

City of Bonner Springs
Planning Commission Agenda
Tuesday, November 23, 2010

Study Session 6:00 p.m.

- 2011 Planning Commission/Board of Zoning Appeals Meeting Schedule;
- Planning Commissioner training on Kansas Foreclosure Procedures; and
- Demonstration on the City's new ArcGIS System.

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 September 28, 2010.

Motion: _____ Second: _____

1. Board Discussion

For: _____ #Against: _____

New Business:

ITEM NO. 2: Lot Split: LS-111: “Ensign Commercial”, 7.17 acres platted as Lot 1, Ensign Commercial. The property is zoned C-S, Highway Service District. Requested by Wil Anderson, BHC Rhodes for Steve Flanagan, Ensign Development Co. LLC, property owners of record. The request is in order to lot split the property and convey the existing mini-storage and car wash. The property is located at 399 N. 130th St.

1. Staff Presentation / Applicants Presentation

2. Public Comment

Motion: _____ Second: _____

3. Board Discussion

For: _____ #Against: _____

ITEM NO. 3: Zoning Ordinance Amendment: BSZP-115: “Special Uses”: A request by the Planning Department on behalf of the Bonner Springs Planning Commission to consider an amendment to the Zoning Ordinance, Article XXVII: Special Uses, Section 7: Recording, to remove the requirement to record all ordinances granting special use permits with the Register of Deeds. *(This item will be forwarded to the Governing Body on December 13, 2010)*

Open Public Hearing Time: _____

1. Staff Presentation / Applicant Presentation

2. Public Comment

Close Public Hearing Time: _____

Motion: _____ Second: _____

3. Board Discussion

For: _____ #Against: _____

Adjournment Time: _____



City of Bonner Springs

PLANNING COMMISSION AGENDA

CITY HALL COUNCIL CHAMBERS
TUESDAY, NOVEMBER 23, 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, NOVEMBER 23, 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 September 28, 2010

PLANNING COMMISSION AGENDA
TUESDAY, NOVEMBER 23, 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 SEPTEMBER 28, 2010.

STAFF RECOMMENDATION: STAFF RECOMMENDS APPROVAL OF THE MINUTES

NARRATIVE: The minutes of the September 28, 2010 meeting are attached.

PLANNING COMMISSION MEETING MINUTES
Tuesday, September 28, 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

Chairman Parks called the meeting to order at 7:03 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 August 24, 2010 Planning Commission meeting. Commissioner Pierce made a motion to approve the minutes as written, seconded by Commissioner Krone. Chairman Parks asked if there were any questions or comments concerning the minutes. Seeing none he called for the vote. The motion passed unanimously.

Chairman Parks introduced **Item No. 2: Election of Officers**. Chairman Parks asked for nominations for Chairman of the Planning Commission. Commissioner Pierce nominated Chairman Parks with a second from Commissioner Stephan. Chairman Parks asked if there were any further nominations. Seeing none he called for a vote. The Planning Commission voted unanimously for Chairman Parks to remain in office.

Chairman Parks opened the nominations for Vice-Chairman. Commissioner Stephan nominated Commissioner Pierce with a second from Commissioner Neal. Chairman Parks asked if there were any further nominations. Seeing none he called for a vote. The Planning Commission voted unanimously for Commissioner Pierce to remain as Vice-Chairman.

Chairman Parks recused himself from the next item due to a conflict of interest and removed himself from the proceedings.

NEW BUSINESS

Vice-Chairman Pierce introduced **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 22, 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.

Vice-Chairman Pierce opened the public hearing at 7:08 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.

Vice-Chairman Pierce asked if the applicant would like to address the Planning Commission. **Pete Heaven, Lathrop & Gage LLP, for APAC-Kansas, Inc.** stated that Shawnee Rock still owns the property; however, APAC-Kansas, Inc. will be operating the plant and since the special use permit cannot convert to the new owner APAC-Kansas, Inc. had to submit for a new special use permit. The quality of this company is very good and they agree with all the conditions listed in the Staff Report. They have no changes to the basic plan that was presented to the Planning Commission in 2005.

Vice-Chairman Pierce asked if there was anyone in the audience that would like to comment either for or against this item.

Karen Spartan, 12430 Kansas Avenue, asked about the seventeen conditions listed in the Staff Report. Mr. Slone gave her a copy of the seventeen (17) listed conditions.

