change in operator requires a new special use permit. The property is 420 acres zoned I-2, Heavy Industrial District. Requested by Pete Heaven, Lathrop & Gage LLP, for APAC-Kansas, Inc. under contract from Shawnee Rock Company, property owners of record. The property will remain under the ownership of the Shawnee Rock Company. The property is located at 1800 S. 121st Street.

PLANNING COMMISSION MEETING

TUESDAY, SEPTEMBER 28, 2010 at 7:00 P.M.

PRESENT	Gray	_____
	Carter	_____
	Pierce	_____
& VOTE:	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Krone	_____

MOTION: _____

SECOND: _____

ACTION: MAKE A MOTION TO APPROVE

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

NARRATIVE: A staff report is included in the agenda. Staff will be present to answer any questions. This item will be forwarded to the Governing Body on October 25, 2010.

SPECIAL USE PERMIT: BONNER SPRINGS QUARRY

Case No.: SUP-124
Applicant: Pete Heaven, Attorney at Law, Lathrop & Gage, L.C.
Operator: APAC-Kansas, Inc.
Owner: Deffenbaugh Industries Inc., Shawnee Rock Company
Location: 1800 S. 121st St.
Zoning: I-2, Heavy Industrial District
Tract Size: 420.0 acres (Various Tracts)
Building(s): As Shown on the Phasing Plan

PROJECT DESCRIPTION:

The applicant submitted a request for a Special Use Permit in order to continue the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant approved for Shawnee Rock Company by the City on September 20, 1993 by Ordinance No. 1675; on March 24, 2003 by Ordinance No. 1996 and on April 11, 2005 by Ordinance No. 2089. APAC-Kansas, Inc. purchased the mineral rights, to include the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant from Shawnee Rock Company. The change in operator requires a new special use permit. The property will remain under the ownership of the Shawnee Rock Company. The original documentation for Shawnee Rock approved under Ordinance No. 1675 and the revised Phasing Plan approved on April 11, 2005 under Ordinance No. 2089 shall continue to apply with this new Special Use Permit. The conditions approved under the previous ordinances for Shawnee Rock are incorporated into Staff's Recommendation listed below.

STAFF RECOMMENDATION: Staff recommends approval of SUP-124: Bonner Springs Quarry under the permit holder, APAC-Kansas, Inc. to include the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant based upon the factors for consideration presented in the staff report and forward it to the Governing Body with a recommendation of approval.

Subject to the following seventeen (17) conditions:

1. The hours of operation shall be as follows:
Removal of Rock – 6 a.m. to 6 p.m. – Monday through Saturday;
Rock Crushing – 6 a.m. to 6 p.m. Monday through Saturday;
Blasting – 9 a.m. to 3 p.m. – Monday through Saturday; and
Blasting after 3 p.m. may be permitted only to meet Federal Blasting Requirements or for emergency situations with notification to and approval by the City Manager or his/her designated employee;
2. The original documentation for Shawnee Rock approved under Ordinance No. 1675 and the revised Phasing Plan approved under Ordinance No. 2089 shall continue to apply with this Special Use Permit;
3. Plans and specifications shall be submitted to the Planning Department on each occurrence for each temporary use of a portable asphalt plant and portable concrete ready mix plant. Such plans, specifications and operation of the temporary uses on each individual basis shall conform to all federal, state and local requirements necessary to obtain any necessary permits prior to operation, but shall not require a revision to the Special Use Permit. Hours of operation shall conform to those observed by the quarrying operation;
4. Reports of all inspections required by the Kansas Department of Health and Environment, U.S. Environmental Protection Agency, the State Board of Agriculture-Division of Water Resources, the Bureau of Mines, to include insurance inspections or any other agency requirements, shall be provided to the Planning Department as they occur and are received;

