

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
DECEMBER 1, 2021
7:30 P.M.**

Chairman Rolfsen opened the Public Hearings at 7:30 p.m. and welcomed everyone to the Planning Commission's December 1, 2021 Public Hearings.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
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:

Mrs. Pamela Goetting
Mr. Kenny Vaught

LEGAL COUNSEL PRESENT:

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Ms. Jenna LeCount, AICP, Director, Community Development Services
Mr. Michael D. Schwartz, Director, Zoning Services
Mr. Matt Becher, ACIP, Rural/Open Space Planner

Chairman Rolfsen introduced the first item on the Agenda.

ZONING MAP AMENDMENT, Michael Schwartz, Staff

1. Request of **Viox and Viox, per Michelle Bollman (applicant) for BBB Developers, LLC, per J.J. Miller (owner)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban Estate (RSE) for an approximate 31 acre area, being the southern portion of the property located at 2645 Hathaway Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for detached single family residential dwellings.

Mr. Michael Schwartz, referred to his PowerPoint presentation. The area to be rezoned is approximately 31 acres. It is the southern portion of the property located at 2645 Hathaway Road. Page 1 of the Staff Report provides a summary of the history of the site. The site is currently occupied by detached single family dwellings and some accessory structures. The site also includes vacant agricultural land. Access to the site is currently provided by 2 curb cuts serving the 2 existing homes. The current zoning of the site is A-2 and RSE. The northern part of the site is zoned RSE. Nine acres is currently zoned RSE and 31 acres is currently zoned A-2. The total acreage of the subdivision is 40 acres. Pages 1 and 2 of the Staff Report provide the relevant sections of the Zoning Regulations. The site slopes downward from west to east and north to the south with an average grade of 4%. The eastern portion of the site is a lot steeper with an average grade of 11%. The Future Land Use Map from the Comprehensive Plan designates the site for Rural Density Residential (RD) use, which allows up to one dwelling unit per acre. Pages 3-6 of the Staff Report contain sections of the Comprehensive Plan that are relevant to the issue. Hathaway Road is a State maintained arterial street. Mr. Schwartz showed photographs of the site and adjoining properties. The submitted Concept Development Plan shows a 26 lot single family residential subdivision with an intensity of 0.65 units per acre with lot sizes ranging from 1 acre to 5.5 acres and an average lot size of 1.39 acres. The existing house at 2645 Hathaway Road will be demolished and the existing house at 2635 Hathaway Road will be retained. Public streets will be built with a sidewalk on one side of the street. A street connector is planned to the property on the west side. Access to Hathaway Road is planned to be 720 feet west of Canoe Drive. Public water will be provided in the subdivision along with private sanitary sewer. Pages 7 and 8 of the Staff Report provide Staff Comments including an analysis of a curb cut location and housing proposals in the area – Ballyshannon and Ridgefield Farm. Page 8 of the Staff Report provides comments from outside agencies including one from the Kentucky Transportation Cabinet. A Traffic Impact Study will not be required by the Transportation Cabinet. Boone County Schools do not see any significant impacts from the proposed subdivision. Finally, the criteria used in evaluating these types of requests is listed on Page 8 of the Staff Report.

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

Mr. Justin Verst, Viox & Viox, Inc., referred to his PowerPoint presentation. The site is located next to lots that are similar in size along Canoe Drive. Their proposal will fit in well with the neighbors to the east. He showed a copy of the Courtney Estates Concept Development Plan and agrees with most of everything in the Staff Report. The developer has offered that the adjoining lot owner near the front of the development could connect to their new road. They do not own the lot. The developer can't force the property owner to connect to the new road. If the new connection was made, the Kentucky Transportation Cabinet would require the lot owner to remove the current Hathaway Road access. The applicant stated that he would address the item of meeting the flag lot stem requirements at the Preliminary Plat submittal stage. The proposed road access location is where it should be in order to meet the appropriate site distance requirements. It is the only location to meet the safety requirements. The proposal is in compliance with the Comprehensive Plan. The proposed subdivision will have public water and private septic sewer systems. It is not a dense development.

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. Jack Rankin, 10201 Canoe Drive, stated that he lives immediately east of the proposed development. The entire eastern boundary is a drainage ditch. Under the current topography, it floods. Any change to the topography will flood him out. Mr. Rankin expressed a concern about a survey boundary dispute with his neighbor for a couple of decades. Chairman Rolfsen stated that the boundary dispute was a private matter and not under the jurisdiction of the Planning Commission.

