

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
PUBLIC HEARING  
SEPTEMBER 21, 2022  
7:30 P.M.**

---

Chairman Charlie Rolfsen opened the Public Hearing at 7:30 p.m. and welcomed the audience to the Planning Commission's September 21, 2022 Public Hearing.

**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mrs. Kathy Clark  
Mrs. Pamela Goetting  
Ms. Corrin Gulick  
Mr. Steve Harper  
Mrs. Janet Kegley  
Mr. Rick Lunnemann  
Mr. Kim Patton, Vice Chairman  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mr. Tom Szurlinski  
Mr. Steve Turner, Temporary Presiding Officer  
Mr. Kenny Vaught

**COMMISSION MEMBERS NOT PRESENT:**

Mr. David Hincks  
Mrs. Jackie Steele

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Michael Schwartz, Director, Zoning Services  
Mr. Todd K. Morgan, Senior Planner  
Mrs. Alaina Hagenseker, Planner

Chairman Rolfsen introduced the only item on the Agenda.

**2020 ZONING REGULATIONS UPDATE, Michael Schwartz, Staff**

1. Request of the **Boone County Planning Commission Long Range Planning/Comprehensive Plan Committee** to consider a series of text and map amendments to the **Boone County Zoning Regulations** and the Boone County Zoning Map as part of the 2020 Zoning Update. The proposed amendments to the text and map implement ***Our Boone County Plan – Plan 2040***. This includes a waiver of the 60-day action requirement per KRS 100.211 (2)(c)(2).

Staff Member, Michael Schwartz, referred to his PowerPoint presentation. He mentioned the Kentucky statute that allows Planning Commissions and legislative units to enact zoning regulations based upon the adoption of the Comprehensive Plan. The current Comprehensive Plan, “Our Boone County – Plan 2040” was adopted on June 5, 2019. He explained the process for adopting the Comprehensive Plan, Zoning Regulations and Subdivision Regulations. He also identified the dates of adoption. The update of the Comprehensive Plan will begin next year with adoption in 2024. Mr. Schwartz gave a history of the 2020 Zoning Update from 2020 to the present. It began with Staff research, text preparation and Zoning Map Amendment reviews from October 2020 to March, 2022. It took about a year and a half. Between November, 2021 and February, 2022, the Planning Commission’s Long-Range Planning/Comp Plan Committee evaluated the draft text and map changes. They held 8 meetings. The 9<sup>th</sup> meeting authorized the project to move forward before the full Planning Commission. From March, 2020 to April, 2022, the draft regulations have been available for public review and comment. On March 10, 2022, a Public Workshop was held for input. In April, 2022, nine stakeholder meetings were held. Those meetings were with various groups and agencies. In May, 2022, the draft regulations were prepared. On June 29, 2022, the Long-Range Planning/Comp Plan Committee authorized the draft regulations to go through the Public Hearing process.

Mr. Schwartz reviewed a list of significant text changes. Overall, the document has better readability and graphics and tables were added. In Article 5, the Staff took 564 uses and reduced them to 160 uses as well as created use matrix tables. An example is banks and mortgage offices were reclassified to financial institutions. For retail, there were 50-60 categories. Now it will be just retail. Currently, one has to go through each District to determine what is permitted. The use matrix tables are more streamlined to determine whether a use is allowed. In terms of the existing studies, like Houston-Donaldson and Mall Road District are currently referenced because the studies are paper based. The regulatory text of the zoning studies have now been incorporated into the new text. The Turfway Road Overlay District Study is proposed to be eliminated. It is an old study that has no regulatory language. In terms of Site Plan Review, an increase in review time has been proposed to 45 days. A one-time 30 day extension is also being proposed. If the applicant needs additional time, an applicant can extend the time limit to a date specific time period that is agreed upon by both parties. There are a number of significant changes to the Supplemental Performance Standards. Regulations for Accessory Dwelling Units and Emergency Shelters have been added. Regulations dealing with radioactivity,

electric disturbances and vibrations have been deleted since it is difficult to measure. A distinction between a Home Business and Home Occupation is being made as a result of our experience with Covid 19. Stacking distances for drive-through facilities have been added. Further, there is a recommendation that small cell site regulations be eliminated except for the City of Florence. Most of the small cell sites are on utility poles in the public right-of-way. Some of the legislative units have franchise agreements. Tractor trailer spaces will need to be provided based on the number of bay docks. It starts at 40 bay docks. Electrical Vehicle Charging Stations standards have been added to accommodate those businesses who want them. In terms of signage, recent court cases discuss that sign content has to be neutral. Governments cannot regulate signs based upon what the message says. If a sign is not legible from a public right-of-way, private street or an adjoining property, it is not regulated. There is a mathematical calculation to determine if the sign is legible. Regulations have been added for window signs. If someone has a sign on the inside of a window, there is a means to regulate it. Criteria for Special Sign Districts have been added. Billboards are still being prohibited. Regulations have been added for food trucks.