5. The applicant shall conform to all dust, noise, air or any other environmental regulations applicable and shall conform to the stated methods of control and operation contained in the original application and Environmental Impact Study. These shall include, but not be limited to, watering internal roadways for dust control;
6. Once per calendar year, the Planning Department will conduct an inspection of the operations. City authorized personnel shall be allowed on the site to conduct these inspections or to participate in any other inspections deemed necessary by the City or any other local, state or federal agency;
7. Quarrying equipment shall not be visible from adjoining properties or from Kaw Dr. (K-32 Hwy);
8. All reclamation areas identified on the prior special use permit, to include the southwest portion of the property and the east central portion of the property, shall be maintained to blend with the terrain surrounding the quarry. The trees in the reclamation areas shall be properly maintained and all dead, dying or diseased trees shall be replaced as soon as possible to coincide with a planting season(s);
9. The lowest elevation of the mine shall not be less than 820 feet above mean sea level;
10. Solid Waste Processing Facilities or Disposal Areas are prohibited under this permit;
11. An annual blasting permit shall be obtained from the City and violation of the blasting requirements may constitute justification to revoke the Special Use Permit;
12. All trucks that leave the facility shall be covered per State Law to eliminate the potential of spillage of rock on public roadways or damage to other property. Maintain all "Tarp Law Signs" located at the entrance and maintain the property including the removal of any spillage along 121st Street and Kaw Drive;
13. Future changes to the site not identified on the approved Phasing Plan dated April 11, 2005 shall require the submission of a new Phasing Plan to be reviewed and approved by the Planning Commission;
14. Deffenbaugh Industries Inc., Shawnee Rock Company shall be responsible for the final reclamation of the property in accordance with the Ongoing Reclamation Plan for Shawnee Rock Plant #3 dated November 19, 1993;
15. The revocation of the Special Use Permit may occur for a violation of the Zoning Ordinance as provided in Article XXVII of the Zoning Ordinance or violation of any or all of the conditions set out in the Special Use Permit;
16. The Special Use Permit shall be valid until April 14, 2025 unless:
 - a. The subject property is sold; or
 - b. The operation of such use is discontinued for more than 12 months; and
17. The Special Use Permit may not be assigned, conveyed or transferred.

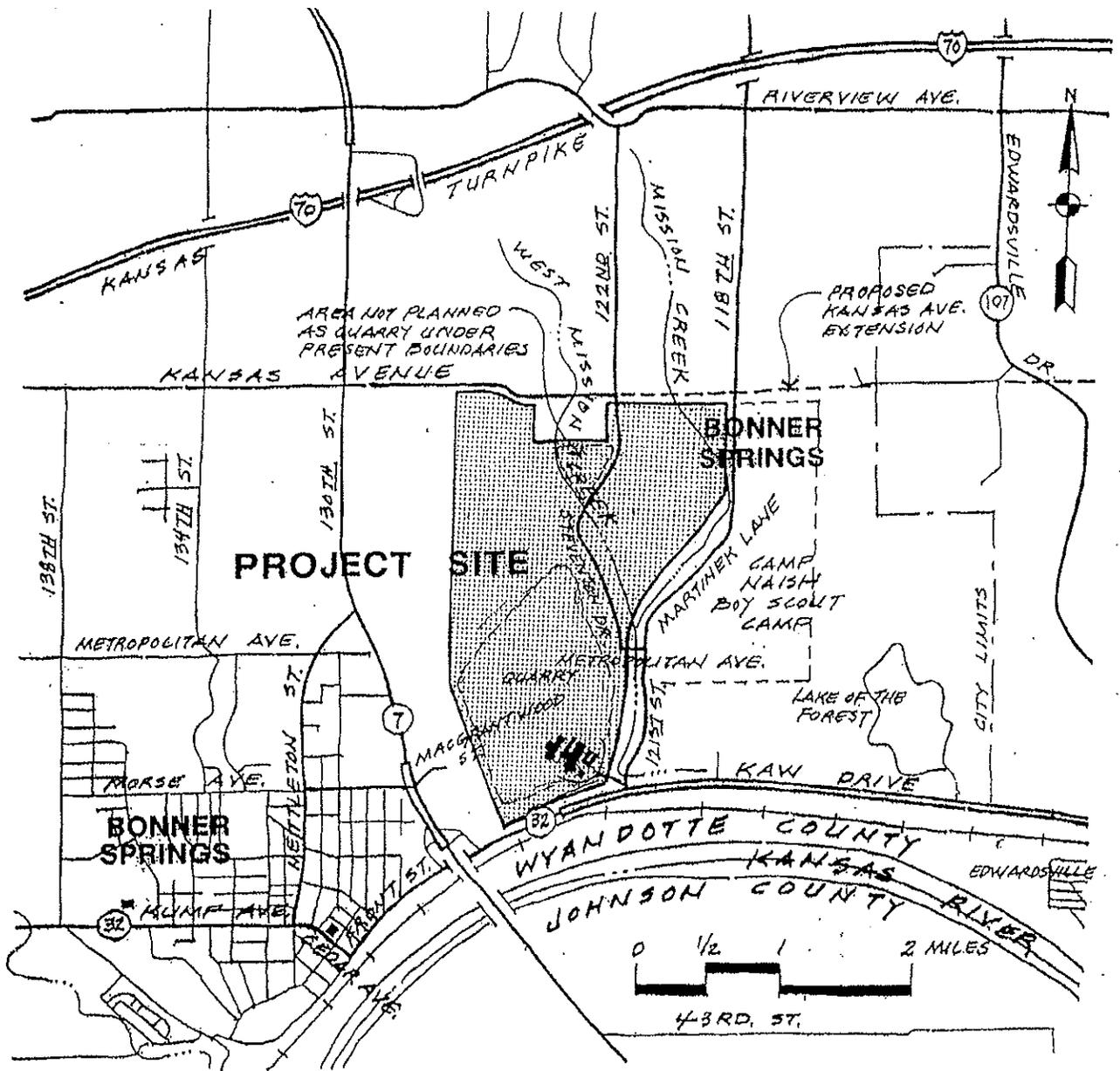
FACTORS FOR CONSIDERATION:

