

**MINUTES – 11.16.2021 – DRAFT**  
**BONNER SPRINGS PLANNING COMMISSION MEETING**  
Tuesday, November 16, 2021 – Regular Meeting – 7:00 p.m.

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1. Meeting **CALLED TO ORDER** by Chair Gebauer at 7:00 p.m.

**ROLL CALL**

Planning Commissioners Present: Paul Zeps; Lloyd Mesmer; Sherri Neff; Nick Perica; Vince Bombardier; Larry Clark, Greg Gebauer

Absent: – none

Quorum Established

Staff Present: Mark Lee, City Planner

2. **CONSENT**

**Item #1 – Approval of Minutes of September 21, 2021 Planning Commission meeting**

Chair Gebauer introduced the Consent Agenda Item #2. Commissioners were awarded time to comment or ask questions. There were no comments or questions.

Motion to **APPROVE the Consent Agenda** was made by Commissioner Mesmer and seconded by Commissioner Clark.

Chair Gebauer asked for those in favor of the motion to state “aye”.

AYE – Zeps, Mesmer, Neff, Perica, Bombardier, Clark, Gebauer

NAY – None

**MOTION PASSED 7 – 0**

3. **UNFINISHED BUSINESS**

None at this time

4. **NEW BUSINESS**

**Agenda Item # 4– LS-03-21 – Lot Split – Copher** - The applicant is requesting a Lot Split presented by Atlas Land Consulting; on behalf of the property owners, Keith L. Roberts Revocable Trust (Copher’s) - The applicant is proposing to split an existing tract/parcel (Tract 2) and create a new parcel (Tract 1). Chair Gebauer introduced New Business Item #4 and called for a staff report.

Staff reviewed the report stating that the applicant was wishing to split the parent parcel in order to square the northern piece up. This would in turn leave the parent parcel consisting of 43 acres more or less and the new parcel would in turn consist of 16 acres more or less.

Commissioner Zeps stated that Mr. Roberts (property owner) was a close family friend and that if item became contentious he would recuse himself and abstain from any voting. He further stated that he initially did not see any reason he would need to do so.

Chair Gebauer asked if any Commissioners had questions of Staff; there were none at that time.

Chair Gebauer asked if there were any questions for the applicant, the applicant, as stated on the application, was not present but the property owner, Mr. Keith Roberts was. Mr. Roberts approached the podium to provide comment. Mr. Roberts spoke about the dimensions of the parcel, stating that most other parcels in the area were approximately one half mile (1320') deep. He further stated that the property was recently purchased from Mr. Owens and that Mr. Owens was not sure why the northern parcel stopped short and did not continue to the eastern property line. Mr. Roberts questioned why the City would request additional public rights of way, he stated, "as a fee, I guess you could call this, they want ten feet of right of way added to the 1200 and some odd feet, and then they want an additional twenty feet along Metropolitan." Mr. Roberts stated he didn't understand why the City would make this request he was only attempting to square up the northern parcel.

Mr. Roberts then asked if anyone could explain the reasoning behind this request. Staff explained the review process and how lot splits; plats and similar land development applications are reviewed by the Design Review Team, consisting of the City Engineer, Public Works Director, City Planner and others. During the review process we look to our Comprehensive Plan and any ongoing plans. Within the Comprehensive Plan we indicated both Metropolitan and 138<sup>th</sup> Street to be improved to arterial status, Staff further stated we were currently wrapping up plans and had obtained funding for improvements on the southern end of 138<sup>th</sup> Street and intended to proceed with those improvements soon. It was added that requesting rights of way, utility easements and the like is common planning practice from a City standpoint. As projects similar to this come forward; it is Staff obligation to utilize approved future land planning documents to make informed decisions and requests.

Commissioner Clark asked that as funding becomes available and we continue to improve 138<sup>th</sup> Street going north, properties that had not dedicated public right of way would have it "taken" by the City. Staff stated there are typically several steps and other processes that Cities can utilize in order to acquire right of way, including a simple request for dedication, purchasing or condemnation. Mr. Roberts stated he would be happy to do that when the time comes and still could not understand why the back corner of the property had anything to do with additional right of way along the front.