Mr. Schwartz mentioned that the zoning map changes are driven by slight corrections as a result of inaccurate line work done years ago. When there was a change to a digital map, a lot of the zoning lines did not follow the property lines as well as being consistent with the Comprehensive Plan. This would eliminate a lot of split zoning. Also, all of the governmental and public properties have been designated for Conservation and Public Facilities zoning. There have been some post draft submittals. The City of Walton has requested that Short Term Rentals be provided for within the City. Attachment A of the Staff Report recommends the same regulations as adopted by the City of Florence and the Boone County Fiscal Court. The City of Florence has requested that regulations for "Data Centers" be included in the proposed text and that crypto-currency mining be prohibited (see Attachment B of the Staff Report). It should be applied county wide. The property owner at 10830 Big Bone Church Road has requested that a portion of her property be rezoned from A-2 to A-1 to be in the same zoning district. The Boone Conservancy does not want 2 of their properties rezoned since they have not been vetted through their organization. Mr. Schwartz reviewed 6 requests that are recommended not to be changed. The first one is the Ward/Walton property off Tanner Road (Map ID 105). The request would extend RS zoning along the road that would be inappropriate for higher density development. Second, the site is off Walton-Verona Road (Map ID 106). The requested A-2 zoning would not be consistent with the Comprehensive Plan and agricultural uses are allowed in an I-1 zone. Third, the owner wants to rezone the site from UR-1 to I-1 off Stephenson Mill Road (Map IDs 109, 113, & 119). The proposed I-1 district would not be consistent with the Comprehensive Plan. The same would apply to Map ID 113 in reverse from I-1 to UR-1. The adjacent area is already zoned I-1. All Airport owned property within their fence line or in restricted air space area is zoned Airport (A). The area located north of I-275 is currently zone A-2 and C-1 (Map ID 116). There is not Airport zoning north of I-275 and it would be inconsistent to bring it to the other side of the interstate. It should remain the same. Finally, a site next to Webster Lane is being requested to be changed from UR-1 to I-1 (Map ID 113). Again, the proposed zoning would be inconsistent with the Comprehensive Plan. In terms of future anticipated steps, Mr. Schwartz noted that the Long-Range Planning/

Comp Plan Committee will meet on October 5<sup>th</sup> to formulate a Committee recommendation.

On November 2<sup>nd</sup>, the full Board will take final action by adopting a Resolution on November 16, 2022. The Planning Commission will approve the minutes from the November 2, 2022 Business Meeting and forward the Resolution Packet to the legislative units on November 17, 2022. Mr. Schwartz concluded his presentation by saying that he had both the text and map changes available to look at in case there were any questions.

Mr. Costello stated that he wanted to enter into the record the proposed regulations (both text and map) in paper and digital formats. There were additional letters submitted for this evening's Public Hearing – Mr. Curt England, Mr. Tom Banta, Ms. Erin McCarty, Ms. Christy Noll and Mr. Scott Bergthold – Secondary Effects Documentation of SOBs.

Chairman Rolfsen thanked Staff and the Long Range Planning/Comp Plan Committee for their time and work on completing the 2020 Zoning Update. It was a big task to consolidate all of the work.

Chairman Rolfsen asked if there was anyone in the audience who wanted to speak?

Mr. Ehmet Hayes stated he had two attachments to show the Board. He mentioned that his neighbor, Daniel Heckman, received a letter regarding some possible zone changes in the area. He appreciates the desire of the Board to clean up some of the old zoning lines dating back to when the maps were hand drawn and possibly not accurate. One parcel that he owns is about 80 acres. The back part of it is zoned I-1 and the front is UR-1. He questioned why the current zoning line was a sharp point? It kind of makes both areas impossible to develop because of the location of the zoning line. He looked at the intent of the UR-1 zone. Is it to mask any development? Perhaps the zoning could be flipped where all of the UR-1 zoning could be along Webster Lane. The Comp Plan has 3 different designations on the hillside. Those designations are only 150 feet wide. He is not there to get free zoning. His family has owned the property for 30-40 years. Does it make more sense to extend the UR-1 zone along Webster Lane and across the ridge? Perhaps, the land area could be swapped?

