

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
FIRST FLOOR FISCAL COURTROOM
BUSINESS MEETING
DECEMBER 6, 2017
7:00 P.M.**

Chairman Rolfsen opened the Business Meeting at 7:00 p.m. and welcomed the audience to the Planning Commission's December 6, 2017 Business Meeting. Chairman Rolfsen then invited everyone to join him in reciting the Pledge of Allegiance.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Kim Bungler, Secretary/Treasurer
Mrs. Lori Heilman
Mr. Mark Hicks
Mr. Rick Lunnemann
Ms. Jamie Nieves
Mr. Kim Patton
Ms. Lisa Reeves
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mr. Brad Shipe
Mr. Steve Turner, Temporary Presiding Officer

COMMISSION MEMBERS NOT PRESENT:

Mr. Greg Breetz
Mrs. Janet Kegley
Mr. Don McMillian

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Mr. Mitchell A. Light, Assistant Zoning Administrator/ZEO
Mr. Kevin T. Wall, AICP, Director, Zoning Services
Mr. Todd K. Morgan, AICP, Senior Planner
Mr. Robert A. Jonas, Director, Planning Services

Approval of the Minutes:

Chairman Rolfsen stated that the Commissioners received copies of the Minutes from the November 1, 2017 Business Meeting, the November 1, 2017 Public Hearings and the November 29, 2017 Public Hearing. He asked if there were any comments or corrections? **Mr. Turner moved to approve the Minutes as presented. Mr. Schwenke seconded the motion and it carried unanimously.**

BILLS:

Mr. Kevin P. Costello, AICP, Executive Director, advised the Commissioners of the **Bills to be Paid**, which included a list of **Expenses** and **Salaries and Benefits** for a time period between November 2, 2017 through December 6, 2017.

EXPENSES:

Accounting Fees	\$ 540.21
Attorney Fees	3,700.00
Auto Expense	149.34
Consultant/Professional Svcs Fees	2,095.00
Filing Fees (CLURs)	256.00
Legal Ads/Recruitment	279.96
Miscellaneous Expense	67.94
Office & Board Meeting Supplies	2,089.77
Office Equipment/Expense	-9.56
Office/Liability Insurance	527.32
Printing/Pub/Dues/Subscriptions	2,002.50
Professional Development	136.31
TOTAL:	11,834.79

SALARIES AND BENEFITS:

FICA-BCPC Portion	\$ 7,034.45
Health / Dental / Life / LTD	17,695.43
Retirement - BCPC Portion	14,884.64
Salaries - Staff Expense	97,492.99
Salaries BCPC	1,080.00
Salaries BCBOA	140.00
Salaries WBOA	140.00
TOTAL:	\$138,467.51

GRAND TOTAL: \$150,302.30

Mr. Patton moved that the bills (expenses and salaries and benefits) be approved and paid as presented and indicated approval of those items, which have been previously paid. Mr. Bunger seconded the motion and it carried unanimously.

ACTION ON PLAN REVIEWS:

ZONING MAP AMENDMENT AND VARIANCE - Kim Bunger, Chairman, Mitch Light, Staff

1. Request of **Jim Thomas, President and CEO of The Harper Company (applicant)** for **Billy Vines, Judith Vines, and Shayeson Huff Properties, LLC (owners)** for a Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2), and a Variance, for an approximate 10 acre area located at 1582 and 1648 Petersburg Road, Boone County, Kentucky. The request is for a zone change to allow construction related uses and all I-2 zone Principally Permitted and Accessory Uses, and a Variance from Section 3645 of the Boone County Zoning Regulations to reduce the required landscape buffer yard along the east property line.

Chairman Rolfsen announced that the Planning Commission received an email dated November 27, 2017 from the applicant requesting a withdrawl of his applications

ZONING MAP AMENDMENT - Mark Hicks, Chairman, Kevin Wall, Staff

2. Request of **Jay Bayer, Bayer Becker Inc. (applicant)** for **Toebben, Ltd. (owner)** for a Zoning Map Amendment from Agricultural Estate (A-2) and Rural Suburban Estates (RSE) to Suburban Residential Three/Commercial One/Planned Development (SR-3/C-1/PD) for an approximate 2.2 acre lot located at 1892 Stahl Road, Boone County, Kentucky. The request is for a zone change to allow an expansion of a residential phase in the previously approved Rivers Pointe Estates development (no increase in number of dwelling units for the overall Rivers Pointe Estates development).

