

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARING
MAY 6, 2015
7:30 P.M.**

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Greg Breetz
Mr. Kim Bunger, Secretary/Treasurer
Mr. Mike Ford, Vice Chairman
Ms. Lori Heilman
Mr. Mark Hicks
Mr. Jim Longano
Mr. Don McMillian
Mr. Kim Patton
Mr. Charlie Reynolds
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mr. Steve Turner, Temporary Presiding Officer

COMMISSION MEMBERS NOT PRESENT:

Mrs. Janet Kegley
Ms. Lisa Reeves

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Mitchell A. Light, Asst. Zoning Administrator/ZEO

Chairman Rolfsen called the Public Hearing to order at 8:22 P.M. and introduced the first item on the Agenda:

CHANGE IN APPROVED CONCEPT DEVELOPMENT PLAN - Greg Breetz, Chairman, Mitch Light, Staff

1. Request of **Adam Miller Homes (applicant)** for **Golden Masonry Homes (owner)** for a Change in an Approved Concept Development Plan in a Rural Suburban (RS) zone for an approximate 3.4 acre site located on the southeast corner of the Bullittsville Road/Cornerstone Drive intersection, Boone County, Kentucky (Lots 1 through 7 of Cornerstone Estates Subdivision). The request is for a Change in an Approved Concept Development Plan to modify a previous condition of approval to allow seven homes to face Cornerstone Drive instead of Bullittsville Road.

Staff Member, Mitch Light, presented the Staff Report, which included a PowerPoint presentation (see Staff Report). Mr. Light identified the seven lots in question. The applicant is requesting to modify the conditions of approval from the 2004 Zoning Map Amendment to allow the homes on lots 1-7 to face inward instead of facing Bullittsville Road as originally proposed and agreed upon by the former owner/developer. The applicant proposes to keep the berm in place, along Bullittsville Road, as a buffer. The applicant shows a 100' setback from Bullittsville Road to remain as a minimum rear yard setback for the principal structure. The setbacks in the Rural Suburban (RS) zone are 40' front, 40' rear and 10' on each side (20' corner side). Lot 1 is a corner side lot. In 2004, the Boone County Planning Commission and Boone County Fiscal Court approved the Cornerstone Estates Subdivision with certain conditions including that "all houses along Bullittsville Road shall face Bullittsville Road." Mr. Light described the adjoining land uses. The Comprehensive Plan still recommends the area to be developed SR, which is Suburban Density Residential that allows single family housing of up to 4 units per acre. It also allows low density or estate type development. The Land Use Element of the Comprehensive Plan recommends subdivision activity around Bullittsville and along Bullittsville Road, with High Density Suburban Residential uses and local commercial uses designed to reinforce the small town character. Mr. Light reference other sections from the Comprehensive Plan involving road connections in the Bullittsville Road/KY 20 area. Mr. Light showed photographs of the site, the original Concept Development Plan indicated no driveways built along Bullittsville Road. The lots in question sit lower than the elevation of Bullittsville Road.

In terms of Staff Comments, the submitted Concept Development Plan proposed that the homes on Lots 1-7 face inward toward Cornerstone Drive with a 100' rear yard setback along Bullittsville Road for the principal structure and that the berm remain as a buffer. Staff suggests evergreen trees be planted on top of berm and/or at the base along Bullittsville Road. The Boone County Zoning Regulations allow fencing along the rear and side property lines at a maximum height of 6 feet. The code allows privacy fencing as well as chain link. If the subdivision has deed restrictions that further limit the height and materials, the enforcement of those deed restrictions falls on the property owners within the subdivision. Section 3122 of the Boone County Zoning Regulations states: "The setback for a rear yard or corner side yard which adjoins a freeway, expressway, arterial, or collector road, as classified in Article 32, shall be a minimum of fifty (50) feet for principal structures and twenty (20) feet for accessory structures. Bullittsville Road is classified as a collector road. If the subdivision has deed restrictions that further restrict accessory structures, the enforcement of those deed restrictions are the responsibility of the property owners within the subdivision. In addition, Mr. Light introduced comments from Mr. Tom Fryer (see Exhibit A). He expressed a concern that from the front of his house he could be looking at a row of back yards when entering his driveway, front

sidewalk and front door. The original plan showed the houses facing the same direction as his house. He suggested that Adam Miller plant a staggered set of large evergreen trees along his property line between his house and Lot 7 along the front property line for approximately 125 feet. If this was done, he commented that he would fully support the change. Mr. Light stated that there is a slide show from one of the adjoining property owners. Mr. Light concluded that the Planning Commission must review the request based upon the relationship of the request with the Comprehensive Plan and the three criteria that serve as a basis for taking action on the request.

