

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
February 15, 2006
7:00 P.M.**

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:02 PM.

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett
Mr. Randy Barlow
Mr. Greg Breetz
Mr. Kim Bungler
Mr. Arnold Caddell, Chairman
Mr. Jim Carmichael
Mrs. Janet Kegley
Mr. Don McMillian
Mr. Randy Poe
Mrs. Susan Poston, Vice Chairwoman
Mr. Charlie Reynolds
Mr. Charlie Rolfsen
Mr. Bob Schwenke
Mrs. Lisa Wilson, Secretary/Treasurer

COMMISSION MEMBERS NOT PRESENT:

Mr. Richard Knock, Temporary Presiding Officer

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Ms. Patty Bachman, Planner
Ms. Jan Hancock, Secretary
Mr. Mitch Light, Assistant Zoning Administrator/ZEO
Mr. Todd Morgan, AICP, Planner

Approval of the Minutes:

Chairman Caddell stated that the Commissioners received copies of the Minutes of the February 1, 2006 Business Meeting. He asked if there were any comments or corrections. There being no changes to the Minutes, Mrs. Wilson moved that they be approved as mailed. Mr. McMillian seconded the motion and it carried unanimously.

Chairman Caddell stated that the Commissioners received copies of the Minutes of the February 1, 2006 Public Hearing. He asked if there were any comments or corrections. There being no changes to the Minutes, Mrs. Wilson moved that they be approved as mailed. Mr. McMillian seconded the motion and it carried unanimously.

ACTION ON PLAN REVIEWS:

1. Zoning Map Amendment and Variances

The request of Toebben Ltd. (applicant) for Toebben Ltd. (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS) and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single-family residences.

Chairman Caddell stated that Agenda Item #1 is recommended for deferral to the March 1, 2006 Business Meeting at 7:00 PM. Mr. Carmichael so moved. Mr. McMillian seconded the motion and it carried unanimously.

2. Zoning Map Amendment

The request of Toebben Ltd. (applicant) for Toebben Ltd. (owner) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.7 acres located at 1922 & 1932 North Bend Road, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow a Retail Center and uses permitted in the Commercial Two (C-2) zone.

Chairman Caddell stated that Agenda Item #1 is recommended for deferral to the March 1, 2006 Business Meeting at 7:00 PM. Mr. Bunger so moved. Mrs. Wilson seconded the motion and it carried unanimously.

3. Zoning Map Amendment and Conditional Use Permit

The request of Brad Amann and Steve Amann (applicants) for Steven W. Amann and Mary Jo Amann (owners) for a Zoning Map Amendment from Agriculture (A-1) to Recreation (R) and a Conditional Use Permit for an

approximate 40-acre lot located at 6279 Petersburg Road, Boone County, Kentucky. The request is for a zone change and a Conditional Use permit to allow an off-road motorcycle track and associated retail sales, and retail food sales.

Staff Member Mitch Light presented the Committee Report which recommended denial of the request based on the Findings of Fact (see Committee Report).

The Chairman offered the applicant the opportunity to make a summary statement.

Attorney Thomas Vergamini with Taft, Stettinius & Hollister reviewed the Committee Report. In regard to Finding of Fact #1 he stated that a lot of the comments are “should” or “could” but nothing indicates that anything will happen with respect to the mining or reclamation. In regard to Finding of Fact #2, he stated that the definition of Rural Lands (RL) in the Comprehensive Plan contemplates recreational use, which is what they are requesting. In regard to Finding of Fact #3, he stated that the permits have been issued and they have the right to mine property adjoining the Amann property, but the comments suggest “might” or “won’t”. In regard to Finding of Fact #4, he stated that in the comprehensive document they submitted they have addressed every item identified in Section 262. He stated that no evidence was presented that the noise would be excessive and the noise contemplated by the applicant complies with the minimum noise requirements in the Zoning Code. He stated that the Concept Development Plan that they submitted addresses all minimum requirements and many of the optional requirements.