Mr. Schwenke asked Staff to take a closer look at it so the Committee can make a decision whether to make any changes.

Mr. Ken Holliday, realtor, stated that one of the proposed changes is to eliminate recreational uses in the C-4 District. He also asked about the 60 day waiver requirement. Mr. Schwartz responded that the 60 day requirement is for the Planning Commission to take final action on a request within 60 days of the submittal. There is also a waiver provision of the 60 days made by the entity that initiated the zone change. This is what the Planning Commission is pursuing. Mr. Holliday expressed a concern that he has a client that has been pursuing a C-4 site for the past 9 months for a 45,000 square foot indoor/outdoor pickle ball facility along with an 8,000 square foot medical office building on Frogtown Connector Road. For this to change, it would kill the deal.

There are other uses planned for the site. What could trigger a grandfather clause? Is it a zoning application?

Mr. Wilson responded that to obtain pre-existing status, the applicant would have to show substantial completion or steps taken either by contract or money spent to accomplish the goal. All that would have to occur prior to when the text amendment takes effect. Adoption of the text amendment could occur by the end of the calendar year. Mr. Costello shared an example of an applicant submitting documentation of a prior use being planned and designed before the zoning code changed years ago. There are 2 options – one is to keep the text as is and the use would still be allowed or two, the applicant submits an argument about a vested interest. Mr. Costello explained that the applicant could submit a Site Plan tomorrow to obtain a vested interest.

Mr. Nelson Webster, 530 Stevenson Mill Road, stated that his property adjoins the Hayes property. He received a letter because the proposed zoning line was moving from Webster Lane to his fence line. That would line up with the City of Walton municipal boundary. He just wanted to make sure it was correct. Mr. Schwartz replied by showing the differences in the location of the current zoning line and Mr. Webster's property/fence line. The zoning line will move to right from the center of Webster Lane to the property line.

Mr. Tom Banta, Corporex, complimented Mr. Schwartz's work to simplify the zoning code. It is a difficult task. He expressed a concern about the proposal to eliminate educational and governmental institutions from the I-1 zoning district. It would no longer be a principally permitted use in the I-1 zoning district. His company owns land in Circleport Subdivision, which is where the Ignite High School is currently located. The proposed change is not to allow educational and governmental institutions in an I-1 zoning district. Thus, the use would only be allowed in 3 districts – the Florence Main Street, the Union Town Center and the I-3 zoning districts. Mr. Costello mentioned that the use is already allowed in a PF zoning district. Mr. Banta stated that the proposed draft doesn't allow it in a PF district. Mr. Banta stated that public schools can go anywhere because they are exempt from zoning. Mr. Banta requested that the use be left alone as a principally permitted use in a I-1 district. It is consistent with the 2040 Comprehensive Plan as outlined in his September 21, 2002 letter. The Comprehensive Plan encourages private schools and educational institutions. During Covid, his company did a 15 year lease with Union Institute University in Cincinnati. It is an on-line university. That use could happen in Circleport. They own buildings adjacent to Ignite so it makes sense to allow the use. If the I-1 zoning is suitable enough for Boone County to put a school, then it would be suitable enough for a private school. Mr. Banta again asked for the text to remain the same or have the school as a conditional use. Mr. Costello reminded everyone that the Ignite site and building were donated to the Boone County School District. Mr. Costello noted that a lot of the Catholic Schools are zoned PF and started with a church and then a school in a parish district. He mentioned St. Tim's in Union and St. Paul's in Florence. Mr. Banta thought it was discriminating since there is only a few options. Mr. Banta noted there was very little vacant PF land available that is not in use for a public facility.

Mr. Patton stated that having schools as a conditional use makes some sense. The Planning Commission doesn't receive a lot of complaints about schools other than transportation concerns.

Chairman Rolfsen suggested moving schools from I-3 to I-1 as a conditional use. Mr. Banta replied that it would make more sense doing it that way.