Edward Carter, 706 S. 122nd Street, wanted to know if the quarry operation was moving north towards to his property or to the east as was previously approved. Mr. Heaven stated that they have gone as far north as planned in accordance with the approved Phasing Plan dated February 18, 2005 and approved by the Governing Body on April 11, 2005.

There was a side-bar conducted with Ms. Spartan, Mr. Carter, Commissioner Stephan, Commissioner Wallace and Commissioner Krone. They were all looking at the original map that was approved in 2005 concerning the blasting and where the quarry operation would be located.

Vice-Chairman Pierce asked for any further questions or comments from the audience. Seeing none he closed the public hearing at 7:20 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 Carter seconded the motion.

Vice-Chairman Pierce asked if the Planning Commission had any questions or comments.

Commissioner Stephan asked if the blasting times would be the same and Mr. Heaven stated they would continue to be Monday through Saturday from 9:00 a.m. until 3 p.m.

Commissioner Neal asked if there are problems can the special use permit be revoked and Mr. Slone stated yes it could be.

Commissioner Gray asked if there were any caves on the property and he was informed that there were not any caves.

Vice-Chairman Pierce 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 October 25, 2010 with a Planning Commission recommendation of approval.

Chairman Parks returned to the meeting.

Chairman Parks introduced **Item No. 4: Amending the Planning Commission Bylaws:** a request from the City Planner to amend the Bylaws of the Planning Commission.

Chairman Parks asked for Staff presentation. Staff presented its recommendations to the Planning Commission. Staff recommends approval of this item.

Chairman Parks asked if the Planning Commission had any questions or comments. Seeing none he called for a motion. Commissioner Neal made a motion to approve the item with a second from Commissioner Krone.

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

Chairman Parks adjourned the meeting at 7:29 p.m.

Planning Commission Secretary

ITEM NO. 2

ITEM NO. 2: Lot Split: LS-111: "Ensign Commercial", 7.17 acres platted as Lot 1, Ensign Commercial. The property is zoned C-S, Highway Service District. Requested by Wil Anderson, BHC Rhodes for Steve Flanagan, Ensign Development Co. LLC, property owners of record. The request is in order to lot split the property and convey the existing mini-storage and car wash. The property is located at 399 N. 130th St.

PLANNING COMMISSION MEETING

TUESDAY, NOVEMBER 23, 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.

LOT SPLIT: "ENSIGN COMMERCIAL"
Case No.: LS-111
Applicant: Wil Anderson, L.S., BHC Rhodes
Surveyor: Wil Anderson, L.S., BHC Rhodes
Property Owner: Steve Flanagan, Ensign Development Co. LLC
Location: 399 N. 130th St.
Zoning: C-S, Highway Service District
Overall Tract Size: 7.1724 acres
Tract 1: 5.8487 acres (399 N. 130th St.) (Parcel No. 287200)
Tract 2: 1.3236 acres (409 N. 130th St.)

Staff Analysis:

This request is in order to lot split the property and convey the existing mini-storage and car wash separately. The submitted lot split meets the minimum submittal requirements of the Subdivision Regulations.

Note: Tract 1 has direct access to 130th Street. Access for Tract 2 to 130th Street is from the 80' Mutual Access Easement that was shown on the underlying plat for "Ensign Commercial". This access is in accordance with the Subdivision Regulations under Article VI, Minimum Design Standards Section 3(8) Lots which reads:

"Every non-residential lot shall abut on and have access to a public street or have access to a public street by means of a public access easement to a point approved by the City and shall be noted on the face of the final plat."

The provision for the public access easement is shown on the face of the final plat for Ensign Commercial as well as on the face of the Lot Split under General Notes No. 5, therefore meets the requirements as listed above.

Review Comments Received from Other Departments/Agencies

City Planner:

1. Add LS-111: Ensign Commercial Lot Split to the lower right hand corner of the drawing below the border;
2. Correct the General Note No. 6: Current Zoning from CS – Highway District Area to C-S, Highway Service District;
3. 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
4. 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: No comments.
Utilities: No comments.
Public Works: No comments.
Building Official: No comments.
Economic Development: No comments.
WYCO Mapping: No comments.
Westar Energy: No objections.
Atmos Energy: No comments received.

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 for Ensign Commercial subject to the following conditions:

1. Add LS-111: Ensign Commercial Lot Split to the lower right hand corner of the drawing below the border;
2. Correct the General Note No. 6: Current Zoning from CS – Highway District Area to C-S, Highway Service District;
3. 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
4. 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.

