

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
PUBLIC HEARING  
May 3, 2017  
7:30 P.M.**

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**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mr. Greg Breetz  
Mr. Kim Bunger, Secretary/Treasurer  
Mrs. Lori Heilman  
Mrs. Janet Kegley  
Mr. Don McMillian  
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. Mark Hicks  
Mr. Charlie Reynolds

**LEGAL COUNSEL PRESENT:**

Mr. Dale T. Wilson

**STAFF MEMBERS PRESENT:**

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

Chairman Rolfsen called the Public Hearing to order at 7:40 P.M. and introduced the first item on the Agenda:

**ZONING MAP AMENDMENT AND CHANGE IN APPROVED CONCEPT DEVELOPMENT PLAN -**  
**Greg Breetz, Chairman, Kevin Wall, Staff**

1. The request of **Francisville, LLC (owner)** for a Change in an Approved Concept Development Plan in a Residential Planned Development (RPD) zone for an approximate 12.2 acre site located at 1207 North Bend Road, Boone County, Kentucky, to modify a Concept Development Plan and previous conditions of approval to allow a reconfiguration of an approved commercial, attached single family residential, and multi-family residential development (Thornwilde Village) and the request of **Francisville, LLC (owner)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Residential Planned Development (RPD) for an approximate 3.8 acre site located at 1173 North Bend Road, Boone County, Kentucky, to allow an expansion of Thornwilde Village consisting of multi-family residential buildings.

Staff Member, Kevin Wall, presented the Staff Report, which included a PowerPoint presentation (see Staff Report). The request involves 2 sites. The original approval of the project was in 2014 and it is about 12 acres in size. It is the corner lot. The applicant is requesting a Change in Approved Concept Development Plan on this site. The second site is next door and it is about 4 acres. The applicant is asking for a zone change on the second site from RSE to RPD. The purpose of the first request is to facilitate the expansion of the project on the site subject to the zone change. The Comprehensive Plan's Future Land Use Map designates the site as Commercial (C), Suburban Density Residential (SR) and Developmentally Sensitive (DS) around the perimeter of both sites. Mr. Wall showed a copy of the 1994 Concept Development Plan which showed single family lots and a commercial strip center building (26,000 square feet). In 2016, the Zoning Administrator approved a minor change which involved the realignment of the roads and building to make them perpendicular to North Bend Road.

Mr. Wall reviewed the current Concept Development Plan. It was approved with 2 options. One option included 26,000 square feet of commercial space in several buildings and 120 total dwelling units. The second option was 21,675 square feet of commercial space and 128 dwelling units. The submitted proposal involves 176 dwelling units, which includes second floors on the commercial buildings. The applicant is still requesting 26,000 square feet. The 26,000 square feet of commercial space is not reflected in the Staff Report. The applicant has submitted examples of building architecture. Mr. Wall showed photographs of the site and adjoining properties.

In terms of Staff Comments, Mr. Wall stated that the current (2010) Comprehensive Plan is the same one the Planning Commission used in 2014. The second Staff comment refers to the RPD zoning standards. The Planning Commission should examine Sections 1607, 1608 and 1609 in evaluating both requests. The buffer requirements for this development need to be analyzed more closely. A new traffic study has been submitted and there are some comments concerning the data assumptions. Does the zone change area or expansion of the uses meet the criteria necessary for granting a zone change request and the RPD zoning requirements? Comments were submitted by a few outside agencies. None of the comments were alarming. Finally, the County Engineer has an issue about sight distance as construction plans develop.

Chairman Rolfsen asked Staff to specifically identify the difference between the 2014 Plan and the 2017 Plan? Mr. Wall replied that in 2014, there were 2 options. Option 1 was 26,000 square feet of commercial space and 120 dwelling units. Option 2 was 21,675 square feet of commercial space and 128 dwelling units. The proposed plan (2017) is 26,000 square feet of commercial space and 176 dwelling units.

At this time, Chairman Rolfsen asked if the applicant was present and wanted to proceed with its presentation? Mr. Phil Drees (applicant), 628 Rivershore Drive, reviewed his PowerPoint presentation and stated that he has 2 requests. The first one is to modify the 2014 Approved Concept Development Plan since the layout changed along the northern property line and to eliminate Condition #7 since it no longer applies due to the acquisition of the adjacent parcel. The second request is for a Zoning Map Amendment to rezone a 3.8 acre parcel from RSE to RPD. He showed a drawing that identified the northern property line. He gave the history of the site and past Planning Commission action dating back to 1994 and 2014. He noted that he was applying the conditions that were part of the larger parcel and applying them to the smaller parcel except for Condition #7. It would have to be modified with new language so it could apply to the new northern property line. The basis for recommending approval of the requests consists of the following arguments: It meets the Goals and Objectives of the Boone County Comprehensive Plan and the additional land and units to the plan will complement the surrounding land as designated on the Comprehensive Plan. It satisfies Article 16 of the Boone County Zoning Regulations. The Concept change does not hinder nor deter development of surrounding undeveloped properties. The RPD zoning allows for flexibility in site layout, uses and design. Characteristics in the land topography and necessary utilities are being addressed more efficiently and economically. The proposed development provides a variety of housing types to the area. Finally, attached/multi-family development should have convenient access to thoroughfares and commercial districts. Mr. Drees stated that an updated Traffic Study has been submitted. It may need to be updated more to reflect the 26,000 square feet of commercial space. SD1 has reserved sanitary sewer capacity for the development.