Commissioner Zeps stated he was finding it difficult to determine what the current layout of the parcels was. The documents submitted for review indicated the proposed layout; the existing parcel lines were lighter in color and somewhat difficult to see. Staff indicated what the current layout was via another image from the Wyandotte County GIS.

Mr. Roberts then proceeded to talk about how the addresses for the parcels had been switched at some point in time; this was also noted by the title company during sale/purchase. Mr. Roberts said no one that he had spoken with knew why the parcel was so oddly shaped, but at one point in time the property was owned by the Bonner Springs Saddle Club.

Commissioner Zeps proposed a general comment, "When we start talking about things like eminent domain, payments and things like that, I am in dangerous close territory and so my general comment would be, that if someone knows things are going to go in and that eminent domain or payments may be made a later date, I don't know that I would acquiesce to anything like that quietly either if I'm being asked to give it free or that someone may have to pay me for it later, a little bit of a no-brainer."

Mr. Roberts reiterated that every parcel up and down 138<sup>th</sup> Street was 1320 feet deep and they were only coming in to square this northern parcel up and didn't understand why the city would "hold him hostage" by making the request for additional right of way. He further stated that this request "just caught him wrong".

Commissioner Bombardier asked Staff if this was normal practice when property is replatted or reconfigured to incorporate the future visions. Staff stated yes, this was common practice, looking at the future goals and plans of the City, whether they are transportation, utility or otherwise and to put in place items like future rights of way, utility easement or similar when possible. Commissioner Bombardier stated "this isn't a one off occurrence, it is common practice with a focus toward the future", Staff responded 'yes'.

Mr. Roberts said; “the problem is they have plans, so are these plans ten years? Twenty years? And they want this frontage now?” Staff, spoke to the fact these types of processes are typically the easiest and most advantageous ways for Cities to gain additional rights of way or utility easements, it is common practice and part of the planning process. Staff stated, ‘to Keith’s point, it may be fifty years, and that we may have right of way dedicated for years prior to actual construction, in this instance it would depend on how much development occurred to the north. In theory this right of way may go unused for five or more years, but that we have planned improvements for this roadway and are moving forward with improvements to the south currently.’ Mr. Roberts said, I can appreciate that but I do not see what this has to do with the back corner of the property.

Commissioner Clark asked for clarification, the right of way that we are talking about is along Metropolitan and 138<sup>th</sup> Street, Staff responded ‘yes’ that is correct.

Staff spoke to the fact that Mr. Roberts had asked prior to the meeting what our intentions were with other neighboring properties, how would we acquire that right of way? Staff stated they did not know at this time how things would proceed. Staff further explained that if an individual requested to plat an eighty (80) acre subdivision in the area, we would require the additional right of way from them as well.

Mr. Roberts stated, “I’m not trying to gain on this; whatever that frontage would be nothing to me, I gave this City a ten acre prime piece of property along K-7 to make a park out of many years ago, it’s the idea, why do I have to give up property for something that we don’t know when and if it’s ever going to happen and then if you put new fences out there you have to set them back, what does that corner have to do with 138<sup>th</sup> Street, nothing. I’m going to tell you all right now, I’m not going to do this and if the City wants to get nasty with me, they aren’t going to be able to afford what I do. I think all you guys know me and it won’t be pretty.”

Vice-Chair Zeps stated he most certainly abstains.

Chair Gebauer asked Mr. Roberts, since he stated he was not going to do this, did he mean the Lot Split all together or continue with the Lot Split minus the request for additional right of way. Mr. Roberts stated yes, that was his intent was to go through with the Lot Split but he was not in agreeance with request for additional right of way. Mr. Roberts stated that when they first approached the City, no one had mentioned that in order to do the Lot Split, the City was going to require the dedication of additional right of way. Mr. Roberts went on to state that 138<sup>th</sup> Street does need to be four lanes or definitely widen because there are so many school kids on it and hills are steep.

Commissioner Clark asked Mr. Roberts if he had concerns with any of the other Staff recommendations, he asked about the comment from the County; stating ownership had changed since first submitted and needs to reflect the current owner, Keith L. Roberts Revocable Trust. Mr. Roberts stated he had the deed which indicated he was the owner. He then asked Staff if the property was still in Mr. Owens name when it was submitted, Staff stated, yes it was.

