

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARING
AUGUST 18, 2021
7:30 P.M.**

Chairman Rolfsen opened the Public Hearing at 7:30 p.m. and welcomed everyone to the Planning Commission's August 18, 2021 Public Hearing.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mrs. Pamela Goetting
Ms. Corrin Gulick
Mr. Steve Harper
Mrs. Janet Kegley
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

COMMISSION MEMBERS NOT PRESENT:

Mr. Kim Bunger, Secretary/Treasurer

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, Director, Zoning Services

Chairman Rolfsen introduced the first item on the Agenda.

ZONING MAP AMENDMENT AND VARIANCE – Kevin Wall, Staff

1. Request of **Viox & Viox (applicant)** for **9541 US 42 LLC (owner)** 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.

Chairman Rolfsen asked if the applicant was present and wanted to proceed with their presentation?

Mr. Thomas Ackerman, applicant, introduced his team including his engineer and architect. Mr. Bob Koch of Fugleberger Koch referred to a PowerPoint presentation. He stated that he looked at the parcel in question 2 years ago. It is a physical and beautiful opportunity to do something distinctive in nature. It is a strategic location on U.S. 42. It is highly visible. The Union Town Plan was adopted 21 years ago. A lot has happened since then. Real estate peaked from 2000 until 2008 when the recession occurred. Planning in the 2000s changed as a result of the recession. There was a change in lifestyles. Approximately 51% of the homes are not owner occupied in the United States. COVID changed how we do business – working, shopping and learning from home now. People are moving out of downtown area because they don’t need to be close to work. Because of this, there might be some changes to meet the spirit of the Union Town Plan. The proposed Land Use Plan does not match the natural conditions of the site. It shows the site as a fractionalized site. Green lines separated as separate parcels because there is no common ownership. White lines flowing through it are natural barriers. The retail, residential and open space is not a new urbanism layout. The Design Objective of the project is to advance a land use plan for a horizontal mixed use development that encourages live, work and play. Second, it respects Union’s values – scale and image. They would like higher end shops and not like Kroger and a ribbon of shops tied to a big box development. It should have a village quality to it, as intimate scale to it and an inviting character to it. Another desire was to include professional offices. Finally, the applicant wanted to optimize the benefits of the site. This isn’t a new vacant site because of U.S. 42. It is a hard industrial edge. His desire was to create an invitation to the site. It has to be safe design for the community. It should be ADA compliant. The site has character. New Urbanism has to be walkable. The topography dictates the road network and connectivity. The site has a ravine. There is a 50-60 foot elevation difference on the site. New Urbanist developments utilize flat lands. Commercial property needs to be on the street edge and needs to be highly visible. Open space should be on the opposite end. The middle ravine becomes the signature piece of the site for open space.

Mr. Koch presented the Concept Development Plan. It includes a liner street that is proposed between the buildings and U.S. 42. It will function as a low speed (15 mph) drive to observe the shops leading to the promenade similar to a train station. The highway serves as the train track. The liner street serves as a public street. It is a set of incremental shops that you would find in a village. Beyond that is a parallel service road. There are 3 points of entry – Sweet Harmony, Fowler Drive and the middle access point off U.S. 42. The new intersection lines up perfectly with the apex of the creek. The ravine will be a linear park viewed from the residences. It is a car centric site. One can't walk to it. One has to drive to it but once you get there, it is pedestrian centric. One can visit the site from all directions. There are some planned right in and out curb cuts. There are very few areas where 2 rows of parking are side by side. There is no massive parking area. There is no big retailer needed to attract business for others. There is a planned outdoor entertainment area near the ravine. There will be public plazas, outdoor eating areas, etc. It will allow for a brief respite to rest. It is a vision plan. There is a severe grade change from the retail area down to the residential area. The development has neighboring scale sensitivity. The office site is 20-30 feet higher than the existing residential area of Harmony. Storm water retention will be located on the western side of the property. Mr. Koch described the enhanced site plan features. It includes gateway icons at the main entrance that leads to the roundabout. A couple of the buildings will be owned by the developer. The buildings will be a story to a story and a half. The buildings are separated but located close to each other to encourage walkability. He showed the planned promenade for outdoor dining and retail displays. Signs will be oriented for pedestrians. Pedestrians will walk up to 300 feet. There is no backside to the retail area. All sides are visible and finished. Delivery areas are small and fit in. Mr. Koch showed the planned tiered terrace overlook in the ravine area. There will be varied architectural styles based upon real world tenants. The architecture will look like a collection of shops. He showed an example of a garden multi-family community with expansive amenities and common areas. It is expected that 20% of the residents in Union will live in these apartments. The apartments will be the tallest buildings on the site. It will be a series of smaller buildings connected at several points. The buildings will be articulated. They will also be a single family villa community and a professional office complex. It will be buffered from the neighboring residences.