1. **The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations, unless specifically exempted by the provisions of these regulations** – The proposed use is allowed by Special Use Permit in the I-2, Heavy Industrial District zoning; and therefore, is an acceptable use under the use limitations thereof. All existing buildings and portable equipment are located on the property so as not to be in violation of any yard regulation applicable to the I-2, Heavy Industrial District.
2. **The proposed special use at the specified location will contribute to and promote the welfare or convenience of the public** – Shawnee Rock operated the quarry at this location for over fifteen years with no violations of the special use permit. Staff anticipates no changes with the new operator as the Shawnee Rock Company will maintain ownership of the property and will be responsible for the reclamation of the property once the quarry operations are complete. They have been very attentive

to issues that concern dust on the public streets, blasting related complaints and to provide copies of inspection reports. They also cooperate with the City to periodically clean up an area of their property that is often used as a public dump site.

3. **The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located** – There are no changes being proposed as part of this special use permit and staff feels that no injury to the value of surrounding property is expected. The quarry has operated since 1907 and is currently in Phase I, Stages II. The extent of the quarry will continue to proceed northeast toward the extension of Kansas Ave., with Phase I, Stage III estimated to be mined in 2025.
4. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site:**
 - a. **The location, nature and height of buildings, structures, walls and fences on the site** – No additional buildings or structures are proposed at this time. Future additions to the property will require review of the special use permit prior to the issuance of construction permits.
 - b. **The nature and extent of landscaping and screening on the site** – Much of the quarry is screened from public view by large earthen berms on the southwest and northeast sides of the area that is currently being mined. The berms were reseeded and now have an established crop of vegetation on the slopes, which helps prevent erosion. Several evergreen trees were planted near the top of the berms, as required by the past special use permits.
5. **Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect** – No increase in traffic from the general public or truck traffic will result from approval of this application.
6. **Adequate utility, drainage, and other such necessary facilities have been or will be provided** – All utilities have been provided to the existing structure and the new detention pond required under their approved special use permit is now completed.
7. **Adequate access roads or entrance drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets or alleys** – One access was provided along 121st Street that was constructed by Shawnee Rock to connect to Kaw Dr. (K-32 Hwy) to the south.

SUP-124: BONNER SPRINGS QUARRY



Location Map

APAC - KANSAS, INC.

LATHROP & GAGE_{LLP}

LEWIS A. HEAVEN, JR.
(913) 451-5119
EMAIL: LHEAVEN@LATHROPGAGE.COM
WWW.LATHROPGAGE.COM

BUILDING 82, SUITE 1000
10851 MASTIN BOULEVARD
OVERLAND PARK, KANSAS 66210-1669
(913) 451-5100, FAX (913) 451-0875

August 19, 2010

Don Slone, AICP, CFM
Director of Planning
City Hall
205 E. 2nd Street
P.O. Box 38
Bonner Springs, KS 66012

Re: APAC-Kansas, Inc. Special Use Permit
Shawnee Rock Company property

Dear Don:

Enclosed with this letter is the application of our client, APAC-Kansas, Inc., for a special use permit for quarrying operations. As I explained to you in our pre-application meeting, APAC-Kansas, Inc. has acquired the mineral interests in the Shawnee Rock Company property in Bonner Springs. Operations will continue in the same manner as conducted by Shawnee Rock Company on a seamless basis, and Shawnee Rock Company, which remains the owner of the property, will remain responsible for remediation and closure activities.

