

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
FIRST FLOOR FISCAL COURTROOM
BUSINESS MEETING
OCTOBER 6, 2021
7:00 P.M.**

Chairman Rolfsen opened the Business Meeting at 7:00 p.m. and welcomed the audience to the Planning Commission's October 6, 2021 Business Meeting. Chairman Rolfsen then invited everyone to join him in reciting the Pledge of Allegiance.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mrs. Pamela Goetting
Ms. Corrin Gulick
Mr. Steve Harper
Mr. Rick Lunnemann
Mr. Don McMillian
Mr. Kim Patton, Vice Chairman
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mrs. Jackie Steele
Mr. Tom Szurlinski
Mr. Steve Turner, Temporary Presiding Officer
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mr. Kim Bunger, Secretary/Treasurer
Mrs. Janet Kegley

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Todd K. Morgan, Senior Planner
Mr. Michael Schwartz, Planner
Mr. Tom Chaney, Planner

APPROVAL OF THE MINUTES:

Chairman Rolfsen stated that the Commissioners received copies of the Minutes from the September 1, 2021 Business Meeting and Public Hearing. Chairman Rolfsen asked if there were any other comments or corrections?

Mr. Patton moved to approve the Minutes as presented. Mr. Turner seconded the motion and it carried unanimously.

BILLS:

Mr. Kevin P. Costello, AICP, Executive Director, advised the Commissioners of the **Bills to be Paid**, which included a list of **Expenses** and **Salaries and Benefits** for a time period between September 2, 2021 and October 6, 2021.

EXPENSES:

| | |
|-----------------------------------|---------------|
| Accounting Fees | \$ 3,661.35 |
| Attorney Fees | 4,200.00 |
| Auto Expense | 194.95 |
| Consultant/Professional Svcs Fees | 2,075.00 |
| Filing Fees (CLURS) | 1,000.00 |
| Legal Ads/Recruitment | 76.16 |
| Miscellaneous Expense | 230.40 |
| Office & Board Meeting Supplies | 669.81 |
| Office Equipment / Expense | 544.54 |
| Postage Expense | 836.67 |
| Printing/Pub/Dues/Subscriptions | 156.46 |
| Professional Development | <u>275.00</u> |

TOTAL: \$ 13,920.34

SALARIES AND BENEFITS:

| | |
|---------------------------|---------------|
| FICA-BCPC Portion | \$ 8,926.95 |
| Health/Dental/Life/LTD | 13,081.79 |
| Retirement – BCPC Portion | 23,579.11 |
| Salaries – Staff Expenses | 121,372.42 |
| Salaries – BCPC & BOA | <u>765.00</u> |

TOTAL: \$167,725.27

GRAND TOTAL: \$181,645.61

Mr. McMillian moved that the bills (expenses and salaries and benefits) be approved and paid as presented and indicated approval of those items, which have been previously paid. Mrs. Goetting seconded the motion and it carried unanimously.

CHANGE IN CONCEPT DEVELOPMENT PLAN – Kim Patton, Chairman, Michael Schwartz, Staff

1. Request of **Tim Greive (applicant)** for **Bob Sumerel Tire Co. (owner)** for a Change in Approved Concept Development Plan in a Industrial One/Planned Development/Houston-Donaldson Study Corridor Overlay (I-1/PD/HDO) zone for a 2.835 acre site located on the north side of Donaldson Highway, approximately 240 feet west of Turfway Road and immediately west of the property at 1212 Donaldson Highway, Boone County, Kentucky. The request is for a Change in an Approved Concept Development Plan to permit a truck tire storage lot.

Staff Member, Michael Schwartz, noted that he saw a typo on the Committee Report. The Committee is recommending approval. He read the Committee Report, which recommended approval based upon Findings of Fact and Conditions (see Committee Report). He noted the Committee voted unanimously to approve the request.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request for a total of 5 minutes on either side? Mr. Tim Greive, applicant, stated that he was present to answer any questions. Mr. Todd Sumerel acknowledged that he agreed to the conditions.