Mr. Jeff Powell, 2118 Hathaway Road, stated that he was present on behalf of his son. He lives at 10015 Canoe Drive. He stated that he would like reassurance that the proposed development will not cause flooding. It should be eliminated or controlled throughout the process of building. Mr. Schwartz explained the current storm water requirements under the zoning and subdivision regulations. Any stormwater runoff that is generated by new development must be retained and distributed to the property and not onto adjacent properties and not anymore than what is occurring today. The submitted Plan shows a retention area. Chairman Rolfsen explained that no stormwater from the development can be added. It has to be detained on the site.

Chairman Rolfsen asked if any Board members had any questions?

Mr. Patton asked if the developer would allow lots on the neighboring property to the west to access the proposed street where the cul-de-sac is located? Mr. Verst responded yes.

Mrs. Kegley asked if any of the property was considered Developmentally Sensitive (DS). Mr. Schwartz replied no.

Ms. Gulick asked if the applicant already measured the site distance and at what speed limit? What were the results? Mr. Verst responded that he didn't have the numbers with him. Based upon the current speed limit, the site distance works and meets the regulations. Ms. Gulick requested the information to be brought to the Committee meeting.

Mr. McMillian asked where is the exit to the property? Mr. Verst replied that for 26 houses, one singular access is required. He showed the proposed second access to the west. Mr. McMillian stated that he would vote for the project if the applicant told him when the second access would open. Mr. Verst responded that he didn't know when. There is not a safe location for a second access to Hathaway Road. Mr. Miller noted that the development meets the requirements. Mr. McMillian suggested that a second access be required if there are more than 30 houses. Mr. Miller responded that there are less than 30 houses proposed. Mr. McMillian also suggested installing sprinkler systems. Mr. Miller stated that the development is low density like Idlewild Country Estates Subdivision. Mr. McMillian stated that Boone County is not safe without a second exit.

Chairman Rolfsen inquired about the type of housing? Mr. Miller replied that these will be very nice lots and homes. It could be custom homes with a starting price in the \$400,000 range. It won't be starter homes.

Mr. Harper asked about the location of the other entrances in the area? Mr. Schwartz responded that the distance from the proposed curb cut to the curb cut for Ridgefield Farms is 1,000 feet. The distance from the proposed curb cut to the curb cut for Ballyshannon is 1,700 feet.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on December 15, 2021 at 5:00 P.M. in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on January 5, 2022 at 7:00 p.m. The Chairman Rolfsen closed the Public Hearing at 7:55 p.m.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Ms. Corrin Gulick
Mr. Steve Harper
Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Don McMillian
Mr. Kim Patton, Vice Chairman
Mr. Charlie Rolfsen, Chairman
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Ms. Jenna LeCount, AICP, Director, Community Development Services
Mr. Michael D. Schwartz, Director, Zoning Services
Mr. Matt Becher, ACIP, Rural/Open Space Planner

Chairman Rolfsen introduced the second item on the Agenda at 7:56 p.m.

FLORENCE MAIN STREET ZONING UPDATE, Matt Becher, Staff

2. 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.

Staff Member, Matt Becher, referred to his PowerPoint presentation. The Study Area is 4 blocks in the middle of Old Florence from the intersection of Main Street and Dixie Highway up to Turfway Road and Main Street. Originally, the FMS Zoning District was created in 1994. It was 4 blocks fronting Main Street which included approximately 50 parcels. The idea back then was to have Design Review based on federal standards. It has been based on this since the original Study was adopted. It included a Certificate of Appropriateness (COA) process. There was a Florence Main Street Design Review Board formed. It has only met about 3 times since 1994. The Study needs to be updated since it has been 25 plus years. It is outdated. The current regulations don't fit the City's vision. The underlying standards have changed over time. It is felt that the review process may be hindering development. In 2019, a Historic Structures Survey was completed and the City retained two consultants – Calfee Zoning and Yard and Company. The Planning Commission was formally brought into the Study Update process last December at the request of the City of Florence. Mr. Becher referred to the project schedule. All of the work to date was completed in 2021. Staff worked with the Planning Commission's Technical/Design Review Committee, City Council and held 2 public workshops. The Committee recommended a Public Hearing at its October 6, 2021 meeting. That is where we are today. Final adoption of the updated Study will be by the Planning Commission in early January, 2022 and the City Council by February, 2022.