The U.S. Army Corps permit process has begun. Civil and architectural plans continue to evolve. The projected construction start date is 2018. Mr. Drees showed photographs of many architectural styles and features.

Mr. Frank Raeon, 6505 Park Lane, Mariemont, Ohio, stated he is in support of the proposed project because of its quality and good design. The proposal reflects good planning, project amenities and a long-term focus. It is a pedestrian friendly type development. There is a planned gathering place for pedestrians. It is a good mixed use development that fits into the neighborhood. He is confident that the 26,000 square feet of commercial space can be supported. The additional acreage fits the overall plan. He recommended that the Planning Commission support 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?

Mr. Vincent Stitzel, 2409 Lost Willow Court, stated that he was a homeowner and Board Member of the Homeowners Association (HOA). He stated that his views as a homeowner are exactly the same as a HOA Board Member. Mr. Stitzel submitted his written comments about the request (See

Exhibit A). He thanked Mr. Wall for providing information to him about the request. He mentioned that the notification of the 2014 Public Hearing didn't reach any Thornwilde Subdivision residents, HOA Board Members or the property management company. He acknowledged there was a small sign on the property in 2014 and in 2017. He believed that the Planning Commission did their due diligence in public notification. It stopped at the The Drees Company. The notice was not forwarded by them. That is why the Planning Commission didn't see them in 2014. Thornwilde Subdivision has six specific areas - Overlook, Woods, Seasons, Place, Manor and Crossings. There are currently 650 homes in these areas that homeowners pay a hefty set of dues. Thornwilde Village is using the name but is not contributing financially to the HOA. Mr. Drees should rename his project. Mr. Drees is wearing two hats with his specific development and the rest of Thornwilde Subdivision. It will affect people coming in to buy homes. The residents in Thornwilde have a specific right to peaceful enjoyment of their property, common areas and recreational areas. It is noted in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements. The HOA has been maintaining common areas including the entrance wall on the Village property. The additional 48 units will substantially affect Thornwilde homeowners because the Village residents will use the subdivision's pools, trails, courts, pond, playground, etc. as a result of access. Mr. Stitzel said they can't police it. Those areas and facilities belong to the 650 homeowners. They have residents who jog and walk in the subdivision. It will affect the property values in the subdivision. The request needs to be analyzed based upon what is planned in the KY 237 area, particularly the area to the north. When does progress turn into regress? The nice rural feeling is being lost to removal of flora and fauna. Is the proposed project the highest and best use? For a few, it is in terms of highest and best use. What about everyone else surrounding the site? The Planning Commission requires landscaping but really this project is equivalent to planting petunias around the base of the Carew Tower. One will still only see bricks, mortar and steel. Because of this project, they are losing 70 feet of common area along Thornwilde Drive. One will still see the buildings even if they will be located 125 feet away. The proposed project is not adhering to the Comprehensive Plan's Goals and Objectives. Under Environment, almost all 11 objectives are being violated but specifically items 4 and 9. Both deal with wildlife and existing vegetation. Under Housing Objective #2, there is a concern that Mr. Drees is planning to rent the units to certain people. It is discrimination since it is limited. There will be kids in the units. They will go onto neighboring property. Under Transportation Objective #17, mixed use design should be encouraged as a way of lessening vehicle travel. One can't lessen it when there are more cars. It might be able to be accomplished if there is no access from Thornwilde Drive. This decision should be based upon the greatest good for the greatest number and not the greatest good for the greatest few. That is what is happening with this request. He requested that the Planning Commission consider denying both requests.

Mr. James Hermann, 1123 North Bend Road, stated that he owns 7 acres next to the site. He has lived in the area for 47 years. He stated that the proposed zone change will affect the value of his property. The traffic is horrible in the morning. It takes 20 minutes for him to get out of his driveway because of the constant flow of traffic on North Bend Road. When Thornwilde Subdivision was built, kids trespassed onto his property. No one will buy his property with apartments nearby.

Elayyadi Abdeljali, 1156 Crosspointe Drive, stated that the concept is very simple. For Mr. Drees, it is money. For the neighbors, it is the quality of life. Which one do you want? Successful areas

develop a brand name for the area. The proposed project is not a brand name. The quality of life now is what brought people to Thornwilde Subdivision. The proposed project will get people out. Conner High School is out of space. Where will the kids from the proposed development go if the school is filled? The traffic is horrible going to work.