Chairman Rolfsen asked what was the height of the proposed fence? Mr. Greive replied that the fence would be a solid vinyl, six feet high.

Mr. Patton moved to approve the Change in Concept Development Plan by Resolution to the Boone County Fiscal Court based upon the Committee Report and subject to the Findings of Fact and Conditions. Mr. Harper seconded the motion and it passed unanimously.

CHANGE IN CONCEPT DEVELOPMENT PLAN – Corrin Gulick, Chairwoman, Michael Schwartz, Staff

2. Request of **Brad Trauth – Trauth Property Group (applicant)** for **Thousand Hills Holdings, LLC (owner)** for a Change in Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 3.87 acre site located at 3215 Cougar Path, Boone County, Kentucky. The request is for a Change in an Approved Concept Development Plan to permit residential townhomes and an office building in addition to an existing pet daycare facility.

Staff Member, Michael Schwartz, explained that the Committee had a tie vote so there is no recommendation one way or another. The Committee has directed the Staff to provide to opposing Committee Reports – one for disapproval and one for approval. Mr. Schwartz read the Committee Report for disapproval first and then for approval (see both Committee Reports).

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. Tom Breidenstein, attorney for the applicant, asked the Planning Commission to consider

three things. First, if there are two competing recommendations, then it should tip towards the rights of the property owner in question. Second, the land use should serve as a guide and not as a straight jacket. Finally, the Planning Commission should look at all Elements of the Comprehensive Plan and not just the Land Use. The standards for Planned Development have been satisfied. Section 1514 of the Zoning Regulations refers to the mixing of uses is to be encouraged. This is what we have here. The second Committee Report states that all of the applicable requirements have been met. Additional landscaping and brick wrapping can be provided. The development is in conformance with the Comprehensive Plan as evidence by the 13 examples noted in the second Committee Report. The proposed multi-family residential use is considered to be a commercial use. Mr. Breidenstein stated that his client agrees to all of the conditions except for the one condition about a shared maintenance agreement. It gives a veto to the Baptist church. It is an illegal condition and requests that it be dropped. He stated that he submitted a 50-50 maintenance agreement to the Church last week. It was denied and no counter proposal was proposed. This is a NIMBY situation.

Mr. Jay Fossett, attorney for Hebron Baptist Church, stated that a revised plan has been submitted by the applicant. The Concept Development Plan has changed as the density has increased. They have failed to address parking and buffering. Two of the Committee members voted against the project because it was not in agreement with the Comprehensive Plan. The site can only be used for retail or office. It is located in the Airport 60 DNL noise contour. It is incompatible with residential uses. The east-west runway will reopen soon and more noise is expected due to cargo activity. Residential uses are not allowed in C-2 zoning districts. Fifty percent of the site is planned to be used for residential use. The new plan has four additional units and less green space. It will be a traffic problem getting to the daycare.

Mr. Dennis Repenning, attorney for Hebron Baptist Church, stated that the owner of the pet spa has never met with the Church. The draft agreement didn't deal with past issues or the third party owner of the pet spa. One can't expect to support the proposed project when the owner has not dealt with the maintenance agreement now or in the past.

Mr. Costello explained the range of options for the Planning Commission to consider. First, send no preferred recommendation to the Fiscal Court since there was not one from the Committee. The intent of the Committee was for the two sides meet and come to an agreement of a maintenance agreement. There was no push back at the Committee meeting. Another option would be to refer the request back to the Committee and let the two parties work it out. Another option would be to have a motion to eliminate or modify the one condition in dispute.

Mr. Wilson emphasized that the Board could not impose a condition if the applicant or property owner doesn't agree.

Mr. Schwartz mentioned that the Planning Commission already received one extension of the time limit and the deadline expires tomorrow.

Ms. Gulick expressed a concern about other reasons for turning down the request like Airport noise. Mr. Patton shared his concern about not having a road maintenance agreement with additional uses on the property. Mr. Lunnemann stated that he originally supported the project but now is rescinding his vote due to no maintenance agreement and the DNL noise level. He would support a disapproval tonight since both parties can't get along.