Mr. Brock MacKay, Viox & Viox, Inc., reminded that the Town Center area is more to the south of the site. He stated that he feels that they match up to the Comprehensive Plan as they are connecting the land uses on 3 different properties. The request meets the purpose and intent of the Union Town Plan. The proposed layout is different than you would see in traditional commercial. Mr. MacKay stated that his team conducted virtual workshops with neighboring HOAs to get an understanding of what their concerns are with the project. He provided more details of planned buffering to the north. There will be additional sections including a parking lane and design guidelines for parking, sidewalk, street furniture, etc. He displayed an overall sidewalk plan. Buildings will jog in and out to help be pedestrian friendly.

In terms of traffic, signals will be installed at U.S. 42/Arbor Springs and at U.S. 42/Sweet Harmony Lane intersections. Fowlers Lane will be widened and an eastbound right turn lane will be added. Southbound right turn lanes on U.S. 42 and intersections of Fowlers Lane, Clubhouse Road, Arbor Springs Boulevard, Old Union Connector Road and Sweet Harmony Lane. Finally, the U.S. 42 median will be restriped for northbound and southbound left turns at Arbor Springs Boulevard.

Mr. T.J. Ackerman announced that his Company has letters of intent from Taste of Belgium,

Dewey's Pizza, United Dairy Farmers, Villa Mocha Coffee Shop, the Stone Creek Dining Company, Goodwood Brewery, City Bird Chicken Tender Store, a Food & Wine Shop, Blaze Cigar Lounge, Kids Story Children Care Center, Lux Lounge Medical Spa and a pet and beauty salon. There is also interest in 60,000-75,000 square feet of office space.

Mr. Kevin Wall, stated that he did not hear from the applicant's presentation a lot of details, facts, and figures from a core land use perspective. What are the uses, how many lots, etc.? The Commissioners should review the first 3 pages of the Staff Report. The Staff Report was completed last Friday and additional materials were delivered this week. There are some revised street sections, some design standards and another PowerPoint presentation. It just showed up today. Some of the images are a little different. He referred to the Staff Report. Nineteen pages of the 39 page Staff Report are devoted to Staff Comments. In terms of the Comprehensive Plan, the two year old Comprehensive Plan references the Union Town Plan. The Planning Commission reaffirmed the Union Town Plan 2 years ago by adopting the Comprehensive Plan. The Future Land Use Map indicates Rural Lands (RL), Commercial (C) and High Suburban Density Residential (HSD) – about 50% of the site. HSD allows up to 8 units per acre. The Rural Density Residential (RD) is located along U.S. 42 and Old Union Road. Mr. Wall showed the Union Town Plan Land Use Plan map. It is a furtherance of the Comprehensive Plan. The Town Plan's Land Use Map designates this as Green Areas, Office, Single-Family Detached and Town Homes. The text does not endorse strip style commercial. The Town Plan advocates for a Town Center. Ten buildings are planned along a ½ mile of road frontage. There is more discussion about the Comprehensive Plan and Union Town Plan on pages 20-25 of the Staff Report. One must remember to review the statutes and the criteria for acting on the zone change and a variance request. Mr. Wall referred to the PD Overlay zone criteria and development standards outlined on pages 25-33 – mixed use, compatibility of uses (architecture, landscaping, uses & lighting), open space, multi-modal transportation, preservation of existing site features, landscaping, architecture, historic and prehistoric features, signage, transportation connections and entry points and conformance with the Comprehensive Plan and the Union Town Plan. In terms of mixed use, are separated into pods or phases versus being truly mixed vertically. There are no internal landscaping buffer yards. The design of the retail is more auto oriented than pedestrian oriented to the parking standards than street standards. Parking is only allowed in the side or rear yards. The proposed Union Town Center (UTC) zone has its own definition of mixed use which can be used as a comparison. On page 26 of the Staff Report, there are recommendations for pedestrian improvements. Some adjustments have been made but not all have been made. The proposed density is a little bit higher than what was contemplated. It is just shy of 11 units per acre. The Union Town Plan map recommends 6 units per acre. On pages 27-28 of the Staff Report, there are comments on the commercial and office uses. The applicant is proposing 4 drive-thrus and gas sales. Mr. Wall mentioned the acres devoted to open space in each section of the plan. How will the various open spaces be designed and function with each other? Bike racks are required. There are mature trees in the northwest corner of the site. Mr. Wall suggested that the applicant provide more detail for a landscape buffer on the north end and south end portion of the site next to the existing residential neighborhoods. There is no buffer planned for Symphony Court. A set of design guidelines have been submitted as part of the project. It seems like they are oriented towards an owners association and not structured as enforceable standards. There is also reference to the Emerson Smith Farm in the Staff Report in terms of documenting the structures. The Union Town Plan Special Sign District permits limited signage because it assumes buildings will be placed close to the main road. There are no guidelines proposed for signage. Schematic drawings were provided for some entryway signs.