Mr. Brad Amann stated that the mining impact on the area will increase over the years as the Vesper farm develops and efforts to conceal the mining from surrounding areas are not addressed sufficiently. He stated that the existing zoning classification is inappropriate. He stated that in 1990 when they were making a decision to purchase their home, the Planning Commission told them the I-3 zoning was on the Vesper farm and it had been there since the 1960’s. He stated that the county intended that the mining not go east of KY 20 or near the cemetery. In 2002, the mining was allowed to go forward, which was against the Comprehensive Plan. He stated that their video showed that the mining has begun and is on the east side of KY 20. The mining only started in 2002, so he believes it will proceed quickly. This was unanticipated and meets the requirement for a Zoning Map Amendment. These changes will alter the basic character of the area. The last part of their video shows the mining activity from their house. The mining will be directly within site of their property and berms will not protect them. He stated that many people in the area are in favor of the track. He stated that noise emission is well within the regulations of Article 31. He stated that trespassing can be controlled with a fence. Traffic can be easily regulated. He will live on the property and the track will be well regulated. He stated that they will address the Staff Concerns in a Development Agreement that will give the Planning Commission control over what they are trying to do. He stated that their plan is a concept. They are not professional developers and do not have the money to go

into full scale water retention and stormwater plans, which is something they would do after they get the zone change. He stated that all of the concerns are in regard to the Conditional Use Permit and nothing says that the recreational zoning would not be in harmony with the area. They can address the Conditional Use Permit to be in harmony with the area.

Chairman Caddell stated that there was an article in the newspaper the day after the Public Hearing in which someone stated that the applicant felt that the Public Hearing was rushed. He stated that the Public Hearing was 65 minutes long. Mr. Amann responded that the Chairman said that it was a late hour and they could address items later. Chairman Caddell explained that some issues are discussed in more detail with the Zone Change Committee and he believes they had that opportunity. Mr. Amann responded that the Zone Change Committee did not ask anything specifically about the Staff Concerns or the concerns of the opposition -- the Zone Change Committee asked how they meet the criteria for a zone change. Mr. Vergamini agreed and stated that the Committee did not address the Staff Concerns step by step. He stated that the applicant attempted to address them briefly because the Committee Meeting is not recorded. He stated that they are open to addressing the facts so that the Planning Commission can make an informed decision. He stated that the Public Hearing was at the end of the agenda and it was late, but they deserve as much attention and consideration as any other applicant. Chairman Caddell responded that sixty-five minutes was adequate time and everyone had an opportunity to speak. Mr. Vergamini stated that it was the only time the presentation of fact and testimony is addressed and maybe sixty-five minutes was not enough. He stated that the Public Hearing was scheduled for 7:30 PM but it did not begin until 10:30 PM because the prior requests were extremely controversial and took a lot of time. He stated that they were not given sufficient time to address each and every Staff Concern. He stated that they are ready, willing and able to address any concerns at this time. He stated that a lot of the things addressed in the Staff Concerns were addressed by the opponents and they can address them in an operational agreement.

Chairman Caddell stated that he will also give the opposition an opportunity to present a summary of their position, but the Planning Commission is not here to go through the full process again. The applicant should have taken full advantage of the Zone Change Committee meeting to do that. Mr. Vergamini responded that they were not permitted to take full advantage of the Zone Change Committee. They attempted to address issues and were cautioned that it was a Committee Meeting. He stated that there was not adequate dialogue. He asked all of the Commissioners to read their report and review the video; otherwise, they cannot make an informed decision.

Chairman Caddell asked if there was anyone present who wished to make a summary statement on behalf of the opposition.

Mary Ellen Lucas, who lives directly across the road from the riding track at Prospect Hill, stated that her home is on approximately the same elevation as the track. She can see and hear the track. She is concerned about the tremendous amount of noise generated by the vehicles. She stated that there are reports from Planning & Zoning that this type of noise could not be adequately buffered. She stated that enforcement of conditions such as limiting hours and days of operation are almost impossible to enforce. Vehicles will be turning into an area within 75 feet of two blind curves.