Mr. Breidenstein stated that he spoke with Mr. Trauth and he is willing to extend the time limit to next meeting. Mr. Fossett responded that they have no interest in securing a maintenance agreement. They are only interested in denying the application at this point. Mr. Costello responded that the Church testified at the Public Hearing that it was something they were interested in doing. Mr. Fossett responded no. Mr. Burcham replied that no one from the Church offered to meet with him. Mr. Costello referred to page 7 of the Public Hearing minutes in which Mr. Repenning acknowledged the need to draft a maintenance agreement.

Mrs. Gulick moved to forward the Change in Concept Development Plan request to the Boone County Fiscal Court without a recommendation. Mr. Bessler seconded the motion and it passed unanimously.

CONCEPT DEVELOPMENT PLAN – Rick Lunnemann, Chairman, Michael Schwartz, Staff

3. Request of **Viox & Viox, Inc. (applicant)** for **315 Burlington Trust (owner)** for a Concept Development Plan in a Office Two/Planned Development/Parkway Corridor Study Overlay (O-2/PD/PO) zone for a 0.698 acre site located on the south side of Burlington Pike, approximately 235 feet west of the Burlington Pike/Ewing Boulevard intersection, and between the properties at 7673 and 7777 Burlington Pike, Florence, Kentucky. The request is for a Concept Development Plan to permit a motor vehicle sales delivery/pick-up location.

Staff Member, Michael Schwartz, read the Committee Report, which recommended approval based upon Findings of Fact and Conditions (see Committee Report). He noted the Committee voted unanimously to approve the request.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. Ryan Devoe, developer, stated that he was in agreement with the conditions and is available to answer any questions.

Mr. Lunnemann moved to approve the Concept Development Plan by Resolution to the City of Florence based upon the Committee Report and subject to the Findings of Fact and Conditions. Mr. Szurlinski seconded the motion. Mr. Szurlinski asked about the height of the existing sign. Mr. Schwartz replied that it was about 50 feet. The sign structure may come down due to condition. A new structure can be 47 feet or be comparable to the Tom Gill sign. **Chairman Rolfsen asked for a vote on the original motion made by Mr. Lunnemann and seconded by Mr. Szurlinski. The motion passed unanimously.**

ZONING MAP AMENDMENT AND VARIANCE – Kim Patton, Chairman, Kevin Wall, Staff

4. Request of **Viox & Viox (applicant)** for **9541 US 42 LLC and Florence Christian Church (owners)** for a Zoning Map Amendment from Rural Suburban Estates/Union Town Overlay (RSE/UTO) and Union Neighborhood Office (UNO) to Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD), and a Variance, for a 61.889 acre site located at 9253 and 9357 Old Union Road (on the east side of Old Union

Road between the Villas of Fowler's Creek development and the property at 9513 Old Union Road), and along the west side of US 42 between the US 42/Fowlers Lane intersection and the US 42/Sweet Harmony Lane intersection, Union, Kentucky. The request is for a Zone Change to allow commercial and office uses, residential condominiums, apartments, and green space, and a Variance from Section 2540.1 "Setbacks" of the Boone County Zoning Regulations to allow the 50 foot maximum front yard setback to be exceeded.

Staff Member, Kevin Costello, read the Committee Report, which recommended approval based upon Findings of Fact and Conditions (see Committee Report). He noted the Committee voted unanimously to approve the request with Mrs. Kegley, Mr. Lunnemann, Mr. Patton and Ms. Gulick voting in favor of the request.

At this time, Chairman Rolfsen asked if there was anyone who wanted to speak in favor or against the request for a total of 5 minutes on either side?

Mr. Brock MacKay, Viox & Viox, Inc., thanked everyone who participated in the project. It is a large project and it was vetted at three Committee meetings.. His firm engaged the HOA's and addressed all of the concerns.