Ms. Donna Brown, 1363 Whitetail Glen Court, submitted a copy of her testimony (See Exhibit B). She stated that the Thornwilde Village parcel was part of the original tract owned by The Drees Company and planned since 1994. She believes that the subject site was not annexed into the overall Thornwilde Subdivision. If it was it would be subject to the HOA covenants. It is apparent that Mr. Drees is trying to avoid it. At HOA Board meetings members asked, what is going to happen to the subject site? Routinely, Drees officials, which include the HOA President, responded that they don't know. Ms. Brown asserts that the Planning Commission considers Thornwilde Village to be part of Thornwilde Subdivision. The subject site would not meet the 20 acre minimum size of a RPD district if it wasn't part of the Thornwilde Subdivision according to Section 1603 of the Boone County Zoning Regulations. This is also evident to the overall density as stated in the August 6, 2014 Zone Change/Concept Plan Committee Report. Thornwilde Village is picking and choosing whether they are part of the subdivision or not according to their desired result. This is confusing as the real density for Thornwilde Village is 11 units per acre versus the overall density of 2.1 units per acre. The homeowners feel powerless as Drees and Thornwilde Village seem to be picking and choosing how to treat the project. The homeowners don't have adequate protection from the proposed Thornwilde Village project. At the time she purchased her house, she considered the zoning which only allowed 11 lots and commercial space. She felt that the market would not support a strip mall for many years. She asked that the Planning Commission not to compound the situation by approving more units above what was approved in 2014. Ms. Brown expressed a concern about retaining the landscaped areas and entrance sign for the subdivision since it is located on the Thornwilde Village property and the proposed residential units are located closer to Thornwilde Drive. The entrance to the subdivision serves as an oasis as you come home from work. She compared the setback distances from the 2014 Plan with the current Plan. She also noted a concern about traffic. At 7:30 a.m., traffic backs up to Tree Top Subdivision going south to I-275. It also backs up northbound in the afternoon. The Traffic Study didn't consider the 26,000 square feet of commercial space. Thornwilde Elementary is almost at capacity. In addition, development affects the environment. The amount of coyotes and foxes are increasing with the removal of trees. Finally, even though multi-family housing has been approved for the subdivision, many homeowners don't agree with it. There are two very important distinctions: (1) Awareness and zoning in place at time of purchase (not changed after purchase) and (2) most likely the property is subjected or will be subjected to the HOA Declaration of Covenants. The Planning Commission should refrain from compounding the issues that have come to light regarding the development. She asked the Planning Commission to recommend denial to the Boone County Fiscal Court.

Mr. Greg Ripberger, 1236 Rivermeade Drive, stated that out of three and a half months a year, KY 237 is a traffic mess. The Boone County Sheriff has to do traffic control. It is a nightmare during the holiday season. Additional commercial space is not needed since there are already vacant retail spaces in the area. The St. Elizabeth office closed. How can the Village compete with vacant spaces down the road? Vacant commercial fronts will lead to lower property values. The apartments will be beautiful the first 10 years. Then, they will no longer be the top of the line. Mr.

Drees gets to drive past it but doesn't drive in it since he doesn't live in Thornwilde. There is a need for a new middle and high school.

Mr. Jeffrey Schroder, 1408 Stoney Hollow Court, stated that the cost of the homes in the subdivision has increased over time. Originally, the homes were in the \$200,000 range. Now they are in the \$400,000 - \$500,000 range. The proposed project represents the lowest end of the housing price. He expressed a concern that the project is not the Drees Company but Phil Drees. Is it or not part of the subdivision? The existing boulevard into the subdivision is a nice design feature but it will be impacted by the Village project. Mr. Drees has not addressed the concerns of the HOA. The proposed increase in the number of residential units is close to 50%.

Mr. Chris Buck, 1917 Wedgewood Lane, stated that he was in the oil and gas industry and handled real estate/condemnation issues. He is familiar with the certifiable public notification in 2014. He stated that he was aware of possible condominiums in the back of the subdivision and the 11 lots towards the front of the subdivision. Is the project going to be government subsidized housing?

Mr. Costello asked Mr. Wall to explain the public notification procedure? Mr. Wall replied that it is dictated by State law (KRS 100). A sign is posted on the property. There were two signs placed - one for each parcel. One for the Change in Concept Development Plan and one for the Zone Change. The mail notice is done according to the Boone County PVA records. The notice goes to adjoining property owners. All the properties that touch and across the street. The list of adjoining property owners is provided by the applicant. A legal ad is also placed in the newspaper of record - the Boone County Recorder. Mr. Costello noted that the Planning Commission does not regulate Homeowners' Associations (HOAs) since they are private entities that enforce private restrictions and covenants. A public entity like the Boone County Planning Commission cannot regulate or enforce HOA agreements and restrictions. If there is some confusion, perhaps the homeowners could have an attorney to look into those types of issues.

Mr. David Kettle, 2106 Brantwood Drive, inquired about the monthly rental price for the units? He asked about the traffic exiting out of Thornwilde at the back end towards Williams Road because KY 237 gets backed up. This will happen at the same time when kids will be walking to the elementary school. The back route will be a quick route to Amazon, UPS, etc. and possibly the new I-275 interchange. He prefers a smaller number of upscale units and a quality gathering space.

Ms. Kim Smith, 1162 North Bend Road, stated that she owns the property across the street from the subject site. She has lived in the area all her life and doesn't want to look at apartments. She owns a stable business. During the holidays, her clients can't get to her facility because of traffic near the interchange. To add more traffic means more problems. It creates delays for her business and could create more if more traffic is added from the proposed development.

Mr. Greg Ripberger asked if the project meets the 20 acre minimum size requirement? If it doesn't, can it be stopped? Mr. Wall replied that the minimum size of the overall RPD zoning district is 20 acres. That includes all property zoned RPD regardless of ownership. It can be multiple owners,

developers and parcels. Originally, the 217 tract was zoned RPD with one owner. Today, there are hundreds of owners where their property is zoned RPD.

Chairman Rolfsen asked if there were any violations related to the 20 acre minimum? Mr. Wall replied no. Chairman Rolfsen asked if the same protocol was used in 2014 to notify adjoining property owners as was used in 2017? Mr. Wall replied yes. Mr. Wilson explained that Kentucky law does not require the actual receipt of the written notice. If someone didn't get the notice but it was sent pursuant to Boone County PVA records, then it is appropriate and legal. Mr. Wall stated that the letters are mailed certified. Sometimes they are returned for various reasons.