Mr. Roberts stated that he just wanted approved the way it had been submitted and that if the City wanted to hold him up on it, then that is just the way it is and he would just leave it the way it is currently.

Vice-Chair Zeps stated that it appeared as though everyone went into this thinking that their requests were just basic requests and it has gone beyond that now. Perhaps tabling the item for now and going back into discussions to see how committed everyone is to their side as far as what the requests were. He further stated that no one seemed to be in a hurry to proceed as the Lot Split did not stop anyone from proceeding.

Mr. Roberts said he could not believe that every lot split or similar item has these same requirements, Staff stated, yes they do, again it is common practice to preserve open space, rights of way and other items necessary for the future growth of the City. Mr. Roberts asked Staff what the law said about this, Staff stated they were not a lawyer and could not answer that question, but Staff did state that if the road was shown to be improved at some point in time then the request/recommendation would be made in the same manner.

Chair Gebauer asked how the Commission would like to proceed. Commissioner Clark made a motion to **TABLE** the item, a second on the motion was made by Commissioner Perica; Staff stated that item would be tabled until the January meeting if the motion passed. Staff further stated that they would gather the Design Review Team and discuss options regarding the dedication of public right of way.

Chair Gebauer called for a vote.

AYE – Mesmer, Neff, Perica, Bombardier, Clark, Gebauer

NAY – None

ABSTAIN - Zeps

MOTION PASSED 6 – 0 – 1

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### **Agenda Item # 5– SUP-05-21 – Special Use Permit – Mikes Rentals – 231/233 W. Insley Avenue**

Chair Gebauer introduced New Business Item #5 and called for a staff report.

Staff reviewed the report and explained the requested Special Use Permit; Staff explained that within the R-1A, Residential Special District there are allowances for multiple types of residential dwellings including single family, two family and multi-family. Staff stated the applicants' intent was to construct two, two-family dwelling units (2 duplexes). Staff discussed the proposed location, the surrounding area and how these two duplex units may fit in to the neighborhood. Staff stated they had also driven to and through the area and came to the conclusion that there was currently several types of dwellings within the block – 2 multi-family buildings, several single family dwellings and other civic/social uses nearby and that the addition of two new duplex units would fit within that area based on the number of different uses in place currently. Staff further explained that the only way two family dwellings were allowed to be constructed was through a Special Use Permit.

Chair Gebauer asked the Commissioners if there were any questions of Staff. Commissioner Mesmer spoke regarding one of the aerial images that were provided in the packets. He stated that it appeared to him as though an existing driveway was encroaching upon one of the lots in question. Staff explained that that while GIS mapping is an excellent source of visual representation, it was difficult to project property lines evenly upon a satellite image and the majority of the time those property lines are not accurate and the aerial images were for references only.

Chair Gebauer asked if there were any further questions for Staff, there being none, Chair Gebauer asked for a motion to open the Public Hearing; Vice-Chair Zeps made a motion to **OPEN** the Public Hearing with Commissioner Clark **SECONDDING**.

Chair Gebauer asked if any Commissioners had questions of the applicant; Staff stated that he believed the applicant was present but in fact they were not. The Commissioners had no questions of the applicant, Chair Gebauer asked if anyone from the public wished to speak in favor or against the requested Special Use Permit, there were none.

Chair Gebauer asked for a motion to close the Public Hearing, Vice-Chair Zeps made a motion to **CLOSE** the Public Hearing, Commissioner Clark **SECONDED**. Chair Gebauer asked the Commissioners if they had any further questions or discussion, being none a motion was made by Commissioner Clark to **APPROVE** the requested Special Use Permit with Staff recommendations, Vice-Chair Zeps **SECONDED**.

Chair Gebauer asked for a vote.

AYE – Zeps, Clark, Mesmer, Neff, Perica, Bombardier, Gebauer

NAY – None

**MOTION PASSED 7 – 0**

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**Agenda Item # 6– BSRZ-02-21 – Rezoning – Sandstone Townhomes – 546 N. 130<sup>th</sup> Street**

Chair Gebauer introduced New Business Item #6 and called for a staff report.