APAC-Kansas, Inc. is a subsidiary of Oldcastle Materials, Inc., one of the largest and most respected companies in the industry; APAC-Kansas, Inc. intends to carry on the tradition set by Shawnee Rock Company of partnership with the City and good citizenship.

Our client is willing to abide by the conditions and stipulations of the existing special use permit, SUP - 103 (amended), and requests that the duration of the permit coincide with the remainder of term, April 14, 2025. Specifically, our client affirms Stipulation 5 of SUP - 103:

The hours of operation shall be as follows, subject to the filing of written public complaints on any of the individual operations:

Removal of Rock - 6 a.m. to 6 p.m. - Monday through Saturday;

Don Slone
August 19, 2010
Page 2

Rock Crushing – 6 a.m. to 6 p.m. - Monday through Saturday;

Blasting – 9 a.m. to 3 p.m. – Monday through Saturday; and

Blasting after 3 p.m. may be permitted only to meet Federal Blasting Requirements or for emergency situations with notification to and approval by the City Manager or his/her designated employee.

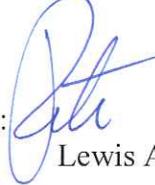
We understand that the City would like to add to Section II of the SUP that a change in operator will terminate the SUP; that is agreeable to our client.

Since this special use application represents a request to continue operations that have been permitted since 1993, our supporting information consists primarily of information previously submitted in 1993 (Ordinance 1675), 2003 (Ordinance 1996) and 2005 and remains relevant today. We are also including a copy of the current NPDSE permit and FIRM.

If additional information is needed, please do not hesitate to contact me. For purposes of communication and billing, please feel free to list me as the applicant. Thank you for your consideration of this application and we will look forward to working with you.

Very truly yours,

LATHROP & GAGE LLP

By: 

Lewis A. Heaven, Jr.

cc: Gregg Conner
Jim Murray

Affidavit in Proof of Publication

STATE OF KANSAS
Wyandotte County

(Published in the Bonner Springs Chieftain, Thursday, September 2, 2010)

Candace Moore of the Legal Dept. of the Bonner Springs Chieftain being first duly sworn, deposes and says:

That this weekly newspaper printed in the State of Kansas, and published in and of general circulation in Wyandotte County, Kansas, with a general paid circulation on a weekly basis in Wyandotte County, Kansas, and that said newspaper is not a trade, religious or fraternal publication, and which newspaper has been admitted to the mails as periodicals class matter in said County, and that a notice of which is hereto attached, was published in the regular and entire issue of the Bonner Springs Chieftain

Said newspaper is published weekly 52 weeks a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice and been admitted at the post office of Bonner Springs in said County as second class matter.

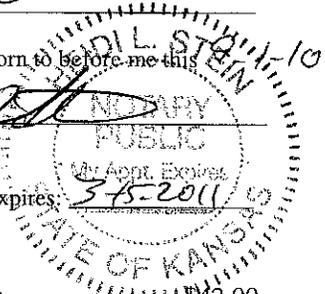
That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive weeks the first publication thereof being made as aforesaid on 09/02/2010 with publications being made on the following dates:

09/02/2010

Subscribed and sworn to before me this

Notary Public

My Appointment expires:



Publication Charges	\$42.00
Notary And Affidavit	\$0.00
Additional Copies	\$0.00
	<hr/>
	\$42.00

NOTICE OF PUBLIC HEARINGS PLANNING COMMISSION CITY OF BONNER SPRINGS, KANSAS

A public hearing will be held by the Planning Commission of the City of Bonner Springs, Kansas, on Tuesday, September 28, 2010, at 7:00 p.m. in the City Hall Council Chambers, 205 E. 2nd Street, Bonner Springs, Kansas. The purpose of the public hearing is to receive public comment on the following item:

Special Use Permit: SUP-124: "Bonner Springs Quarry" a request for a Special Use Permit to continue the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant approved for the Shawnee Rock Company by the City on September 20, 1993 by Ordinance No. 1675; on March 24, 2003 by Ordinance No. 1996 and on April 11, 2005 by Ordinance No. 2089. APAC-Kansas, Inc. purchased the mineral rights, to include the rock quarry, rock crusher and temporary uses of an asphalt plant and concrete ready-mix plant from Shawnee Rock Company. The change in operator requires a new special use permit. The property is 420 acres zoned I-2, Heavy Industrial District. Requested by Pete Heaven, Lathrop & Gage LLP, for APAC-Kansas, Inc. under contract from Shawnee Rock Company, property owners of record. The property will remain under the ownership of the Shawnee Rock Company. The property is located at 1800 S. 121st Street.