Chairman Rolfsen asked Mr. Drees about the type of housing based upon earlier comments. Mr. Drees stated if the residents have green money he will take it. The rental rate will be market rates from \$850 - \$2,100 a month. Some of the units will have attached garages. The units will vary in size from 800 square feet to 2,100 square feet. As a general rule of thumb, it is \$1.00 per 1 square foot for monthly rent. He stated there are no government subsidized housing units.

Mrs. Heilman asked what is the real need for the changes since the applicant appeared before the Planning Commission just 3 years ago? Where are the additional units going to be located? Mr. Drees showed the location of the new units on the 3.8 acre parcel. It will include two 24 unit buildings. Mr. Drees explained that they had the opportunity to buy the property. He noted that they could still build the project on the original tract. Mrs. Heilman inquired if any of the changes were located in the Developmentally Sensitive (DS) area? He noted that the units will be built on the ridge. There is a valley between the proposed units and the next door neighbor. The front part of the site is flat and is where the house is located. Mrs. Heilman asked the applicant to address the discrepancies in the Traffic Study. The Traffic Study needs to be updated prior to the Committee meeting.

Mrs. Kegley asked for a breakdown on the number of 2 bedroom and three bedroom units? Mr. Drees responded that he didn't know for sure. So far it is a concept. It will be a mixture. Mrs. Kegley asked if the applicant could provide a breakdown at the Committee meeting in order to know the number of children and school impact.

Mr. Patton inquired about the project's construction schedule and absorption rate? Will it be only one or multi-phased? Mr. Drees replied the project won't be built all at once. It will probably be done in 2 phases. Mr. Patton noted that traffic has gotten worse on KY 237 since 2014 and phasing the project may help until the KY 237 improvements are completed and the I-275/Graves Road interchange construction is underway. The applicant is asking for 50% more units and the traffic is getting worse. Timing of the project might work out for the road to catch up with the new development.

Ms. Reeves asked what type of businesses the applicant is trying to attract? Mr. Drees replied a market, pizza/pub, ice cream store, coffee shop, café, dentist - businesses that serve the local community.

Mr. Bunger asked if the applicant could shift the proposed development more to the north to have less of an impact on the subdivision? Mr. Drees replied it is a tight site and they will retain the

entrance wall. Mr. Drees stated that he could move it 3,000 feet and it still will be a problem. He will look into it further. They may be able to acquire some additional land from the state.

Chairman Rolfsen asked what is the closest house in Thornwilde that would be affected? Mr. Drees replied that from their house they can't see the project because of the woods and ravine. He noted that he lived in the first house on the left side of Thornwilde Subdivision. It is very thick or dense even in the winter. Perhaps a bigger scale plan would show the distances between adjoining properties. Mr. Bunger asked the applicant to bring this drawing to the Committee meeting. It could show the grading and elevations.

Ms. Heilman asked if there was any common ownership between Francisville, LLC and the Drees Company. Mr. Drees replied no.

Mrs. Nieves inquired about a quality of life feature in the development like a playground, splash pools, etc. since there was concern about kids going into the neighborhood? Mr. Drees responded that the emphasis is on the architectural features instead of a playground, pool or tennis court. It is only 168 or 176 units. It is difficult to support it. Larger multi-family complexes can provide the revenue to build and maintain these types of facilities. Mr. Costello noted that Oakbrook Subdivision had several apartment sections and they had their own set of amenities. He acknowledges the lower number of rental units but there is also commercial space in the equation. Further, the applicant is adding more dwelling units. Mr. Drees stated this issue came up in the 2014 request.

Mrs. Heilman stated that the 2014 Plan has been approved but the applicant is here today requesting more units. There should be some give and take based upon the impact. Maybe there should be a playground or more buffers? It would make the development more compatible with the adjoining uses? If there is a need for multi-family housing, then it needs to be designed appropriately. Not everyone can live in Thornwilde or on a farm. There needs to be more on an open mind to make the development fit in with the surrounding land uses. It will help the applicant and the County in the long run.

Mr. Schwenke inquired about the possibility of a chain link fence next to the 7 acre farm for safety and security reasons. Mr. Drees responded there is a valley and woods between the farm and the proposed units. He replied that they would consider it.

Mrs. Heilman asked if Staff reached out to Boone County Schools for comment? Mr. Wall responded yes but there was no response. Mr. Bunger asked Staff to contact the school district for the formula once the developer provides the breakdown of the units. Mrs. Heilman asked if the Planning Commission or the County did a Traffic Study of the area? Mr. Costello replied that the County has not done a specific study for the area. The County is currently involved in updating the Boone County Transportation Plan. There is also a road construction project on KY 237 near the interchange scheduled later this summer hopefully prior to the holiday season. This is in the area of Worldwide Boulevard and North Bend Road (KY 237). The last study was the 2014 project study and the study from Toebben project. Mrs. Heilman noted that such a study will evaluate the traffic generated from the additional 50 units.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be held on May 17, 2017 at 5:00 P.M. in this room or the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on June 7, 2017 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 9:21 P.M.