Mr. Randy Bessler left the meeting room.

Staff Member, Kevin Wall, read the Committee Report, which recommended approval based upon Findings of Fact and conditions (see Committee Report). Mr. Wall noted that the Committee voted to approve the request with Mr. Bunger, Mr. Lunnemann, Mr. Turner and Mr. Hicks voting in favor of the request. Mr. Breetz abstained from voting.

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

Mr. Jay Bayer, applicant, stated that they are in full agreement with the Committee Report.

Mr. Robert Brill, 1889 Stahl Road, stated that he is located directly across the street from the development. The traffic he experienced coming to the meeting tonight was quite heavy. There will be another 1,700 cars on North Bend Road. That is a safety problem. It is difficult to get out of Stahl Road now and there will be another 864 families because of this development. He will have to attend some funerals. It is a big public safety problem.

Mr. Paul Marsh, 2481 Frontier Drive, expressed the same concern as Mr. Brill - traffic. Since the I-275/Graves Road Interchange won't occur for another 5 years, it would be great to add a lane on North Bend Road to improve traffic flow. He continued to express a concern about how close the buildings will be next to Stahl Road. Couldn't the buffer zone be increased along Stahl Road? How will the storm water from the project affect the drainage ditches along Stahl Road?

Chairman Rolfsen asked if there was a motion to act on the request? **Mr. Hicks moved to approve the request by Resolution to the Boone County Fiscal Court based upon the Committee Report and subject to conditions. Mr. Patton seconded the motion.**

Chairman Rolfsen reminded everyone that the Board is voting on the 2.2 acres only. Seeing no further questions, he asked for a vote on the motion and it passed unanimously.

Mr. Bessler returned to the meeting room.

ZONING MAP AMENDMENT - Rick Lunnemann, Chairman, Mitch Light, Staff

3. Request of **Seva Hospitality, Ravi Narsinghani (applicant)** for **BBWAJ Partnership (William Burbank) (owner)** for a Zoning Map Amendment from Office One/Planned Development/Houston-Donaldson Study Corridor Overlay (O-1/PD/HDO) to Office Two/Planned Development/Houston-Donaldson Study Corridor Overlay (O-2/PD/HDO) for an approximate 2.8 acre site located on the south/west side of Ted Bushelman Boulevard between the property at 3125 Ted Bushelman Boulevard (Florence Fire Department) and 7300 Woodspoint Drive (Bridge Point Center), Florence, Kentucky. The request is for a zone change to allow a hotel and other uses permitted in the O-2 and C-2 zones.

Staff Member, Mitch Light, read the Committee Report, which recommended approval based upon Findings of Fact and one condition (see Committee Report). Mr. Light noted that the Committee voted unanimously to approve the request with Mr. Lunnemann, Mr. Bunger, Mr. Breetz, Mr. Turner and Mr. Hicks voting in favor of the request.

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

Seeing no one, Chairman Rolfsen asked if there was a motion to act on the request? **Mr. Lunnemann moved to approve the request by Resolution to the City of Florence based upon the Committee Report and subject to one condition. Mr. Hicks seconded the motion.**

Chairman Rolfsen asked if there were any comments or questions from the Board? Seeing none, he asked for a vote on the motion and it passed unanimously.

CHANGE IN CONCEPT DEVELOPMENT PLAN - Rick Lunnemann, Chairman, Todd Morgan, Staff

4. Request of **Viox & Viox (applicant)** for **Shihasi Turfway, LLP, Shihasi Blue Ash, LLP, and Shihasi Corporation (owners)** for two changes in approved Concept Development Plan in a Commercial Two/Planned Development/Houston-Donaldson Study Corridor Overlay (C-2/PD/HDO) zone for a 6.237 acre site including the tracts at 7484 and 7492 Turfway Road, and the 0.472 acre vacant tract in between the properties at 7484 and 7492 Turfway Road, Florence, Kentucky. The request is for modifications to two Concept Development Plans to allow an additional hotel and increase the building intensity for the existing hotel at 7492 Turfway Road by reducing the lot size, and modifying previous conditions of approval.