One may be in the State right-of-way. The proposed connectors are a positive for the proposed project. Revised street section drawings have been included in the packet. Normally, collector roads in a commercial subdivision are 28 feet in width instead of 25 feet which is what is proposed. There will be improvements to Fowlers Lane. The pavement width for the proposed Old Union Connector Road needs to be widened to 28 feet. Sidewalks are required on both sides. He suggested to align the intersection of Sweet Harmony and Union Promenade Road at Colbalt Way to avoid back-up and improve safety. There are 10 curb cuts planned on the east-west connector streets (Clubhouse Drive, Arbor Springs Boulevard and Old Union Connector Road). They don't meet the spacing from the intersection requirements. They are too close to U.S. 42 and Union Promenade Road. They also show mid-block crosswalks. The alignments for the drive-thru lanes shown on lots 3, 8 and 10 have 90 degree curves and require awkward turning movements. Is there sufficient room for stacking? In terms of the Traffic Impact Study, the State is still reviewing it. Agency review comments are attached to the Staff Report. Mr. Wall mentioned the various development standards that must be met on Pages 35-36 of the Staff Report. He pointed out the location of the proposed UDF building. Finally, the applicant is requesting a variance to increase the building setback to 100 feet in the front. The normal requirement is 10 feet minimum and a maximum of 50 feet. He referred to the statutory criteria that must be applied to the request which is identified on Page 37 of the Staff Report. Staff has not identified how the requested variance meet the variance criteria. The applicant should explain how.

The Planning Commission and the Union City Commission shall evaluate the request based upon the zone change criteria, the Comprehensive Plan and the Union Town Plan. The Planning Commission shall also evaluate the variance request based upon Section 251 of the Zoning Regulations.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the Concept Development Plan request?

Mr. Mark Gripshover, 9512 Symphony Court, stated that it is a quality development but there are a lot of issues. He asked for a copy of the applicant's PowerPoint presentation. Mr. Costello replied that he could give the Planning Commission an email address and it could be forwarded to him. His number one concern is the hill. Will the hill be cut down significantly? Will he be looking at a parking lot? He expressed a concern about traffic backing up on Sweet Harmony if a signal is installed on U.S. 42. It will affect the fire station. What about the lights from the businesses? Also, what about storm water runoff? He is worried on how much the plan deviates from the Union Town Plan. It seems like this project is a strip center with housing behind it. What will the buffer walls look like? Are they rock or stone? How high?

Mr. Ken Brandenburg, 9500 Symphony Court, stated that his house is closest to the connector road. The back of his house will be 35 feet from the proposed road. The development is for a certain lifestyle. He also has a lifestyle and a quiet community of homes away from the hustle and bustle of the city. If the plan happens, his lifestyle get sucked into the new ones since he is connected to it. He requested that the application be denied. The site should be more compatible with Harmony Place and Villas of Fowlers Creek.