**APPROVED:**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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

Exhibit A - Handout from Mr. Vincent Stitzel  
Exhibit B - Handout from Ms. Donna Brown

**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mr. Greg Breetz  
Mrs. Lori Heilman  
Mr. Mark Hicks  
Mrs. Janet Kegley  
Ms. Jamie Nieves  
Mr. Don McMillian  
Mr. Kim Patton  
Ms. Lisa Reeves  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mr. Steve Turner, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

Mr. Matt Apke  
Mr. Kim Bungler, Secretary/Treasurer  
Mr. Charlie Reynolds  
Mr. Brad Shipe

**LEGAL COUNSEL PRESENT:**

Mr. Dale T. Wilson

**STAFF MEMBERS PRESENT:**

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

Chairman Rolfsen called the Public Hearing to order at 9:22 P.M. and introduced the second item on the Agenda:

**CHANGE IN APPROVED CONCEPT DEVELOPMENT PLAN - Steve Turner, Chairman, Mitch Light, Staff**

2. Request of **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). The applicant is requesting to modify the Conditions of Approval from the 2004 Zoning Map Amendment to allow the homes on Lots 1 through 7 to face inward (Cornerstone Drive) instead of facing Bullittsville Road as was originally proposed and agreed upon by the former owner/developer. The applicant also proposes to “preserve” the berm, along Bullittsville Road, as a buffer. The development includes 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). 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.” This applies to Lots 1-7 and 40-42 (which have already been constructed facing Bullittsville Road). In 2015, Adam Miller (applicant) submitted a similar request. After the Public Hearing and Zone Change Committee meeting (where a recommendation of approval with conditions was reached), the request was ultimately withdrawn when the property owner (Golden Masonry Homes) was not in agreement with one or more of the conditions. The draft conditions from the 2015 request are attached for reference. Mr. Light described the adjacent zoning and land use. The Future Land Use Map designates the site as Suburban Density Residential (SD), which allows for single family housing of up to 4 units per acre. Other references to the Comprehensive Plan are noted in the Staff Report. Mr. Light showed photographs of the seven lots under review. The applicant is requesting permission to turn the houses inward towards Cornerstone Drive. The submitted Concept Development Plan looks very similar to the one submitted in 2015. The proposed house locations would still maintain the 100 foot setback from Bullittsville Road. In 2015, the Condition Letter was signed by the builder, Adam Miller Homes, but was not signed by the property owner or Golden Masonry Homes. The property owner didn't want to limit himself to building ranch homes in the event Adam Miller Homes doesn't buy all seven lots. Mr. Light showed the 2015 Concept Development Plan. There was also a Condition that all houses along Bullittsville Road shall face it. Mr. Light showed photographs of the site. He noted the location of the existing berm.

In terms of Staff Comments, Mr. Light explained that the submitted Concept Development Plan proposes 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 also suggests evergreen trees be planted on top of berm and/or at the base along Bullittsville Road. In addition, Staff would like to point out that 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 is the responsibility of 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 is again the responsibility of the property owners within the subdivision. The draft conditions from the 2015 request are also attached for reference. Finally, the Boone County Planning Commission and the Boone County Fiscal Court must review this request on the basis of its relationship to the Comprehensive Plan and in terms of the three (3) criteria necessary for a Zoning Map Amendment as identified in the Staff Report.

At this time, Chairman Rolfsen asked if the applicant was present and wanted to proceed with his presentation? Mr. Brian Bolan, owner of Golden Masonry Homes, stated that when the subdivision was planned, it was agreed that Lots 1-7 would face Bullittsville Road and sit at least 100 feet back. The reason for this was not to spoil the view of people driving along Bullittsville Road. Subsequently, a large berm was installed on the front of lots for Lots 1-7. The purpose of the request is not only to rotate the houses inward or towards Cornerstone Drive but also to determine whether to keep the berm. Should the berm stay or should it go? The only item he disagreed with in 2015 was limiting the housing type to single story ranch houses. The lots are narrow, only 75 feet wide. It limits the type of house of what people want to choose.

At this time Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request? Ms. Carolyn Hollis-Nixon, 3239 and 3439, Bullittsville Road, stated that her house is located directly across from Cornerstone Drive. Car lights flash into her house at night time. The seven lots are not surveyed well. Lots 1-4 can be accessed off Cornerstone Drive. Lots 5-7 are located behind the retention pond. The frontage for Lot 7 is only 15.4 feet. Lots 5, 6 and 7 will have to share a driveway. Lot 1 is 388 feet in size. It could face directly onto Cornerstone Drive. The berm needs to stay. She does not want to look at trampolines and garbage cans. With the existing berm, she can see the top of the houses in the back. That is okay. Trees should be planted on the berm. The berm also stops some of the wind.

Ms. Rhonda Hannah, 3200 Cornerstone Drive, expressed a concern about the homes not facing Cornerstone Drive. It would be better if they did. It might be good to have trees planted or a fence installed on Lot 1 so she doesn't have to look at the backyard. It makes sense to leave the berm in place as a sound barrier. There are a lot of cars on Bullittsville Road. It makes sense to allow two story residences since the lots are narrow. Maybe the lots can be combined to accommodate ranch style houses - 4 lots instead of 7 lots.

Chairman Rolfsen asked if the berm was to remain could it involve placing a condition on the property. Mr. Light stated that if Mr. Bolan wanted to build 7 homes today, the berm could be removed. The berm has never been a condition. It was just placed there and now people like it. It could be a condition if the houses are turned so it can be a barrier. Trees could be planted on the berm and possibly on the side of Lot 1 facing Cornerstone Drive. The berm with the trees could be a condition.