Chairman Caddell asked Ms. Lucas to speak to what took place at the Zone Change Committee rather than restating her comments made at the Public Hearing.

Ms. Lucas stated that the things that happened at the Zone Change Committee were adequate. She stated that if a zone change is given, it cannot be rescinded.

Mr. Vergamini asked to respond. He stated that they made the point at the Committee Meeting that the Amann's have lived at this property for 18 years and until January 18, 2006 no one ever came to them and complained about the noise of a motocross vehicle or any excessive noise.

At this time, Mrs. Poston moved by resolution to Boone County Fiscal Court that the Committee Report to deny the request based on the Findings of Fact be accepted. Mr. Bunger seconded the motion.

Mr. Bunger stated that the first charge of the Zone Change Committee is to determine if the request meets the criteria and if there is a valid basis on which a zone change can be granted. That determination is made prior to hearing any other information or adding to what was presented at the Public Hearing. The Committee primarily addressed whether it was an appropriate request based on the three criteria.

Mr. Carmichael questioned what would happen to the current operation on the site if the request is denied. Counselor Wilson advised that it would be up to the Zoning Enforcement Officer to look into it and determine if the current zoning is being violated.

Mrs. Poston, Committee Chairperson, agreed with Mr. Bunger's comments. She explained that the Committee's first charge is to go through the criteria and, after doing that, they will then look at the conditional use and the requirements to grant the conditional use. However, the Committee felt that none of the criteria was met. She stated that the applicant was given an adequate hearing by the Committee.

There being no further discussion, the Chairman asked for a vote on the motion made by Mrs. Poston **and it carried unanimously.**

Counselor Wilson advised that the Planning Commission's action is a recommendation to Boone County Fiscal Court and they can accept it or override it, or they may choose to conduct their own Public Hearing.

4. Technical Design Review - **Ethan Allen
Houston Road**

Staff Member Patty Bachman presented the Design Review request for Ethan Allen, which is located on Houston Road between Panera and the Houston Office condominiums. She stated that the Site Plan on page two of the packets is not yet approved. She reviewed the building elevations on page 3. The highest point of the building is 28 feet. The building is constructed of beige brick with gray dryvet and aluminum at the top. There is a slight recess in the brick at about four feet off the ground. There are blue fabric awnings over the windows. The roof equipment will not be visible. She stated that the proposal is for channel letters on three elevations of the building. The front elevation is 77 square feet in area and the two side elevations were modified at the Committee Meeting to 50 square feet each. The approximate five square foot sign over the door that says *Ethan Allen* will be removed. The total sign package is 177 square feet in area, not including a blue recessed neon band on the front, north and south elevations. The band is approximately one inch high and 36 feet on the front elevation. Mr. Reynolds advised that the neon band also wraps about 4' – 6' around the side elevations. Ms. Bachman stated that the sign package is within the guidelines of the Houston-Donaldson Study. The 12 square foot monument sign is beige brick with gray metal trim and a skylight feature similar to the one in the building. The monument sign has a solid base. She stated that only the copy would be illuminated (not the panel). It is within the guidelines of the Houston-Donaldson Study and the lawsuit settlement area.

Mr. Schwenke moved to approve the Design Review request based on the Committee Report. Mr. Barlow seconded the motion.

Chairman Caddell asked if the approval is also for the location of the signs. Ms. Bachman responded that the monument sign is currently shown to be located in the sanitary sewer easement and they would need to get permission from the easement holder. The location of the sign would be discussed in detail through the Sign Permit Application process.