Staff Member, Todd Morgan, read the Committee Report, which recommended approval based upon Findings of Fact and conditions (see Committee Report). Mr. Morgan noted that the Committee voted unanimously to approve the request with Mr. Lunnemann, Mr. Bunger, Mr. Breetz, Mr. Turner and Mr. Hicks voting in favor of the request.

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

Ms. Meghan DeSola, Viox & Viox, Inc, stated that her client is in full agreement with the recommendation and conditions.

Chairman Rolfsen asked if there was a motion to act on the request? **Mr. Lunnemann moved to approve the request by Resolution to the City of Florence based upon the Committee Report and subject to conditions. Mr. Bunger seconded the motion.**

Chairman Rolfsen asked if there were any comments or questions? Seeing none, he asked for a vote on the motion and it passed unanimously.

ZONING TEXT AMENDMENT - Lori Heilman, Chairwoman, Kevin Wall, Staff

5. Request of the **City of Union** to consider a Zoning Text Amendment to Section 2513 "Conditional Uses and Criteria" of the **Boone County Zoning Regulations** to permit sales and leasing of new and used motor vehicles as a Conditional Use in the Union Commercial (UC) District. The request is to hear and evaluate comments on a proposed zoning text amendment and how it affects the current **Boone County Comprehensive Plan, Union Town Plan, and Boone County Zoning Regulations.**

Mr. Kevin P. Costello, AICP, explained that the Technical/Design Review Committee met prior to the Business Meeting because of a timing issue. Under State law, the Planning Commission has 60 days to take action on the request. The Committee had a tie vote. The procedure is to present Findings for Denial and Findings for Approval of the request. As a result, Mr. Wall will read both sets of findings. Please listen carefully because there is no handout of both sets of findings due to the fact that the Committee met just prior to the Business Meeting. The Findings for Denial will be read first because of the Committee Chairwoman's vote at the Committee Meeting. Mr. Wall proceeded to read both sets of Findings of Fact.

FINDINGS FOR DENIAL

The requested Zoning Text Amendment does not agree with the Boone County Comprehensive Plan. The Business Activity Element (“Recommended Areas of Commercial Activity,” p. 68) states “as defined by the 2000 Union Town Plan, commercial development should occur in neighborhood business district form in specified locations instead of strip style commercial.” Also, the Business Activity “Goal” states “Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas.”

The auto sales use has a highway commercial style character and is not appropriate to, or conducive with, a neighborhood business district environment. The auto sales use does not correspond to the intent of the Union Commercial (UC) zone (Section 2510 of the Boone County Zoning Regulations) which includes the phrase “the type and scale of commercial uses is not intended to be of a highway commercial nature.” By its nature, auto sales generally has a highway commercial character and is inappropriate in the Union Commercial zone. Therefore, the proposed Zoning Text Amendment should be rejected by the legislative bodies and the Boone County Fiscal Court.

Mr. Wall stated that the Findings for Approval were based upon the Public Hearing and not endorsed by the Technical/Design Review Committee.

FINDINGS FOR APPROVAL

We, recommend to the full Boone County Planning Commission that the proposed Zoning Text Amendment to the Boone County Zoning Regulations be approved and recommended for adoption by the Cities of Union and Florence and the Boone County Fiscal Court. The proposal is to add “sales and leasing of new and used motor vehicles when operated in conjunction with an existing automotive repair facility” as a Conditional Use in the Union Commercial (UC) District. No other changes are under consideration at this time.

Based on the evidence and testimony presented at the November 29, 2017 Public Hearing, we recommend that the following use category be added as Conditional Use #2 in Section 2513:

2. Sales and leasing of new and used motor vehicles when operated in conjunction with an existing automotive repair facility and requiring the storage of no more than twelve (12) inventory vehicles on the premises.

We have determined that the proposed Zoning Text Amendment is in general agreement with the 2010 Boone County Comprehensive Plan and the 2000 Union Town Plan. Specific references to the Boone County Comprehensive Plan and the Union Town Plan are outlined in the Staff Report for this request.

The majority of all four existing UC zone areas are designated as “Commercial” on the Comprehensive Plan’s Future Land Use Map. This designation is described as “retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc.” Regarding the Union Town Plan area, the Business Activity Element (“Recommended Areas of Commercial Activity,” p. 68) states “as defined by the 2000 Union Town

Plan, commercial development should occur in neighborhood business district form in specified locations instead of strip style commercial.”