The complete legal description and application for the above item is available for public inspection at the Bonner Springs Planning Department, 205 E. 2nd Street, to Don E. Slone, AICP, CFM, City Planner/Floodplain Administrator, at (913) 667-1708.

All persons who wish to be heard will be given an opportunity to make comments at the public hearing.

/s/ Don E. Slone, AICP, CFM
Planning Commission Secretary

RECEIVED
10 SEP -6 AM 10:07
CITY OF BONNER SPRINGS

ITEM NO. 4

ITEM NO. 4: Amending the Planning Commission Bylaws: a request from the City Planner to amend the Bylaws of the Planning Commission.

PLANNING COMMISSION MEETING

TUESDAY, SEPTEMBER 28, 2010 at 7:00 P.M.

PRESENT	Gray	_____
	Carter	_____
	Pierce	_____
& VOTE:	Neal	_____
	Parks	_____
	Wallace	_____
	Stephan	_____
	Krone	_____

MOTION: _____

SECOND: _____

ACTION: MAKE A MOTION TO APPROVE

STAFF RECOMMENDATION: STAFF RECOMMENDS APPROVAL OF THE BY-LAWS

NARRATIVE: A copy of the current Planning Commission Bylaws in legislative format showing the recommended changes are attached. A copy of the Bylaws that reflect all the recommended changes is also attached. Staff will be present to answer any questions.

BYLAWS

CITY OF BONNER SPRINGS PLANNING COMMISSION

The ~~City of Bonner Springs Planning Commission was created by the~~ Governing Body of the City of Bonner Springs, Kansas, created the Bonner Springs Planning Commission in accordance with KSA 12-74~~54~~ et seq.

ARTICLE I – MEMBERSHIP:

1. The membership of the City of Bonner Springs Planning Commission shall be constituted in accordance with the Laws of the State of Kansas and the Ordinances of the ~~is~~ City of Bonner Springs.
2. The membership of the ~~City of~~ Bonner Springs Planning Commission shall be appointed by the Mayor by and with consent of the City Council.
3. In the event of a vacancy in the membership of the City of Bonner Springs Planning Commission, the Mayor, with the approval of the City Council shall fill the vacancy by appointment.
4. The membership of the ~~City of~~ Bonner Springs Planning Commission will serve without compensation.
5. Members who have a conflict of interest with respect to any action or business before the Planning Commission should disqualify themselves from all participation, discussion and voting on such actions or business. The minutes of the meeting and reports to the Governing Body shall reflect all such disqualifications.

ARTICLE II – OFFICERS – STAFF:

1. Chairman – Vice Chairman

The members of the ~~City of~~ Bonner Springs Planning Commission shall annually elect one of their members as Chairman and one as Vice-Chairman at their meeting in August, who shall serve one year and until their successor ~~is has been~~ selected.

The Chairman ~~so~~ selected shall preside at all meetings and including hearings and shall supervise and direct the affairs of the Commission, the preparation, maintenance of the records, reports, agendas and minutes of the Planning Commission, shall coordinate the work and responsibilities of the Planning Commission and shall perform such other duties as directed by the Planning Commission or as necessary to carry out the work and responsibilities of the Planning Commission.

The Vice-Chairman shall carry out the duties of the Chairman in the event of his or her absence or inability to act and shall act as liaison between the ~~City~~ Planning Commission and various planning organizations throughout the City.

2. Secretary – The Planning Commission shall elect a Secretary who shall be responsible for the preparation and maintenance of all records, files and correspondence of the Planning Commission to including, but not limited to the minutes of meetings, agendas, reports and budgets, shall review all expenditures and, in general, by and with the approval and at the direction of the Chairman, coordinate the administrative work of the Planning Commission. The Secretary shall be an employee of the City of Bonner Springs, Kansas.