There being no further discussion, **the Chairman asked for a vote on the motion made by Mr. Schwenke and it carried unanimously.**

NEW BUSINESS:

**Agenda Item
No.**

- 5 **Zoning Map Amendment and Conditional Use Permit**
The request of **Rising Sun Port Authority by James W. Berling (applicant) for Robert Pikar and Lois Pikar (owners)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Recreation (R) and a Conditional Use Permit for a 4.32 acre site located between McVille Road (KY 18) and the Ohio River, and immediately north of the property at 7575 McVille Road, Boone County, Kentucky. The request is for a zone change and a Conditional Use Permit to allow a ferry boat landing.

Mrs. Wilson moved to schedule a Public Hearing for the above item on March 29, 2006 at 6:30 PM. Mr. Bunger seconded the motion. A vote on the motion found all voting members in favor. Mr. Carmichael abstained. The motion carried.

- 6 **Change in Approved Concept Development Plan**
The request of **ECE, Inc. (applicant) for Wagstaff, Inc. (owner)** for a Change in an Approved Concept Development Plan for a 14.33 acre site located at 4657 North Bend Road, Boone County, Kentucky. The request is for a Change in an Approved Concept Development Plan in an Industrial One/Planned Development (I-1/PD) zone to allow a new building that is up to 50 feet in height.

Mrs. Wilson moved to schedule a Public Hearing for the above item on March 15, 2006 at 7:30 PM. Mrs. Poston seconded the motion and it carried unanimously.

- 7 **Zoning Map Amendment**
The request of **Kentucky Motor Service, Inc. (owner)** for a Zoning Map Amendment from Residential One Family (R1F) to Commercial Two (C-2) for a 0.68 acre portion of the approximate 4.3 acre tract located at 7232 Burlington Pike, Florence, Kentucky. The request is for a Zoning Map Amendment to allow an expansion to an existing auto parts store.

Mrs. Poston moved to schedule a Public Hearing for the above item on March 15, 2006 at 7:30 PM. Mrs. Wilson seconded the motion and it carried unanimously.

- 8 **Zoning Map Amendment and Change in Approved Concept Development Plan**
The request of Tim Reese (applicant) for Greenfield Farms Inc., Charles Worley, and Deborah Worley (owners) for a Zoning Map Amendment from Agricultural Estate (A-2) to Suburban Residential One (SR-1) for a 77.854 acre tract located at 472 and 490 Chambers Road, Boone County, Kentucky; and the request of Tim Reese (applicant) for Chase-Reese Carlisle (owner) for a Change in an Approved Concept Development Plan in a Suburban Residential One/Planned Development (SR-1/PD) zone for a 14.72 acre site located at the southern terminus of Grand National Boulevard and southern terminus of Wynfair Court, south of the property at 11520 Manchester Court, east of the property at 618 Aylor Lane, north of the property at 472 Chambers Road, and west of I-75, Boone County, Kentucky. The requests are for a Zoning Map Amendment and a Change in an Approved Concept Development Plan to allow a residential subdivision.

Mrs. Wilson moved to schedule a Public Hearing for the above item on March 29, 2006 at 8:00 PM. Mr. Barlow seconded the motion and it carried unanimously.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Kevin Costello, AICP, Executive Director, stated that the Commissioners have received the new Committee List, which is effective this evening and for the rest of the year.

COMMITTEE REPORTS:

Airport:

No report

Administrative/Personnel: Mrs. Poston

No report

Enforcement: Mr. Barlow

No report

Long-Range Planning/Comprehensive Plan: Mr. Knock

No report

Technical/Design Review: Mr. Schwenke
No report

Executive: Chairman Caddell
None

CHAIRMAN'S REPORT: None

OKI Report: Mr. Breetz
The Executive Committee met last week and amended the OKI 2030 Transportation Plan, which included items of the Boone County Transportation Plan. He has a copy available if anyone wants to review it.

OTHER:

There being no further business to come before the Planning Commission, Mrs. Wilson moved to adjourn. Mr. Schwenke seconded the motion. The meeting was adjourned by unanimous consent at 7:50 PM.

APPROVED:

Arnold Caddell, Chairman

Attest:

Jan Hancock, Recording Secretary