Ms. Noreen Morgan, Villas of Fowlers Creek HOA, spoke in favor of the Zone Change. She respected the right of the property owner to sell the property and the right of the purchaser to develop it. The developers have worked with the HOA to address the traffic safety issues on Royal Oak Lane.

Mr. Richard Cook, 9190 Royal Oak Lane, stated that he is in favor of the proposed development. The only issue is the removal of the median. Is it permanent? Mr. Costello responded yes due to the volume of anticipated traffic. Because of the median, the travel lanes don't line up properly with the Kroger entrance. Mr. Cook would like to see as much green space preserved as possible.

Mr. Marvin Hensley, 9712 Cobalt Way, stated that he had a power point presentation but understands that it wouldn't be allowed according to Staff because it was new information. He expressed a concern about the amount of traffic on Sweet Harmony Lane. Will there be traffic backing up on Sweet Harmony Lane? The placement of the UDF store will increase traffic. What can be done? Mr. Costello replied that UDF does not have access to Sweet Harmony Lane. The traffic will be distributed in five different directions. Not all traffic will use Sweet Harmony Lane.

Mr. Brock MacKay noted that the traffic impact study shows the trip distribution. One of the conditions requires the developer to make improvements. He showed the ways to get into and out of the UDF site including U.S. 42. It depends on which direction the driver wants to go to and leaving the site.

Mr. Patton stated that the access to U.S. 42 is dictated by the access across the way. The connector road will alleviate some traffic from using Sweet Harmony Lane. People already cut through Sweet Harmony Lane today and the Planning Commission is trying not to overload the existing road with additional traffic from this project.

Ms. Gulick noted that the developer addressed any potential back-up on Sweet Harmony Lane to the first curb cut of the fire station in the traffic impact study. They did a 95 percentile analysis

of the cueing. That analysis is pretty strict. Most agencies plan to the 80th percentile. She felt comfortable with it.

Mr. Karl Langhorst, 9524 Symphony Court, stated that there was no petition submitted in favor of the development from his subdivision. In fact, one not in favor was submitted to the Mayor of Union. Specifically, they opposed the traffic and the convenience store. He is not opposed to the development but simply the convenience store. He is not a subject matter expert on traffic but he is on retail security. A convenience store has the highest amount of crimes in the country. It isn't appropriate to put a convenience store next to a residential neighborhood. The convenience store should be removed from the development.

Chairman Rolfsen asked for a motion to take action on the request. Mr. Patton moved to approve the Zoning Map Amendment and Variance requests by Resolution to the City of Union based upon the Committee Report and subject to the Findings of Fact and Conditions. Mr. Lunnemann seconded the motion.

Chairman Rolfsen asked if the Board members had any questions or comments? Mr. Harper stated that he was not a security expert but has been in the convenience store industry. UDF puts up a very attractive store with big windows and good lighting. It is a good development area unlike an urban area, like downtown Philadelphia. The crime, if it occurs, will be reasonable. **Chairman Rolfsen asked for a vote based on the original motion made by Mr. Patton and seconded by Mr. Lunnemann. The motion passed unanimously.**

NEW BUSINESS:

FLORENCE MAIN STREET STUDY, Matt Becher, Staff

5. Request of the Boone County Planning Commission Technical/Design Review Committee to consider the Florence, Kentucky Main Street Study Zoning Update, which includes a series of Amendments to the Boone County Zoning Regulations and the Boone County Zoning Map. The approximately 77.6 acre Study Area is generally bounded by Burlington Pike to the north, Dixie Highway to the south, U.S. 42 to the west and Turfway Road to the east.

CHANGE IN CONCEPT DEVELOPMENT PLAN – Todd Morgan, Staff

6. Request of Jason Wisniewski and Hillary Laffin (applicants) for AF Investments LLC (owner) for a Change in an Approved Concept Development Plan in a Suburban Residential One/Planned Development (SR-1/PD) zone for an approximate 2.71 acre area located to the northwest of 9741 Spruce Lane and southeast of 7515 Shamrock Avenue, Boone County, Kentucky. The request is for a Change in an Approved Concept Development Plan to modify the unit count of Pod 6 of Ballyshannon Subdivision from 180 units to 189 units bringing the total unit count in Ballyshannon Subdivision to 938 units.