Mr. Ken Holliday asked if the owners of C-4 properties have been notified? Mr. Costello responded that the change is a text amendment and not a map amendment. There is no requirement to notify individual property owners for a text amendment. Mr. Holliday asked about a grace period? Mr. Costello replied that it may not be necessary if there is no proposed change. No final decision has been made at this time.

Mr. Victor Rigacci, 1594 Brandon Drive, inquired about his ability to build an ancillary building on his property for his mother. Currently he has 1.14 acres. He wants to build another residence on his property on the side of his backyard. His mother lives in Deer Creek Subdivision. He was told in the Spring that he needed 1.85 acres to build a separate residence. Otherwise, you could only have a structure but couldn't have a bathroom or a kitchen. He heard that the regulations might be changing. He is landlocked and can't acquire more land. Mr. Schwartz replied that currently a property owner can have an accessory dwelling unit. He read the definition. One can have an accessory unit only if the property can meet the intensity requirements. As an example, the minimum lot area in an SR-1 zone is 8,000 square feet. With an accessory dwelling unit, one would need 16,000 square feet of land area or 1 dwelling unit per 8,000 square feet. The proposed language suggests the building intensity to be 1.5 times instead of 2 times the amount. The requirement for an accessory unit in an SR-1 zone would be 12,000 square feet. The other dwelling unit can be attached or separated. Mr. Schwartz thought that Mr. Rigacci would benefit from the proposed changes since he has more than enough square footage for an accessory dwelling unit. Mr. Rigacci stated that he needs 2/10 of an acre more to have an accessory dwelling on his property. Mrs. Kegley asked about having different requirements for a separate unit versus having one unit inside or attached? Perhaps various options could be explored by the Committee.

Ms. Susan Barry, 10543 Turner Lane, asked that the Board review the short term rental parking requirements. There is an extra requirement for owner parking versus renter parking. The owner parking is not needed if the whole house is being rented.

Mr. Edward Hall, 3037 Miller Court, asked what is the difference between RS and RSE zoning? Mr. Schwartz responded that it was intended to have one zoning district of RSE on his property. It matches where his house is located. The primary reason is the minimum lot size. The proposal would mean that the minimum lot size change from 12,000 square feet (RS) to 40,000 square feet (RSE).

Mr. Tim Trenkamp., 3036 Miller Court, stated that SD1's appraisal of land is based upon GIS mapping. He noted that his lot was surveyed in 2017/2018 and it is completely different. Mr. Costello suggested that Mr. Trenkamp show SD1 the actual survey of his property to accurately

reflect his property lines and ownership so that the appraisal can be amended if necessary. The Planning Commission does not get involved in property appraisals. A survey of his property is the most accurate. Mr. James Horton from the GIS Staff can be contacted, if necessary.

Ms. Rhonda Carrara, 3289 Peel Road, asked about the proposed RSE zoning on her property Mr. Schwartz replied that it is a further extension of the existing zoning of RSE. If the 2 dwelling units are to be sold, then 2 lots would have to be created with a minimum lot size of 40,000 square feet for each lot.

Mr. Dave Bowdler, 3052 Milller Court, asked to keep the existing C-2 zoning on his property since there is commercial across the street. He will lose \$30,000 in value if it is turned back to residential. Mr. Schwartz replied that the lot in question does not have access to KY 20. It is currently a residential use. Mr. Bowdler replied that he has frontage on Bullittsville Road. Eventually, KY 20 will be a 4 lane road. His neighbor left the Public Hearing but also wanted to retain the C-2 zoning.

Mr. Tony Shebben, Hebron Fire Department, stated that he was fine with the proposed change in zoning from I-1 to PF. He inquired about the tiny triangular parcel in front of the fire station. What will happen to it? It is currently zoned GR-C and the Fire Department would have to contact the Commonwealth of Kentucky to purchase excess highway right-of-way. Chief Schebben replied that it would be a nice area for training.

Chairman Rolfsen asked if any Commissioners had any questions or comments?

**Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on October 5, 2022 at 5:30 P.M. This item will be on the Agenda for the Business Meeting on November 2, 2022 at 7:00 p.m. in the Fiscal Courtroom.** The Chairman Rolfsen closed the Public Hearing at 8:45 p.m.

**APPROVED:**

---

**Charlie Rolfsen**  
**Chairman**

**Attest:**

---

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