Mr. Bolan responded that he wanted to preserve the berm. He does not want to take it out. However, if he can't turn the houses around and they have to face Bullittsville Road, then he has to take the berm out. Nobody wants a berm in their front yard.

Ms. Hannah asked if whoever buys the lots can be required to build on the lots right away instead of waiting for years? Perhaps build within three months of closing? Chairman Rolfsen replied that it is impossible because it is dictated by the housing market.

At this time, Mr. Rolfsen asked if any Planning Commission members had any comments or questions? Mr. Patton stated there is support for keeping the berm, turning the houses around and for 2 story houses. If the fence can't be installed in the side yard, can the entrance feature be extended so it provides a little screening?

Mr. Bunger inquired about combining lots? Would the developer consider perhaps reducing the number of lots by at least 1?

**Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be held on May 17, 2017 at 5:00 P.M. in this room or the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on June 7, 2017 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 9:46 P.M.**

**APPROVED:**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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

**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mr. Greg Breetz  
Mrs. Lori Heilman  
Mr. Mark Hicks  
Mrs. Janet Kegley  
Mr. Don McMillian  
Mr. Kim Patton  
Ms. Lisa Reeves  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mr. Steve Turner, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

Mr. Matt Apke  
Mr. Kim Bunger, Secretary/Treasurer  
Mr. Charlie Reynolds  
Mr. Brad Shipe

**LEGAL COUNSEL PRESENT:**

Mr. Dale T. Wilson

**STAFF MEMBERS PRESENT:**

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

Chairman Rolfsen called the Public Hearing to order at 9:47 P.M. and introduced the third item on the Agenda:

**ZONING MAP AMENDMENT - Kim Patton, Chairman, Todd Morgan, Staff**

3. Request of **The Drees Company (owner by contract)** for a Zoning Map Amendment from Rural Suburban Estates/Union Town Overlay (RSE/UTO) to Suburban Residential One (SR-1) for a 87.25 acre tract located on the north side of Frogtown Road between the properties at 10272 US 42 (St. Timothy Church) and 1664 Frogtown Road (U.S. Post Office), and across the road from the Frogtown Road/Galileo Boulevard intersection, Boone County, Kentucky. The request is for a zone change to allow a subdivision for detached single family residences.

Staff Member, Todd Morgan, presented the Staff Report, which included a PowerPoint presentation (see Staff Report). The site is 87.25 acres in size and is located off Frogtown Road. The Union Post Office is located next door along with the new St. Timothy's School. Access to the site is located across from Galileo Boulevard on Frogtown Road. The site is located in unincorporated Boone County. The project includes 172 single family lots. The proposed building intensity is 1.97 dwelling units per acre. Eighty-seven (87) lots are shown with 65 feet or more of road frontage, 61 lots are shown with 80 feet or more of road frontage and 24 lots are shown with 92 feet or more of road frontage. There are planned community open spaces, lakes and a walking trail system. The proposed access will serve both the development and the St. Timothy's School bus traffic. A future street connection to the southeast is planned. Mr. Morgan gave an overview of the site history which included approval for the new St. Timothy's School. This approval included the new curb cut and a left turn lane off Frogtown Road. He showed a topographical map and zoning map for the area. The current zoning of the site is Rural Suburban Estates/Union Town Overlay (RSE/UTO). The applicant is requesting Suburban Residential One (SR-1). The site is the former Diocese of Covington cemetery site. No one has been buried at the site. He showed photographs of the site and adjoining properties. The Comprehensive Plan's Future Land Use Map designates the site as mostly Public/Institutional (P) and a small part of it Rural Lands (RL) for buffering purposes. Mr. Morgan referred to Pages 2-9 of the Staff Report, which outlined sections of the Boone County Comprehensive Plan and the Union Town Plan.

In terms of Staff Comments, Mr. Morgan noted that the applicant submitted a basis for the proposed zoning map amendment with the application (see attachments). Staff also sent out an Agency Memo and received comments from the Boone County Public Works Department, the Union Fire Department, Kentucky Transportation Cabinet, Sanitation District No. 1, and Boone County Schools. These comments are attached to the Staff Report. The applicant submitted their Traffic Impact Study (TIS) to the Planning Commission and Kentucky Transportation Cabinet. The Kentucky Transportation Cabinet has not reviewed this study but did provide preliminary comments. The introduction, existing conditions, future conditions, trip generation, analysis, and conclusions of the Study are attached to the Staff Report. The conclusion section indicates that a left turn lane is recommended at the proposed entrance. The applicant recently revised it so it reads better (See Exhibit A). The applicant informed Staff that the Diocese of Covington acquired the subject property in 1961. Although the Diocese constructed the loop driveway system on the property, they never allowed anyone to be buried in cemetery. The applicant is currently having the University of Kentucky Archeology Department delineate the property because there is record of an old cemetery, which dates back to the 1800's. Staff has attached the section of the Boone County Subdivision Regulations that deals with cemeteries. Mr. Morgan listed several additional

questions about the development on Page 9 of the Staff Report. He asked the applicant to address those questions individually. He explained that Frogtown Road (KY 3052) is defined as a collector roadway by Section 3210 of the Boone County Zoning Regulations. The following regulations will need to be addressed by the Applicant if Preliminary Plat and Improvement Plan applications are submitted for review: Section 3122 of the Boone County Zoning Regulations indicates the rear yard setback requirement is 50' for principal structures and 20' for accessory structures when the rear yard adjoins a collector road. Which direction will the houses face? Section 3215 of the Boone County Zoning Regulations requires 185' of spacing between adjacent driveways on collector roads when the speed limit is 40 miles per hour or less. Will there be any individual driveways off Frogtown Road? Also, one item involves landscaping requirements along Frogtown Road. It refers to evergreen trees, berming, fencing, hedges, etc.. Lastly, the following projects are currently funded on Frogtown Road: Geometric reconstruction of Frogtown Road near Triple Crown Boulevard. Construction is planned in 2018. Construction of additional sidewalks on the north side of Frogtown Road between US 42 and War Admiral Drive will probably be constructed in the Spring of 2018.