3. Staff – (a) The Planning Commission may call upon any employee of the City of Bonner Springs, Kansas for such assistance as may be necessary to carry out its duties and responsibilities.
4. Independent Contractor – Consultants – By and with the consent and approval of the Governing Body of the City, the Planning Commission may utilize Independent Contractor – Planning Consultants or others to assist in carrying out its duties and responsibilities.
5. Miscellaneous – The Planning Commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the Planning Commission.

ARTICLE III – MEETINGS

1. The Planning Commission regularly meets once per month on the fourth Tuesday of each month at seven (7:00) p.m. in the City eCouncil eChambers at of the City Hall in of Bonner Springs, Kansas. Regular meetings may be adjourned to another time, day and place that the Planning Commission may deem proper. The Planning Commission in regular or special session may change the time, date or place of any regular or special meeting for good cause shown. The Press and all interested parties shall be notified of such change.
2. SPECIAL MEETINGS – Special meetings of the Commission may be called by the Chairman or in the Chairman’s absence by the Vice-Chairman, ~~and shall be called on the written request of three members of the Commission which request specifies the object and purpose of such meeting.~~
3. QUORUM – A majority of the membership of the Planning Commission shall constitute a quorum for the transaction of business.
4. All meetings shall be open to the public.
5. ORDER OF BUSINESS – The usual order of business shall be as follows:
 - (a) Call to order;
 - (b) Roll call;
 - (c) Approval of minutes;
 - (d) Board and Committee reports;
 - (e) Old business;
 - (f) New business;
 - (g) Announcements; and
 - (h) Future meeting dates and adjournment.
6. CONTINUANCES – Any item may be continued upon request of an applicant or recommendation of staff or a Planning Commission member.
7. ATTENDANCE – Members of the Planning Commission not in attendattendance ingof three consecutive meetings or four within a twelve (12) month period shall be asked to resign.
8. LENGTH OF MEETINGS – Meetings shall be adjourned no later than 10:30 p.m. Should there be further business to be conducted, the meeting shall be continued to a convenient time and date. Should

the Planning Commission wish to continue the meeting past 10:30 p.m. it shall be by a two-thirds vote of the members present.

9. **VOTING** – Voting requirements for amendments to the Comprehensive Plan, Zoning Ordinance, Amendments to the Subdivision Regulations and Plats shall be by a majority of the membership. All other actions require a majority vote of the members present.

ARTICLE IV – RECORDS – REPORT

1. **RECORDS** – All records of the Planning Commission shall be open to the public.
2. **REPORT** – All reports to the Governing Body of the City shall include, or be accompanied by, a copy of the pertinent portion of the Planning Commissions² minutes for all concerning such reports or actions; a copy of minority comments or reports, if any; all resolution; such maps, reports, plans or other testimony or documents as directed by the Planning Commission or eChairman thereof; copies of all protests filed before the Planning Commission; and any other information or documents which, in the opinion of the Planning Commission or Chairman may be informative or helpful to the Governing Body of the City to in carrying out its responsibility.

ARTICLE V – PARLIMENTARY PROCEDURE

Questions of parliamentary procedure shall be determined by the Chairman. Roberts Rules of Order may be used as a guide but shall not be binding upon the Planning Commission or Chairman.

ARTICLE VI – BUDGET – EXPENDITURES – ACCOUNTING

1. **ACCOUNTING** – ~~All accounting, handling of money and payment of bills for the Commission shall be performed by t~~The staff of the eCity of Bonner Springs, Kansas shall be responsible to account for and make payment fo bills for the Planning Commission.

ARTICLE VII – AMENDMENTS

1. ~~Following~~After submission of an amendment or amendments to the Planning Secretary, the Planning Secretary shall forward the same to the Planning Commission. Amendments to these bylaws shall be by majority vote of the membership at the next regular business meeting.

CHAIR

PLANNING SECRETARY

Adopted by the Bonner Springs ~~City~~ Planning Commission this 28th 26th day of September October 20102004.

Amended: September 28, 2010October 14, 2004

BYLAWS

CITY OF BONNER SPRINGS PLANNING COMMISSION

The Governing Body of the City of Bonner Springs, Kansas, created the Bonner Springs Planning Commission in accordance with KSA 12-744 et seq.

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3. In the event of a vacancy in the membership of the City of Bonner Springs Planning Commission, the Mayor, with the approval of the City Council shall fill the vacancy by appointment.
4. The membership of the Bonner Springs Planning Commission will serve without compensation.
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CHAIR

PLANNING SECRETARY

Adopted by the Bonner Springs Planning Commission this 28th day of September 2010.