Based on the recommended wording, the proposed Zoning Text Amendment would currently affect only one site that is on the southwest corner of the Old Union Road/Longbranch Road intersection. This site is substantially designated as “Commercial” on the 2000 Union Town Land Use Plan Map. This designation is described as “largely existing commercial zoned areas.” The 2000 Union Town Plan text (p. 4) states “planned commercial uses are intended to be local and not regional in scale.” Because the proposed motor vehicle sales use must be operated in conjunction with an existing automotive repair facility, and because the size could be further limited upon the determination of appropriate findings by the Board of Adjustment through the Conditional Use Permit procedure, we have concluded that this stipulation will be effectively met.

We have evaluated the testimony and evidence presented at the November 29, 2017 Public Hearing regarding this amendment. No testimony from the general public was presented either for or against the proposal.

Chairman Rolfsen asked if there was a motion to act on the request? **Ms. Heilman moved to deny the request by Resolution to the Cities of Union and Florence and the Boone County Fiscal Court based upon the Findings for Denial as presented tonight. Mr. Hicks seconded the motion.**

Chairman Rolfsen asked if any Board member had any comments or questions?

Mr. Bunger asked if the proposed Zoning Text Amendment only applied to one existing auto repair business? Mr. Wall replied yes. There could be others if there were zone changes. Mr. Wall explained there are 4 Union Commercial (UC) zones within 3 different jurisdictions. There are 2 or partially 2, in Florence, 2 in Union and 1 in Unincorporated Boone County. The request would be recommended to the 3 legislative units. The one that is most affected is in Union. Mr. Bunger asked Staff to describe what would happen if the Zoning Text Amendment was approved. Mr. Wall responded that the one site would require a Conditional Use Permit application to be submitted to the Union Board of Adjustment. For the other sites, an auto repair business would have to get in the door somehow and then later be rezoned to Union Commercial (UC).

Chairman Rolfsen asked how the staff arrived at the number of 12 vehicles. Mr. Wall replied that 10 was noted in the Staff Report and David Plummer mentioned 12-17 vehicles at the Public Hearing. A maximum of 12 vehicles seemed reasonable. In addition, the Board of Adjustment could reduce the number when a Conditional Use Permit application is submitted. Mr. Wall noted that the number of 12 vehicles was not voted on by the Technical/Design Review Committee.

Mr. Shipe mentioned that it would ultimately be up to the appropriate Board of Adjustment to determine whether the sale of vehicles would be appropriate. It is like kicking the can down the road as they would be responsible for making the decision. This would only allow a property owner to apply to sell vehicles.

Mrs. Heilman stated that the fundamental underlying nature of the request is used car sales compared with the principally permitted uses in the UC zone that are indoor and passive that don't

include the outdoor expansion. The proposal that came to the Committee doesn't have a limit on the number of vehicles. It is not limited to cars that are repaired on-site and later sold off-site. It could be auction vehicles. Several Committee members thought that there are broader implications with the request because it is narrowly written for one business and one location. There is a concern about the expanding business when it is surrounded by residential property and green space. The current text of the UC zoning district is compatible with the surrounding zoning. Car sales do not fit in the same area of compatibility.

Mr. Schwenke thought that we were making it larger than it should or will be if the text amendment is approved. The business in question has been in place way before the Union Town Plan. That operation is a very nice looking operation. He noted that the County, Florence and Walton don't have to adopt it. Only Union wants to adopt it. The Board of Adjustment could further review and they know the people and location to make a decision. That is why he is going to vote yes.

Mr. Hicks agreed that it is a nice business. He stated that the City of Union is strong arming everyone with the request versus the owner applying to the Planning Commission. They are picking and choosing who they want to help.

Mr. Bunger asked if the request can only be limited to the site in question? Also, are there other options the owner could pursue to sell 12-15 cars? Mr. Wilson replied that the Board could limit the Resolution to the City of Union only. It wasn't advertised to limit the recommendation. Property owners cannot ask for a Zoning Text Amendment. Only the Planning Commission or a legislative unit can pursue one. Mr. Wall explained that the applicant would have to review other zoning districts to determine what zones would allow used car sales and meet all dimensional standards including minimum district size for a C-2 or C-3 zoning district. The minimum size for a PD zone is 5 acres. Mr. Wall stated that he didn't analyze the site in question to determine other applicable zones. He only reviewed the UC zoning district.