Staff explained the location of the requested rezoning and what the project was to entail. Staff explained that the rezoning request was from the blanket zoning of A-1, Agricultural to that of R-3 Multi-Family Residential District. Staff stated the property was currently vacant and had been that way for quite some time.

Chair Gebauer asked for a motion to open the Public Hearing, Commissioner Clark made a motion to **OPEN** the Public Hearing with Commissioner Neff **SECONDING**.

Chair Gebauer asked if there were any questions of Staff. Commissioner Bombardier stated that in Staff recommendations he noticed that a Traffic Impact Study was being requested; Commissioner Bombardier asked who conducted these for us. Staff stated that it was in fact the developer that is responsible for these studies. Staff stated they were provided a Scope of Service from the developers' team and in turn Staff reached out to the City Engineer and KDOT to verify the Scope would suffice all parties involved.

Chair Gebauer asked if the applicant wished to speak, at that time they chose not to, Chair Gebauer then asked if there were any questions of the applicant. Vice-Chair Zeps indicated concerns with the traffic, knowing what the traffic is like currently during events in the area, he voiced concerns over what the impact of an additional 140 units may have.

Commissioner Mesmer spoke about the past development challenges. Commissioner Mesmer asked about further development of the surrounding property and how placing multi-family dwellings in this area may impact further development or aid in it. Commissioner Mesmer asked what if light industrial development was to look into moving into that area what impact would have, negative or positive.

Staff stated that in their opinion, if this rezoning were to be approved and the project moved forward that it would set the precedence of what further development to the north would look like. Staff stated the area could develop in a more mixed use manner by potentially providing office or retail space, possibly small commercial developments, etc. Staff did state, in some areas of the Metro, light industrial is being placed directly next to multi-family developments, developments that are in essence planned that way and being built by the same developers not after the fact.

Dave Hurrelbrink – Chair of the Ag Hall Board of Directors asked if the units were going to be Market Rate, Section 8 or any other kind of tax incentivized development. He further asked about the number of units and what the density was. Vice-Chair Zeps stated that within the Staff report it was stated there was 140 units proposed and that a preliminary site layout had been provided. The applicant approached the podium and stated that they would be 100% Market Rate and there were no tax credits associated with the project.

Layout was discussed lightly, amenities were asked about, would a swimming pool be provided, what types of amenities would be provided. The applicant stated there was no swimming pool but they would provide walking trails, picnic areas and other open green spaces for the residents.

Robert Eugster owner of the property directly north of the parcel in question approached the podium with questions and comments. Mr. Eugster stated he owned the property for approximately 20 years, he stated the City had told him this was part of a K-7 commercial corridor and that in the past the City has told him that this not the place for residential development or any kind and it would not be allowed. Mr. Eugster then spoke about the amount of traffic that is generated by the RenFest and concerts, he further stated he did not live on the property but is all too familiar with the traffic congestion. Mr. Eugster expressed his concerns regarding delayed emergency service response times and how traffic from concerts is the main culprit. He then provided pictures for the Commissioners to view which indicated the traffic congestion during these concert events. Vice-Chair Zeps said they would be glad to look at them but they had all experienced the traffic congestion in that area at some point in time.

Vice-Chair Zeps asked if there was anything currently funded or in the planning process to address the intersection at K-7 and N. 130<sup>th</sup>. Staff spoke about the K-7 Corridor Study and that if constructed the intersection would look nothing like it does today. Vice-Chair Zeps asked the applicant what he thought their development time frame looked like. The applicant stated they were looking for preliminary direction at this meeting but stated they would like to begin sometime around March 2022, they also stated they were still working with the County, the property is currently within the Land Bank of Wyandotte County. Zeps asked at what speed the State was moving in implementing the K-7 plan, Staff stated they were still in design stages and were not actively pursuing these intersection improvements.

The applicant stated that in their initial proposal they indicate emergency response vehicle access directly from K-7 but the State had told them it would not be allowed.

Mr. Eugster made further comments about the issues that Delaware Ridge has, as well as surrounding businesses regarding individuals parking in their respective lots during events and walking to the amphitheater from those places.