Finally, Mr. Morgan stated that the request needs to be evaluated by the Boone County Planning Commission and Boone County Fiscal Court in terms of Article 3 of the Boone County Zoning Regulations, the appropriate planning documents noted herein, and the potential impacts on existing and planned uses in the area. The Future Land Use Map will need to be amended if the request is approved.

At this time, Chairman Rolfsen asked if the applicant was present and wanted to proceed with its presentation?

Mr. Ben Taylor, The Drees Company, referred to a PowerPoint presentation. The Concept Development Plan reflects multiple lot sizes and price points. The proposed development is like Hampshire Subdivision. There will be 80 foot wide lots along Whispering Trails. There will be 90 foot lots near Dublin Drive and the 65 foot lots will be located in the interior of the development. They are preserving an existing stream and creating 2 lakes, one of which is 2 acres in size, for storm water purposes. Twenty-two percent of the site will be open space. There will be a nice entrance monument and an extensive trail system with paved and natural surfaces. There will be a pavilion that will serve as a gathering space. There will not be a pool. All the common areas will be maintained by an HOA. All streets will be public with sidewalks and trees on both sides of the street. Turning lane improvements on Frogtown Road will be shared with the Diocese of Covington. Currently there is a portion of the site that drains toward Whispering Trails. They are going to change the grade of the site to redirect the storm water towards the interior of the site. The Drees Company is asking for a Waiver of the landscaping requirements on the north side of the site since it is a single family use next to another single family residential use. The lots along Whispering Trails Subdivision are deeper so houses will be further away from the residences in Whispering Trails Subdivision. Mr. Taylor showed illustrations of some of the housing types. All homes will have a masonry wrap, landscape packages and be part of an HOA. The houses price point will be between \$300,000 and \$500,000. Mr. Taylor showed examples of park and entrance

features. He showed an example of the outdoor gathering space, mailboxes, street lights and traffic signs. Mr. Taylor stated that no homes will have individual access to Frogtown Road. Access will be through the interior road system. All buffer yard requirements will be met for the houses proposed along Frogtown Road. They might be able to save some trees. The road to St. Timothy's School will be partially public and then private through an easement. He noted that the traffic study did not recommend a right turn deceleration lane on Frogtown Road. The traffic impact study did include the school traffic. Both uses were examined in the analysis. The cemetery will be delineated and preserved. It was next to an old church.

At this time Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request? Mr. Gary Bentle, 1592 Frogtown Road, stated that there were no photographs of his property shown even though the project adjoins his property. He asked if the proposed lots have to be 8,000 square foot minimum? If the ratio is current, it is not 4 dwelling units per acre rather it is 5 dwelling units per acre in the 65 foot wide lot area. Would the supplemental performance standards in Article 31 apply to the proposed project? Mr. Costello responded generally. Mr. Bentle raised a concern about sound levels. Mr. Costello stated that the sound level requirements in Article 31 refer to areas impacted by aviation noise in and around the airport area. Mr. Bentle expressed a concern about new residential abutting farmland. Diesel tractors will operate on the farm as close as 15 feet from the property line. There will be noise. Also, children from the neighborhood will ride four wheelers onto his property. The answer is to make the 65 foot lots larger in order to reduce the number of lots and to meet the 4 units per acre requirement. He also preferred to add more green space to the area that adjoins his farm. Keeping some of the existing trees will help out for noise and safety.

Mr. Steve McCarthy, 11756 Suncrest Drive, stated that he owns 5 acres located across from the proposed development. He stated that he proposed subdivision is beautiful. There is one problem. From 6:00 a.m. to 10:00 a.m. during the week, there is a tremendous amount of traffic from the Ryle School complex. He stated that he did his own traffic study. Between 7:00 a.m. and 10:00 a.m., school buses line up back to his property. It is difficult for him to see vehicles when he pulls out of his property. There will be at least 344 more cars coming from and to the proposed subdivision. With all the cars and buses, he might have to "pitch a tent" until he can get out of his driveway. Frogtown Road gets a lot of traffic from Triple Crown Boulevard and Steeplechase Drive. Mr. McCarthy stated that he wants to build a house on his property but can't because of the traffic in the morning and late afternoon. Traffic is already bad in the area without the development. If Frogtown Road is widened, who will replace his bridge? With the reconstruction of the I-75/Richwood Road Interchange, there will more traffic diverted to the Frogtown Road area.

Mr. Howard Russell, 1819 Whispering Trail Drive, submitted some photographs of flooded property (See Exhibit B). Two existing creeks converge onto his property. There is a 6 inch pipe located on his property. Every time there is new development, he gets flooded. His backyard is like a lake. It doesn't dry out until after several days. If Drees can stop the storm water, they have his blessing.