Chairman Rolfsen asked if the applicant was ready to proceed with his presentation? Mr. Adam Miller, Adam Miller Homes, stated that the reason why he is pursuing the request is due to the fact that it would avoid seeing the "backs" of the houses when you are in the subdivision. You would see rear entry garages and the "backs" of the houses. The new house locations would be safer since they would be further away from Bullittsville Road, which is a busy road. On Lot 7, the house would be 122 feet from the road, 147 feet from the road for Lot 6 and 187 feet from the road for Lots, 4, 3, and 2. The goal is to keep the berm in place and to plant evergreen trees on top to act as a buffer so you can't stare at the back of a house. The other goal is to build ranch homes only. The homes would be 50' x 60' in size in order to meet the minimum covenant requirement of 1,800 square feet. The covenants do not allow accessory buildings and privacy fences. Most of the land was purchased at auction. The developers went bankrupt but the community has been very good in keeping the covenants and restrictions in place. The ranches will be brick. The berm is topsoil and it currently is not a requirement to keep if developed according to the current conditions. If you turn the houses around, it is more of a community. He acknowledged that he met with Ms. Carolyn Nixon about a year ago to discuss the project.

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

Ms. Rhonda Hannah, 3200 Cornerstone Drive, stated that she was the first resident to build in the subdivision - Lot 42. Her house is the first ranch house on the left side. She stated that she doesn't have a problem with Adam Miller Homes. She supported having the houses face inside the subdivision.

Mr. Roger Braden, Attorney representing Carolyn Nixon and Hollis-Nixon Farm acknowledged meeting with applicant. The plan at the time was different, the berm was removed and the houses faced Bullittsville Road. Mr. Braden explained there is drain in front of Lot 7 and one further down the road. He believes that both of them or culverts were supposed to be closed. He didn't know if they have been closed. The drainage is supposed to drain away from Bullittsville Road. The County has been installing rock along the Hollis-Nixon Farm due to erosion. Mr. Braden submitted photographs and a summary of concerns (see Exhibit B). Ms. Nixon's home is located across from Lot #1 and Lot 7. Activity on Lot 1 will affect Ms. Nixon since she is located across the street. Her main concern is drainage. She now has a sink hole on her property from the culvert. The submitted plan should not be approved until the water issue is resolved or addressed properly. If water is backing up from the subdivision, it should be corrected. The houses should be facing away from Bullittsville Road as long as they are ranch homes. Lot #1 is a problem. The house on Lot #1 should run parallel to Bullittsville Road instead of Cornerstone. This would keep any light going across Bullittsville Road facing Ms. Nixon's home. There is no objection to the berm or the trees. The damage to her property due to the drainage has been significant. Mr. Braden then referred to a PowerPoint presentation. He

showed photographs of Ms. Nixon's property and some of the erosion issues. He referred to the photographs of where the County installed new rock today.

Ms. Carolyn Hollis-Nixon, 3239 Bullittsville Road, stated that every car that makes a left turn out of the subdivision, shines their lights into her living room and bedroom every night. Now, there will be added cars. She stated that her farm has numerous problems due to subdivisions. She doesn't want houses facing her house. She built her house in 1964.

Mr. Braden submitted a document from SD1 (see Exhibit C). The document shows the two areas in the subdivision and apparently shows the lines or culverts going onto Ms. Nixon's property. The first one is where the sink hole is located and the second one is where the rock has been laid by the County as recently as today. Bullittsville Road is a very busy road so putting more driveways on it doesn't make sense. Turning the houses around makes sense only if the drainage issue is addressed. If the project is approved, he recommended that the deeds to the lots reflect that the berm is permanent.

Mr. Tom Moore, 3236 Cornerstone Drive, stated that the berm 15 - 18 foot high. Everything slopes from the top of the berm into the subdivision. The only portion from the subdivision is from the top of the berm towards the road. In heavy rains, water travels through the existing culverts under Bullittsville Road. Erosion is coming from other areas and not the subdivision. Most of the damage is coming further up Bullittsville Road. Water doesn't run up hill. If the berm was removed, all the water would go towards the subdivision because it slopes in that direction. The water is not coming from the subdivision but up the road.

Mr. Breetz asked if it was a road maintenance issue?. Mr. Kevin Costello responded that the Staff will contact the Public Works Department to see if they are aware of the problem and what has been done to date. Mr. Moore stated that the trees should be planted on the subdivision side of the subdivision and not the Bullittsville Road side because of a potential sight distance problem.

Ms. Kym Snelling, 3383 Wildrose Lane, has lived in Cornerstone Subdivision for 4 years. Their builder was Adam Miller. She loves living there. She is very interested in the development in front of the subdivision because it has been vacant for a long time. There were rumors about high-rise rentals. She noticed along Bullittsville Road and Rogers Lane rows of houses that back-up to the road are served by streets within the subdivision. A number of the subdivisions have berms and trees but not as high as the one in Cornerstone Subdivision. In regard to Lot #1, there will be more problems if the house faced Bullittsville Road because people would have to drive-up from the back. The only reason why the houses on Lots 41-42 work where the houses face Bullittsville Road is because of the configuration. It does not work for the narrow lots. It is unfortunate that Ms. Nixon has lights shining on her house but nothing can be done unless she plants trees on her property. The berm should be slightly graded and evergreen trees should be planted. The water is coming further up the road.