The underlying goals of the project are to update Article 23 Zoning Regulations and Zoning Map, expand the FMS District, create user-friendly design requirements and promote the area to be an active, walkable, mixed-use district and 24 hour destination. The current District comprises 49 acres. The proposal is to add 28 acres for a total of 77.6 acres. It includes the existing plus the Historic town area outlined in the 1883 Atlas. It also includes an additional 60 parcels. Mr. Becher described the public engagement process which included letters to the property owners. Two public workshops were held. The City had social media posts and the Planning Commission posted the draft Study on its webpage.

The current zoning of the proposed expansion area is C-2, which is the same type of zoning on Mall Road dating back to the 1980s. The biggest change is that there will be no FMS Board in the future. It will be a Staff driven Certificate of Appropriateness (COA) review process with the Board of Adjustment reviewing any Staff denials through the Zoning Administrator. Overall, the uses are not changing dramatically. Most of the uses have been permitted under other terminology since 1994. It very similar to the Small Community Overlay (SC) zoning district. Food trucks are being added at the request of the City of Florence. Uses are planned that attract people to live and work as well as visit. Service uses are recommended. No industrial is allowed but short term rentals will be permitted.

Mr. Becher mentioned other uses to be added on Pages 17-18 of the Study and in Appendix A4 and A5. These uses were not listed in the Public Hearing Draft Study but will be added in the 2021-2022 Zoning Update. The Appendix section is a stand alone document that will be added to the current zoning code. There were no major changes planned for the Development Standards.

These standards result in more compact development. It would encourage buildings to locate closer to the street rather than a typical retail center with parking in front of the building. There would be no minimum lot size, minimal setbacks and up to 4 story buildings. Parking requirements are recommended to be more relaxed. Office/Retail uses could require 1 space per 500 square feet of space instead of 1 space per 250 square feet. In addition, restaurant seating would change. These changes would be in addition to the City of Florence providing public parking spaces. A new feature of the Study is Building Typology. Mr. Becher showed examples of a Multi-Plex and the Main Street Mixed Use buildings. Any new development or redevelopment would follow any of the seven proposed building types. All the Building Types are identified through a series of graphics versus just text. There are no huge changes in the proposed Design Requirements. Ordinary maintenance does not require a Certificate of Appropriateness. There are no paint palettes. Buildings that are painted black or fluorescent colors are not permitted. The Design Requirements suggest that new construction and additions be contemporary, compatible yet distinguishable. A section was added regarding ramps and fire escapes. These were missing from the 1994 Study. Demolition is permitted but discouraged for historic structures. The signage requirements have been updated and illustrated with modern photos. Changeable copy signs including digital signs are not allowed in the district. Any sign that would not meet the new requirements would be grandfathered in until changed in the future. Murals are allowed but only with City approval.

In conclusion, Mr. Becher stated that the FMS Study was created with user-friendly requirements and standards over process reviews. In 10-20 years, the hope is to create an urban, walkable mixed-use district. There won't be an FMS Board and the District is proposed to be expanded. Future updates of the Zoning Text and Zoning Map should not require a new Study as long as the text and map are consistent with the current Study. An example of this would be to change a parking requirement based upon years of experience.

Chairman Rolfsen acknowledged Mr. Josh Hunt from the City of Florence in the audience. Mr. Hunt stated that he was present to observe and answer any questions.

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

Ms. Nancy Holian, 6900 and 6910 Dixie Highway, expressed a concern about flooding. Since 2009, she has had 9 floods on her property. The stormwater is coming off Main Street. The bulkhead next to her property is too small and doesn't carry the water well. It is coming off Dortha Avenue, Banklick Street and Dixie Highway. She has video of the flooding. At times, they have had 4 feet of water in their buildings. She has met with the City and can't get any satisfaction. She heard that the City is purchasing the retail strip center for a parking lot. She expressed a concern and thinks someone needs to address the problem before new development occurs. If it is a new parking lot, maybe improvements can be made to solve the storm water problem? It also affects Lighting Effects located next door to her. When there might be heavy rain, they take a fire hose and pump to run the water out. She is in favor of development but she wants the problem fixed.