ITEM NO. 3

ITEM NO. 3: Zoning Ordinance Amendment: BSZP-115: "Special Uses": A request by the Planning Department on behalf of the Bonner Springs Planning Commission to consider an amendment to the Zoning Ordinance, Article XXVII: Special Uses, Section 7: Recording, to remove the requirement to record all ordinances granting special use permits with the Register of Deeds.

PLANNING COMMISSION MEETING

TUESDAY, NOVEMBER 23, 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

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 December 13, 2010.

To: Planning Commission

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

RE: Zoning Ordinance Amendment: BSZP-115: "Special Uses": A request by the Planning Department on behalf of the Bonner Springs Planning Commission to consider an amendment to the Zoning Ordinance, Article XXVII: Special Uses, Section 7: Recording, to remove the requirement to record ordinances that approve special use permits with the Register of Deeds of the county in which the land is located.

Recommendation:

The City Planner recommends approval to remove the requirement to record an ordinance that approves special use permits with the Register of Deeds as listed under Article XXVII: Special Uses, Section 7: Recording and renumber the remaining Sections.

Discussion:

The Planning Commission discussed the issue to record an ordinance that grants special use permits during the past two Study Sessions in August and September. In view of the fact that special use permits "run with applicant" and not with the land, the requirement seems to be in opposition to a change the zoning classification which "runs with the land" and is not required to be filed in accordance with Article XXV: Amendments. The City Planner updates the Official Zoning Map in either case as a special use or a change in zoning classification once the conditions listed on the ordinance are addressed.

Per the City Clerk, once an ordinance is approved to grant a special use permit it also requires an ordinance be approved by the Governing Body in order to revoke a special use permit. Sections 8 and 9 below lists the process to revoke a special use permit. The cost associated with the revocation process would be borne by the City's Planning Department as the City Planner would initiate the action.

The recommended changes to Section 7 and renumber Sections 8 and 9 are shown in legislative format:

~~**SECTION 7. RECORDING:** All ordinances granting special use permits shall be recorded with the Register of Deeds of the county in which the land is located. (Revised, Ordinance No. 1710)~~

SECTION 7 8. REVOCATION OF SPECIAL USE PERMITS: Special use permits may be revoked by the Governing Body of the City:

1. For a violation of the ordinances of this City including, but not limited to, the zoning ordinance;
2. For a violation of the district regulations; and
3. For a violation or non-compliance with the conditions, limitations or requirements contained in the special use permit or this ordinance.

SECTION 8 9. CORRECTIVE ACTION: Upon completion of an investigation, if the Planning Commission determines that the provisions of the special use permit are being violated, the Planning Commission shall make findings as to the manner in which, or the specific performance standards which are being violated and may:

1. Grant a specified period of time within which the owner or operator of the property shall take corrective action; and
2. Hold a public hearing and make its report and recommendations to the Governing Body of the City. Such hearing shall follow the same procedure as to publication notice, notice to the property owners, and in all other procedural respects as the State laws and zoning ordinances of this City require for amendments to the zoning ordinance of Bonner Springs. (Revised, Ordinance No. 1630)

Affidavit in Proof of Publication

STATE OF KANSAS
Wyandotte County

(Published in the Bonner Springs Chieftain, Thursday, October 28, 2010)

Erika Gray 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 10/28/2010 with publications being made on the following dates:

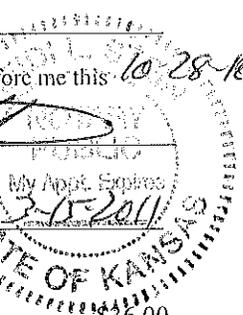
10/28/2010

Subscribed and sworn to before me this

10-28-10

Notary Public

My Appointment expires



Publication Charges	\$36.00
Notary And Affidavit	\$0.00
Additional Copies	\$0.00
	<hr/>
	\$36.00

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, November 23, 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:

Zoning Ordinance Amendment: BSZP-115: "Special Uses": A request by the Planning Department on behalf of the Bonner Springs Planning Commission to consider an amendment to the Zoning Ordinance, Article XXVII: Special Uses, Section 7: Recording, to remove the requirement to record all ordinances granting special use permits with the Register of Deeds.

Questions or comments may be addressed to 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 desiring to be heard will be given an opportunity to make comments at the public hearing.

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