ZONING MAP AMENDMENT – Todd Morgan, Staff

7. Request of **Longbranch Development Inc., attn: Jason Wisniewski (applicant)** for **Ridgefield Farm LLC, Richard and Sandra Franks, and Peter and Jeanine Geise (owners)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) and Agricultural Estate (A-2) to Suburban Residential One (SR-1) and Suburban Residential Two (SR-2), and a dimensional variance, for an approximate 184.77 acre area located at 2788, 2696, 2688, and 2636 Hathaway Road, Boone County, Kentucky. The request is for a zone change to allow single-family residential dwellings and a variance to reduce the side yard building setback requirements of the SR-2 zone.

CHANGE IN CONCEPT DEVELOPMENT PLAN – Michael Schwartz, Staff

8. Request of **Corporex, per of Nicole Chimento (applicant)** for **Corporex Parks KY Acres for Development, per Nicole Chimento (owner)** for a Change in Approved Concept Development Plan in an Industrial One/Planned Development (I-1/PD) zone for Area A: an approximate 4.8 acre area located at the southwest corner of the intersection of Mineola Pike with Interstate 275, and being immediately north of the property located at 3990 Olympic Boulevard; Area B: an approximate 0.9 acre area located along the north side of Olympic Boulevard, between Mineola Pike and Circleport Drive, approximately 750 feet northwest of Mineola Pike, and being immediately southeast of the property located at 3900 Olympic Boulevard; and Area C: an approximate 2.9 acre area located at 3990 Olympic Boulevard, Boone County, Kentucky. The request is for a Change in an Approved Concept Development Plan to permit commercial/retail space, a hotel, office space, and restaurants.

Mr. Patton moved to schedule the Public Hearing for Items #6, #7 and #8 on November 3, 2021 at 7:30 p.m. and Item #5 on December 1, 2021 at 7:30 p.m. Mr. Schwenke seconded the motion and it passed unanimously.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Kevin P. Costello, AICP referred to his September 23, 2021 email to Board members regarding the promotion of Michael Schwartz to the Director, Zoning Services position effective October 11, 2021. In addition, the Executive Committee and Mr. Costello recommended to appoint Mr. Schwartz as the Zoning Administrator for the Boone County Fiscal Court and the Cities of Florence, Union and Walton in accordance with provisions in KRS 100.271. **Mr. Patton moved to appoint Mr. Schwartz as the Director, Zoning Services effective October 11, 2021 based upon the terms outlined in Mr. Costello's email and also appoint him as Zoning Administrator by Resolution to the Boone County Fiscal Court and the Cities of Florence, Union and Walton. Mr. Szurlinski seconded the motion and it passed unanimously.** Chairman Rolfsen congratulated Mr. Schwartz and he respected the work of Mr. Wall as Zoning Administrator and he knows Mr. Schwartz will do the same or exceed it.

COMMITTEE REPORTS:

AIRPORT: Mr. Bessler
No Report

ADMINISTRATIVE/PERSONNEL: Mr. Lunnemann
No Report

ENFORCEMENT: Mr. Bunger
No Report

LONG RANGE PLANNING/COMPREHENSIVE PLAN: Mr. Schwenke
No Report

TECHNICAL/DESIGN REVIEW: Mr. Harper
No Report

EXECUTIVE: Chairman Rolfsen
No Report

CHAIRMAN: Chairman Rolfsen
No Report

OKI: Mr. Patton
No Report

OTHER:

There being no further business to come before the Planning Commission, **Mr. Patton moved to adjourn the meeting. Mrs. Steele seconded the motion and it passed unanimously. The meeting was adjourned at 8:29 P.M.**

APPROVED

**Charlie Rolfsen
Chairman**

Attest:

**Kevin P. Costello, AICP
Executive Director**