Staff was asked for their thoughts regarding the potential traffic implications, Staff stated that the road is a four lane, improved roadway and it would more than likely have the same potential traffic issues. It would not matter necessarily if it was 'small box' retailer, several fast-casual restaurants, or a strip mall scenario, the road is not congested on a daily basis.

Vice-Chair Zeps asked if there was some other type of zoning district that would allow both or either commercial/industrial development as well as multi-family dwellings. Vice-Chair Zeps stated he like the fact that we were looking to expand housing options but he felt this was more spot zoning than anything. Staff stated that a Mixed-Use zoning would allow for certain uses to be intermingled but the requirements on the applicants end were far more cumbersome than straight zoning.

Randy Willbanks – part of the applicants team, stated that they are just as concerned about safety and traffic as the next person but they have also identified a need for this style of housing. He stated these would be luxury townhomes at approximately 9 units per acre with great interior finishes including granite countertops and high end fixtures. Mr. Willbanks spoke about how these units would increase the tax base of Bonner Springs and allow people to hopefully work and live in close proximity to the community.

Chair Gebauer asked if there was any further discussion from the public or the Commissioners, being none he asked for a motion to close the Public Hearing. Commissioner Bombardier made a motion to **CLOSE** the Public Hearing with Commissioner Mesmer **SECONDING**.

Vice-Chair Zeps stated it was a cost benefit risk analysis, we are in the rezoning process currently and agrees with the need the applicant is filling, he also agrees with the concerns that have been raised. Zeps further stated that as the Planning Commission they will still be able to review the project as it moves forward, site plan, etc. Zeps further stated that he felt this was a good opportunity to allow the process to work the way it was intended, working with the County, the developer, the City etc. and that the Traffic Impact Study would become a driving force behind the progression of the development.

Commissioner Mesmer stated he agreed with Vice-Chair Zeps comments and followed those up by stating the developer has to understand that there are traffic issues in the area currently, if they understand that then some of the responsibility falls on their shoulders to determine how best the get into and out of the development. Commissioner Mesmer further expressed his opinion that Bonner Springs needed the rooftops and felt as though the project should most likely move forward.

Vice-Chair Zeps said this would be a good opportunity to start getting some of the proposed roadway designs and safety measures in place. He further stated that he felt the Governing Body could use this development to spur KDOT to address certain issues.

Commissioner Bombardier made a comment regarding the amphitheater and how they utilize the public roadway system, further stating that if they follow procedures and address traffic on their end then traffic congestion could be mitigated to a certain point.

Chair Gebauer asked if there were any other comments, Commissioner Clark stated he felt that there were enough safeguards within Staffs recommendations, mainly the Traffic Impact Study, that it could take care of a lot of the concerns.

Chair Gebauer asked for a motion on the rezoning, Vice-Chair Zeps made a motion to **APPROVE** the requested rezoning with Staff recommendations, Commissioner Bombardier **SECONDING**.

Chair Gebauer asked for a Roll Call vote.

AYE – Zeps, Clark, Mesmer, Neff, Perica, Bombardier, Gebauer

NAY – None

**MOTION PASSED 7 – 0**

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## **Agenda Item #8 - CITY PLANNER'S REPORTS**

- a. No meeting in December
- b. I will have the public hearing notices published for the proposed amendments to the Zoning Regulations that we have discussed in the past two work sessions for the January meeting.
  - i. Accessory building limitations
  - ii. Accessory Dwelling Units
  - iii. Architectural Design Standards for Multifamily, Commercial, Industrial and regulations regarding the downtown district
- c. Beginning of 2022, I would like to begin discussing updates to the Comprehensive Plan, beginning with updating the Future Land use Map and continuing from there.
- d. New Planning Commission Member should be joining the ranks in January – Jason Cruse – Mr. Cruse will represent one of 2 vacant positions from the Loring Service Area.

- e. Staff spoke of the applications that had been dropped off recently that will proceed in January
  - i. Proposed rezoning at K-7 and Nettleton
  - ii. Site plan for Lot 3 of the Compass 70 Logistic Center

Agenda Item # 8 - ADJOURNMENT

Chair Gebauer adjourned the meeting at 8:08pm.

DRAFT