Mr. Warren Siebe, 1437 R.J. Lane, stated that his property backs up to this site. There is 10 inches of water from time to time. He distributed a drawing to the Board that shows parking on the sidewalk (See Exhibit C). Mr. Costello stated that the Planning Commission is fully aware of the

Whispering Trails storm water issue and the SD1 study and recommendations given to the City of Union. There is a concept and cost estimates to solve the problem. Also, Boonespring was required to redirect their storm water away from Whispering Trails.

Mr. Russell stated that he has lived on Whispering Trail since 1997 and no one has done anything about the flooding. He would like to see a buffer between both sites. If they want to install a pipe on his property, they are welcomed to do so. Mr. Costello responded that the storm water issue described by Mr. Russell falls back on SD1 and the parties involved in the Study. The Staff will investigate the status of the project and inform the Committee at their May 17<sup>th</sup> meeting.

Mr. Robert Brown, 1875 Whispering Trail, inquired about the buffer since he just moved into his house recently. Residents from the new subdivision will be able to look into his backyard. His second concern is the school system. He moved to the Union area because of the school system. Mr. Brown referred to one of the Housing objectives that evaluates the impact of development on school enrollment capacity. He stated that if the request is approved somehow he gets pushed out of the Ryle, Gray and Mann District. The schools are already crowded. Based upon what is recommended in the Boone County Comprehensive Plan and the Union Town Plan, what has changed to make this property more conducive to residential uses?

Mr. Brian Smith, 1795 Whispering Trail, said he bought his house over 22 years ago based upon a planned cemetery being behind him. He stated that because of a cemetery, he would never see a house in his backyard. If approved, he could look out his back door and then see at least 3 houses. With the additional housing, the buffer goes away. He disagreed that the existing zoning of the subject site is inappropriate. The applicant's lot size and layout is inappropriate because it doesn't match the existing zoning and neighboring properties. According to Bruce Ferguson, "every person who moves to Union wants to be the last person to move in." He has deer, turkey and wildlife living in his backyard.

At this time, Chairman Rolfsen asked if any Planning Commission Members had any comments or questions? Mr. Turner inquired on whether the applicant evaluated obtaining access through the St. Timothy's property to U.S. 42 and aligning the curb cut with Killarney Drive? Mr. Ben Taylor responded that all of the infrastructure is private and they would have to investigate whether they could route traffic through the parish property to U.S. 42. Mr. Turner stated that this issue was discussed at great length when the St. Timothy's School was evaluated.

Mr. Taylor replied that they assessed the relocation of the curb cut opposite of Killarney Drive. He stated there were some sight distance issues and the close location of the post office exit is another issue. The existing infrastructure and planned improvements will be helpful to address traffic on Frogtown Road. Mr. Taylor stated that the existing traffic counts from the Ryle complex, the church, the new school and the proposed development were factored in the Traffic Impact Study. He asserted that it was a B rated intersection today and don't see degradation with full build out.

Chairman Rolfsen asked about the storm water plan. How effective can it be to redirect the storm water away from Whispering Trail? Mr. Adrian Yanes, Viox & Viox, Inc. stated that currently 19.5 acres is draining towards Whispering Trail. After the project, it will only be 6.2 acres. Chairman

Rolfson inquired about the post office. Mr. Costello stated that Staff can research the post office site. Mr. Patton asked about roof tops and house gutters? Mr. Yanes replied there will be a catch basin and a ditch system that will collect the storm water and take it to the large retention system. They will capture about 99% of it and redirect it.

Mr. Costello suggested that the applicant put together a drawing showing the existing road network from the St. Timothy's site to the proposed site. This would show the complete road network. Frogtown Road is a very busy road from 6:30 a.m. - 8:30 a.m.

Mr. Warren Siebe stated that where Dublin Drive ends is where the storm water problem is located.

Mr. Patton asked if the applicant would consider adding to the buffer since many of the residents living next door thought the site would be a cemetery versus a farm waiting for possible development in the future? Mr. Taylor responded yes they could look at it. It could have been a school or a senior facility. Mr. Verst noted that they were looking for some leniency on the buffer because they have to start some of the grading at the property line and raise the site to drain towards Frogtown Road. Mr. Patton inquired on whether additional landscaping could be installed if some had to be removed? Mrs. Heilman asked if the applicant could bring a more detailed drawing showing the grade change, buffer and existing trees along Whispering Trail?

Ms. Mary Ann Fischer, 1815 Whispering Trail, noted that she lived on her street for about 30 years. If the grade of the subject property is raised, will the new residents be looking down onto their property? There are a lot of ash trees in the area. These trees are dying. Mr. Verst responded that land will be raised to redirect the storm water away from the subdivision. He stated that he would bring a drawing to the Committee meeting to show what the residents will be looking at from their properties.

Mr. Schwenke expressed a concern about the existing condition of Frogtown Road and the proposed improvements are limited to 75 feet. That isn't very long. The buffer next to the farm is small in size and the farmer has been in the area for a long time. It needs to be more. It seems like the flow of traffic should be better between the 2 properties and accessing Frogtown Road.

**Seeing no further questions or comments, Chairman Rolfson announced that the Committee Meeting for this item will be held on May 17, 2017 at 5:00 P.M. in this room or the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on June 7, 2017 at 7:00 P.M. Chairman Rolfson closed the Public Hearing at 10:55 P.M.**

**APPROVED:**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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

Exhibit A - Revised Traffic Impact Study  
Exhibit B - Photographs - Mr. Howard Russell  
Exhibit C - Photograph & Drawing - Mr. Warren Siebe