Mr. Turner agreed with the business being there a long time and they are good at what they do. He also agreed that the flavor of an auto sales business is different than an auto repair business. He doesn't know if the site in question is a good fit for auto sales.

Mrs. Heilman expressed a concern that the Zoning Text Amendment applies county-wide and then one is forced to look at a single parcel in order to evaluate the request. Both are unsatisfactory analysis for her.

Chairman Rolfsen asked if property owners were notified about the request? Mr. Wall replied that it was advertised but no sign was placed on the property in question.

Chairman Rolfsen reminded everyone that to vote yes on the motion, it is for denial of the request. **He asked for a vote on the motion to deny the request originally made by Mrs. Heilman and seconded by Mr. Hicks. The vote indicated that Mrs. Heilman, Mr. Hicks, Mr. Lunnemann, Mr. Patton, Ms. Reeves, Mr. Rolfsen and Mr. Turner voting in favor to deny the request and Mr. Bessler, Mr. Bunger, Ms. Nieves, Mr. Schwenke and Mr. Shipe voting against the motion to deny the request. The motion to deny the request passes by a vote of 7-5.**

TECHNICAL/DESIGN REVIEW - Lori Heilman, Chairwoman, Kevin Wall, Staff

6. TRU by Hilton - 1090 Vandercar Way

Staff Member, Kevin Wall, referred to a PowerPoint presentation. The site is behind WalMart and next to Homewood Suites. The building is 4 stories high and has about 45,000 square feet. He showed building elevations. Materials include brick and materials which meet the requirements of the lawsuit settlement area. There was a height issue early on but the applicant resolved it. There was a slight height modification to the building. It brings it down about 2 feet. Mr. Wall mentioned the Technical/Design Review Committee met prior to the Business Meeting and recommended approval.

Ms. Heilman moved to approve the request based upon the Technical/Design Review Committee recommendation. Mr. Schwenke seconded the motion and it passed unanimously.

New Business:

ZONING MAP AMENDMENT - Todd Morgan, Staff

7. Request of **Anchor Retail Solutions LLC (applicant)** for **Arlinghaus I LLC (owner)** for a Zoning Map Amendment from Rural Suburban Estates/Union Town Overlay (RSE/UTO) to Commercial Two/Planned Development (C-2/PD) for an approximate 1.71 acre site located on the east side of US 42, on the southeast corner of the intersection with Fowlers Lane and to the west of the property at 9075 US 42 (Kroger fuel center), Union, Kentucky. The request is for a zone change to allow a multi-tenant commercial building.

Mr. Schwenke moved to schedule a Public Hearing for item #7 listed above on January 3, 2018 at 7:30 p.m. Mr. Lunnemann seconded the motion and it passed unanimously.

EXECUTIVE DIRECTOR'S REPORT: Kevin P. Costello, AICP

Mr. Costello noted that he distributed a December 1, 2017 memorandum concerning the 2018 Business Meeting and Public Hearing Schedule, the 2018 Committee Meeting Schedule and the 2018 Office Holiday Schedule.

Mr. Patton moved to approve the three schedules mentioned by Mr. Costello. Mr. Schwenke seconded the motion and it passed by a vote of 11-1 with Mr. Hicks voting no.

COMMITTEE REPORTS:

AIRPORT:

No Report

ADMINISTRATIVE/PERSONNEL: Mr. Turner

No Report

ENFORCEMENT: Mr. Bungler
No Report

LONG RANGE PLANNING/COMPREHENSIVE PLAN:
No Report

TECHNICAL/DESIGN REVIEW: Mrs. Heilman
No Report

EXECUTIVE: Mr. Rolfsen
No Report

CHAIRMAN: Mr. Rolfsen stated that the Election of Officers will occur at the January 3, 2018 Business Meeting. He is appointing Mr. Schwenke and Mrs. Kegley to serve as the Nominating Committee. If anyone is interested in serving as Chairman, Vice-Chairman, Secretary-Treasurer or Temporary Presiding Officer, contact Mr. Schwenke or Mrs. Kegley before January 3, 2018.

OKI: Mr. Breetz
No Report

OTHER:
None

There being no further business to come before the Planning Commission, Mr. Hicks moved to adjourn the meeting. Mr. Patton seconded the motion. The meeting was adjourned by unanimous consent at 7:54 p.m.

APPROVED

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director