Mr. Brian Dunham, attorney for Villas of Fowlers Creek HOA, stated that his client is supportive of the submitted plan. Ms. Noreen Morgan, President of the Villas of Fowlers Creek HOA, stated

that the Board and a number of residents support the project. It is a good development and a good use. Some residents are excited about the development and to be able to walk to the retail area. Some of the residents also like to keep the green space. The developer has met with the Board on several occasions to understand the impact of the project. The major issue is cut through traffic. There is a concern that their private streets will be a cut through street for all of the new traffic. The developer has pledged to work with the HOA to minimize the impact of the development on their property. Mr. Dunham mentioned that his client is working with the developer to possibly modify the existing access point into the Villas project off Fowler Lane and Old Union Road. Mr. Costello noted that it would be a separate application.

Mr. Andy Carr, 2004 Halleck Way, objected to the development. He currently looks at rolling hills and the proposed project is not in keeping with the Union Town Plan. The small town feel will be gone. It is a large scale development and strip style. It is not an appropriate location. If the project was approved, could Halleck Way be closed? Mr. Costello responded that road has nothing to do with the application since it is across U.S. 42.

Mr. Mike Riegler, 9753 Spruce Lane, offered his support for the project. The plan is different than what we have seen in the past along U.S. 42. The community needs nicer restaurants than fast food restaurants. It took a lot of work to do something different.

Mr. Jeff Lucas, 9765 Colbalt Way, inquired about Colbalt Way. Mr. Wall responded that the intersection could be realigned for safer turning movements. Mr. Lucan stated that the pictures are beautiful. Who takes care of the grounds? Chairman Rolfsen replied that the developer will maintain the grounds. It seems very similar to Crestview Hills. It has speeding problems. The neighborhood is already experiencing speeding problems.

Ms. Cheryl Schey, 9019 Royal Oak Lane, expressed a concern about more traffic on Old Union Road as a result of this development. There is a lot of noise.

Ms. Linda Cornell, 9504 Symphony Court, stated that she has no problems with houses, but is concerned about the connector road. It is in their back yard. What safety will be provided? No berms or barriers are proposed.

Mr. Gerald Merk, 9520 Symphony Court, expressed a concern about the percentage of mixed uses particularly the office use. He appreciated the work of the zoning staff.

Mr. Mark Gripshover asked again how he can find out if the hill behind him will be cut down?

Mr. Schwenke asked about the buffer yard along of the Old Union Connector Road? Mr. Wall responded that Buffer Yard B (20 feet, evergreens, etc.) would be required. Chairman Rolfsen asked if the road could be shifted north?

Mr. MacKay responded yes. The buffer yards privacy around Harmony Place need to be improved. A fence will be installed by the office use. They could increase the buffer yard from B to C.

Mr. Patton asked the applicant to consider submitting some sections of the proposed buffer on either side of the office use as well as shifting the road to the other side of the community.

Mr. Ackerman concurred that the road is too close to the existing homes on Symphony Court. He pledged to meet and work with the residents on Symphony Court. The intent is to leave the hillside in place as it protects the residents. He will follow up with the residents.

Chairman Rolfsen asked if the developer was going to build and own the buildings as well as the architecture. Mr. Ackerman replied that they will be building and owning the gateway buildings. Restaurants will be tenants. Other sites will be sold but they will build them and still control the architecture. They will maintain control of all architecture.

Mr. Patton noted that the Staff Report had addressed that issue. Chairman Rolfsen stated that architectural integrity of the development was important. He also inquired about the architectural style of the ranch and apartment units. Are there any examples of these types of buildings? Mr. Ackerman responded that he will be submitting further examples of both products at the Committee meeting. It will include building architecture and floor plans.

Ms. Gulick expressed a few traffic concerns. First, was the first right in and right out turn from Sweet Harmony Lane between Lots 1 & 2. Traffic is immediately dumped into angle parking. Can it safely be done? She expressed a concern about the drive-thrus. She needs more detail. She asked if the applicant had any specific tenants for the drive-thru? Mr. Ackerman replied that they have for one of them only. Two of the uses on the proposed plan are no longer drive-thrus. There other tenants want to do curb side pick-up. She asked the applicant to review the necessary stacking or queuing. Is the drive-thru properly located on the site? Ms. Gulick also requested information about specific improvements on U.S. 42.

Chairman Rolfsen stated that the Committee will discuss traffic, parking, pedestrian access, etc. at the September 1st committee meeting and the other items at the September 15th committee meeting.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meetings for this item will be on September 1, 2021 and September 15, 2021 at 5:00 P.M. in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on October 6, 2021 at 7:00 p.m. The Chairman Rolfsen closed the Public Hearing at 9:50 p.m.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director