

**BOARD OF COUNTY COMMISSIONERS
OF
FRANKLIN COUNTY, KANSAS**

FILED FOR RECORD
TIME 12:30 P.M.

RESOLUTION NO. 17- 19

Misc APR 05 2017
Book 281 Page 399
REGISTER OF DEEDS, FRANKLIN CO., KS
INSTRUMENT # 1083

A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #1702-1461 (BETTIS ASPHALT & CONSTRUCTION, INC.) TO PERMIT THE DEVELOPMENT AND OPERATION OF AN ASPHALT PLANT IN AN A-1 (AGRICULTURE) ZONING DISTRICT

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on February 21, 2017 that public hearing would be held on March 16, 2017 to consider Special Use Permit application #1702-1461 (Bettis Asphalt & Construction, Inc.) as required by K.S.A. 12-757 and Article 19, Section 19-3.04 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on March 16, 2017 hold a public hearing for the consideration of Special Use Permit application #1702-1461 to permit the development and operation of an asphalt plant, and after reviewing and considering all reports and testimonies did, by a majority vote of those present, approve said Special Use Permit; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Zoning Regulations on August 14th, 2002 which included Article 19, Section 19-1 through 19-5 setting out the procedures and basis for review in considering a Special Use Permit, including the following criteria:

- a. Whether the use is in compliance with, and would further enhance, the implementation of the adopted Comprehensive Plan;
- b. Whether the use complies with the purpose and intent of the adopted Zoning Regulations;
- c. Whether the use complies with other adopted standards of the County;
- d. Whether the use fits the character of the neighborhood;
- e. Whether the use would be unduly detrimental to surrounding properties and uses;
- f. The suitability of the subject property for the proposed use;
- g. Approval of mitigation measures to minimize impacts to surrounding properties or services; and

WHEREAS, the Board of County Commissioners of Franklin County, after duly reviewing the recommendation of the Planning Commission together with all public comments for and against said Special Use Permit finds:

1. That the Special Use Permit is consistent with the County Zoning Regulations

2. That the Special Use Permit is in conformance with, and would further enhance, the County Comprehensive Plan
3. That, as conditioned, the Special Use Permit will not overburden the County roads and other public services
4. That, as conditioned, the Special Use Permit will not unduly affect the character of the surrounding community
5. That, as conditioned, the Special Use Permit will not impact property values of the surrounding properties
6. That, as conditioned, the Special Use Permit will comply with all other County Codes and Regulations
7. That the subject property is suitable for the proposed use.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #1702-1461 (Bettis Asphalt & Construction, Inc.) as follows:

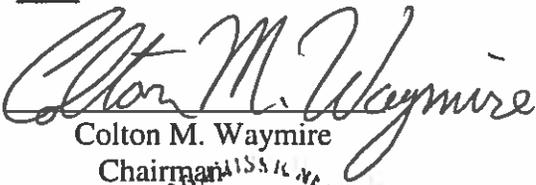
Section 1: Special Use Permit #1702-1461 (Bettis Asphalt & Construction, Inc.) is granted for the following described property: A portion of the Southeast Quarter of Section 29, Township 16 South Range 19 East of the Sixth P.M., Franklin County Kansas being described as follows: Beginning at a ½" rebar at the Northwest Corner of the Northeast Quarter of said Southeast Quarter; THENCE North 89 degrees 14 minutes 56 seconds East (bearings based on the Kansas Coordinate System 1983 South Zone) along the North line of said Southeast Quarter a distance of 495.00 feet to a set 5/8" rebar; THENCE South 01 degrees 49 minutes 16 seconds east parallel with the West line of the Northeast Quarter of said Southeast Quarter a distance of 768.86 feet to a 5/8" rebar set at an existing fence corner; THENCE South 87 degrees 19 minutes 32 seconds West along an existing fence line a distance of 494.97 feet to a 5/8" rebar set on the West line of the Northeast Quarter of said Southeast Quarter; THENCE North 01 degrees 49 minutes 16 seconds West along said West line a distance of 785.44 feet to the Point of Beginning containing 8.83 acres.

Section 2: The Special Use Permit for the real property described above shall be subject to the following conditions:

1. That the asphalt plant and material storage shall be limited to the Northwest 8.83 acres of the 40.00-acre tract as described in the lease agreement. Any expansion of the plant operations shall require an amendment of the Special Use Permit.
2. Asphalt Plant operations shall comply with all Federal and State requirements.
3. The plant operator shall maintain all Federal and State licenses and permits.
4. The plant operator shall maintain adequate insurance coverage and shall provide the County with a copy of such coverage.
5. That the hours of operation of the asphalt plant shall be limited from 6:00 a.m. to 6:00 p.m. Monday thru Saturday except for bona fide emergencies or for jobs with specific government requirements.

6. That the South, East and West boundaries of the subject property be screened with a six (6) foot high screen. Said screening may include a solid fence, landscaping or earthen berm and shall be installed/planted within six (6) months of commencement of the plant operations.
7. That the North boundary shall be fenced and a locking gate installed at the access drive entrance. Said gate shall be locked except during hours of operation.
8. Access to the subject property shall be directly from Osborne Terrace.
9. That all traffic for the asphalt plant operations be limited to K-68 highway, Nebraska Road and Osborne Terrace.
10. That topsoil shall be removed prior to any plant operations and shall be maintained on-site.
11. The operator shall maintain dust control at the site.
12. The operator shall maintain a setback of 100 feet from the front property line for storage of materials and all structures associated with the plant operations.
13. The asphalt plant may use portable toilet facilities for sanitation provided that the operator contracts with an independent third party toilet service and that monthly reports be filed with the Franklin County Environmental Health Department.
14. That the propane gas supply storage tank shall have protection barriers.
15. That the oil supply facilities have containment berms sufficient in height to contain oil spills.
16. No truck parking shall be permitted on Osborne Terrace, except for emergencies
17. Upon termination of the lease, the leasee shall reclaim all areas disturbed by any plant operation and any materials used in the plant operations. Said reclamation shall return top soil to all disturbed areas and shall be seeded with native grasses.
18. Failure of the operator to comply with the conditions of this Special Use permit shall give cause for reconsideration or revocation provided in Section 19-5.03 of the County Zoning Regulations.
19. The Special Use Permit shall automatically expire, be considered abandoned and become invalid by operation of law when the activity or use has ceased for three hundred and sixty-five (365) continuous days for any reason.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 5th day of April, 2017. This action shall become effective upon publication in the official county newspaper.


Colton M. Waymire
Chairman

Received and recorded this the 5th day of April, 2017.




Janet Paddock
County Clerk

(Original compared with record)