Mr. Josh Hunt responded that storm water is an issue. There has been a storm water analysis completed by Viox & Viox, Inc. There is no contract in place to purchase the retail strip center. The City has purchased property off Youell and Main in the Scientology area. Any public parking lot that the City builds will not only meet the storm water requirements but they will analyze for over detaining. There is a citation to the owner of the retail strip center for filling in their detention pond. There are liens on the property. The retail strip center was developed a while ago so it doesn't meet the current requirements but the matter is being handled by the Code Enforcement Board.

Mr. Eric Hermes, 8 Girard Street, stated that his property is currently not in the Main Street District but would be added. He wanted to make sure that he did not have to make changes after the new regulations go into effect on buildings and signs. He wanted to make sure the existing conditions can stay as they are in the future. His current sign was approved 7 years ago. It would not comply with the new regulations. He would like to see it in writing that he doesn't have to change the sign. Mr. Costello noted that he would be grandfathered as long as he doesn't change the sign. Sign face changes could occur if he sold the building. Mr. Hermes stated that he would like a letter from the Zoning Administrator to that effect. What about approving paint colors? He explained that he had to submit paint colors to the City of Springdale. Will this be required? If so, how will it be handled? Mr. Becher referred to the wording in the proposed code. Mr. Costello noted that it addresses the extreme colors. Color requirements or standards could change in the future but only if another Public Hearing was held to obtain public input.

Mr. Jeff Kennedy, 31 Girard Street, stated that he owns the Swain building, the First Baptist Church and several pieces of property on Shelby Street. It creates a square between Shelby and Girard Streets. A lot of the buildings in the area are Victorian style and paint colors for this style was usually bold or bright to reflect the Victorian period. We should agree on the difference between bold and extreme paint colors. He liked the recommendations. He requested that the wording of "demolition of significant structures is discouraged" be defined. What does significant and discouraged mean? He guessed that 2 of his buildings are significant and 2 are not. There are 2 buildings on Shelby Street in which you would never know they are significant yet they are 2 of the oldest buildings on the street. One doesn't realize what is under the façade of both buildings. It would be good to know what he can develop, demo and maintain in the Study area. Maybe we need to determine what is significant and what is not significant so we know how to plan for the new structures in the community. Can we move buildings? Perhaps we need to pin it down now so we don't argue about it in the future.

Mr. Becher responded that the Historic Structures Survey done in 2019 identified buildings as contributing and non-contributing. Contributing means buildings that are at least 50 years old and they also retain some sort of historic character. Significance can be based upon a variety of criteria – mostly National Register criteria - a person, an event, an architectural style or archeology. Mr. Becher explained that it would most likely be a judgement call at the time an application is filed to know if the building is significant. If a list was created today of significant buildings, the list would be large. Mr. Kennedy wants to know how to help make decisions to develop in the area.

Mr. Patton stated that buildings should be labeled significant because it might be eligible for Federal and State tax credits for redevelopment purposes. The survey could spur additional development.

Mr. Becher emphasized the text wording of the “demolition of significant buildings being discouraged”. It was written that way to avoid the word “prohibited”. The way it is written does not preclude the demolition of just about anything in the District. Designating National Register Buildings to not be allowed to be demolished is a tall order. Mr. Kennedy stated that he got permission to tear down two buildings as they were not considered significant.

Mr. Scott Schwartz, 288 Main Street, stated that he owns 3 lots and the pizza restaurant/bourbon bar. He expressed a concern about being allowed to tear down buildings. His buildings are over 50 years old. He may renovate the restaurant because of limited seating capacity. The City of Florence has looked at initial plans to renovate. He wondered if the new Study would affect his renovation plans?

Mr. McMillian mentioned that developers usually oppose new regulations but he mentioned when regulations were changed to install shatterproof glass. It was a safety regulation that made it a requirement.

Mrs. Steele asked what caused the flooding problems? Mrs. Holian responded that there was broken pipe on Dixie Highway. A while ago, there were giant potholes caused by the broken pipe. The State won't fix the pipe. The road was repaved and it will be interesting to see if the problems will return since they didn't fix the pipe. She emphasized that her problem started in 2009 after she bought the properties in 2004. Mrs. Steele mentioned that she asked the question so we could avoid the problem in the future.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on December 15, 2021 at 6:00 P.M. in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on January 5, 2022 at 7:00 p.m. The Chairman Rolfsen closed the Public Hearing at 8:50 p.m.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director