Mr. Ben Shaffer, 3371 Wildrose Drive, stated that he has experienced problems with berms on his property. He expressed a concern for the future lot owner. There is a height variation of the berm and it seems problematic with the actual elevation of each lot. He is unsure of the correct height needed for the berm to screen Ms. Nixon's property. The side yard setbacks from the lots look tight. It seems like the homes will be stacked next to each other. Is it possible to drop 1 or 2 of the homes on lots so it looks more normal and consistent with the other lots in the

subdivision? Perhaps, the house on Lot #1 could face north so it faces the main street coming into the subdivision. Perhaps, regarding the swale along Bullittsville Road could help address the water problem.

Mr. Roger Braden stated that 2 culverts exist today and a sink hole that didn't exist before the development occurred. Rock is being placed on a regular basis. The request should be tabled until there is adequate time to address the storm water drainage issue. Chairman Rolfsen responded that the Staff will contact the County Engineer to address the issue.

Mr. Renee Hodge, 3320 Cornerstone Drive, said her house is located directly across Lots 2 and 3. She was in favor of the change to have the houses face Cornerstone because she doesn't want to look into the backs of the houses.

Ms. Carolyn Nixon stated she was in favor of the berm because it protects the area from high winds like a tornado as experienced on April 9th. It is a high elevation area.

At this time, Chairman Rolfsen asked if the Board Members had any questions or comments?

Mr. McMillian asked if Lot #7 was a flag lot? Mr. Light responded yes. Mr. Light stated he was aware of one of the catch basins but not the second. He has contacted the county Engineer.

Mr. Bunger asked if the berm could be constructed according to what the residents suggested? How will the tree planting be placed? Can the developer present an engineered drawing of where the drainage will be on the site? He noted that he was unaware of the deed restrictions or HOA regulations for the subdivision. He suggested that conditions might be the best way to go to resolve this problem.

Chairman Rolfsen asked the developer if the current homeowners are following the HOA restrictions? Mr. Miller responded yes. What would stop a future property owner to build a detached garage or yard barn on a lot? Mr. Miller responded the covenants and restrictions prevent this from occurring. There have been multiple builders in the subdivision. In addition, there may be a condition that requires the houses to be ranch style.

Mr. Bunger stated that it would be difficult to enforce covenants and that is why there should be conditions so it can be properly enforced.

Mr. Reynolds inquired about the line of sight issue. What happens when the trees grow on the berm and possibly block the line of sight? Who determines it? Do they look at it in the Summer or Winter? Can the berm be adjusted to improve the line of sight? Mr. Miller replied that portions of the berm are very high especially in the middle. Planting trees on top of the berm is far enough away from the road. It won't obstruct the view from entering or exiting the subdivision. Parts of the berm are difficult to mow. It could be slightly adjusted based upon the requirements.

Mr. Schwenke asked if the berm is all topsoil? Mr. Miller responded yes. He stated that he could get rid of it completely. Mr. Schwenke asked about the dirt from digging the basements? Mr. Miller replied that they will be removing some dirt from the basements and bringing topsoil onto the site.

Mr. Reynolds asked if it was possible to build the house on Lot #1 parallel to Lot #1 instead of vertical? Mr. Miller responded that it would not be possible since they could not meet the front and rear yard building setbacks. Mr. Reynolds asked what about a 2 story house on that lot? Mr. Miller replied that it might not work and it would look odd with the other ranch homes. Mr. Reynolds inquired whether the developer could assist Ms. Nixon in blocking the lights shining into her house? Mr. Miller replied yes as it relates to the location of the houses.

Chairman Rolfsen noted that if you eliminated Lot #1, the developer would have wider lots and would not affect Ms. Nixon. Everyone in the subdivision would be happy with 6 lots. Mr. Miller responded it is a possibility. The 10 foot side yard setbacks can be met on the lots.

Mr. Patton asked if the utilities are in the subdivision? Mr. Miller replied yes. Mr. Patton noted that Lots #1 and #2 could be reconfigured so Lot #2 could face the turn and Lot #1 up towards the setback line and face Cornerstone Drive. The back yards would be together but utilities may need to be relocated especially the storm sewer.

There being no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on May 20, 2015 at 5:00 P.M. in this room. This item will be on the Agenda for the Business Meeting on June 3, 2015 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 9:19 P.M.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director

Exhibit A - Letter from Mr. Tom Fryer

Exhibit B - Photographs of drainage problems and a list of concerns from Ms. Carolyn Hollis-Nixon

Exhibit C - Drawing from SD1