

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
JANUARY 2, 2019
7:30 P.M.**

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Kim Bungler, Secretary/Treasurer
Ms. Corrin Gulick
Mr. Steve Harper
Mrs. Lori Heilman
Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Don McMillian
Mr. Kim Patton
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mr. Brad Shipe
Mr. Steve Turner, Temporary Presiding Officer
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mr. Mark Hicks

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director, Zoning Services
Mr. Todd K. Morgan, AICP, Senior Planner
Mr. Michael D. Schwartz, Planner

Chairman Rolfsen introduced the first item on the Agenda at 7:56 p.m.:

CHANGE IN APPROVED CONCEPT DEVELOPMENT PLAN - Kevin Wall, Staff

1. Request of **David L. Schank Companies (applicant)** for **G. Sharpco Inc. (owner)** for a Change in an Approved Concept Development Plan in Commercial Two (C-2) and Office Two (O-2) zones for a 6.254 acre site located to the south and east of the property at 2355 Burlington Pike (Gold Star Chili), east of the property at 6159 First Financial Drive, west of the properties at 6100 First Financial Drive (Forcht Bank) and 6201 Camsey Drive, and north of the properties at 6030, 6036, 6042, 6048, 6054, 6060, and 6066 Kingsgate Drive, Boone County, Kentucky. The request is for a Change in an Approved Concept Development Plan to permit retail, restaurant, commercial, and office uses.

Chairman Rolfsen stated that this item was withdrawn at the request of the applicant. No further action is required.

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Kim Bungler, Secretary/Treasurer
Ms. Corrin Gulick
Mr. Steve Harper
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Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Don McMillian
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Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director, Zoning Services
Mr. Todd K. Morgan, AICP, Senior Planner
Mr. Michael D. Schwartz, Planner

Chairman Rolfsen called the Public Hearing to order at 7:57 P.M. and introduced the second item on the Agenda:

ZONING TEXT AMENDMENT - Michael Schwartz, Staff

2. Request of the **City of Florence** to consider a series of Zoning Text Amendments to Articles 10, 23, and 40 of the Boone County Zoning Regulations to define and allow “body-art services” in the Commercial Two (C-2) and Florence Main Street Zoning Study (FMS) zones. The request is to hear and evaluate comments on proposed Zoning Text Amendments and how they affect the current Boone County Comprehensive Plan and Boone County Zoning Regulations.

Staff Member, Michael Schwartz, presented the Staff Report, which included a PowerPoint presentation (see Staff Report). The proposed Zoning Text Amendment was submitted by the City of Florence. It is in three parts and they all interrelate to each other. The first part is to add a definition for Body Art Services. Second, it is to add Body Art Services to the list of Principally Permitted Uses within the Florence Main Street Study (FMS) zone. The third part is to add the use, Body Art Services when not adjoining a residential zoned property to the list of Conditional Uses within the Commercial Two (C-2) zone. Those text amendments can be found in Attachments A, B & C of the Staff Report. Currently, the Boone County Zoning Regulations do not contain a definition for Body Art Services, Tattoo Parlors, Body Piercing, or any other similar type use. Additionally, the use is not listed or identified as a Permitted Use, Accessory Use or a Conditional Use within any zoning district. During the Summer and Fall of 2018, the staff prepared a report pertaining to tattoo establishments. The report included legal issues, existing regulations - both nationwide and statewide, current Boone County zones with similar uses, existing tattoo parlors in Northern Kentucky and zoning review. The full report is included in the issue file and can be provided to anybody upon request. The report was shared with the City of Florence prior to the City making the Zoning Text Amendment request.

Mr. Schwartz referred to the legal background section in his Staff Report. In 2009, there was a lawsuit involving the City of Tempe, Arizona. The Court ruled that the City cannot treat a tattoo parlor as an adult business and that it cannot use the “clustering” effect or secondary effects to prohibit a tattoo parlor. In 2010, the 11th Circuit Court joined the 9th Circuit’s decision involving the Cities of Hermosa Beach and Key West finding tattooing to be a protected form of artistic expression under the First Amendment or Freedom of Speech. The Court ruled that a total ban on tattoo parlors in the City of Hermosa Beach, California, violated the First Amendment because the tattoo itself, the process of tattooing and the business of tattooing are forms of pure expression.

Mr. Schwartz stated that the proposed definition of Body Art Services references Kentucky Revised Statute 211.760. It defines body piercing as the art of penetrating the skin or body part of a human being to make a hole, mark or scar. It also defines tattooing as the act of producing scars on a human being or the art of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin, including the application of permanent makeup. The proposal is to provide a definition, which references current State definitions. The second part of the submitted request is to add “Body-Art Services” to the list of principally permitted uses within the Florence Main Street Study (FMS) zone. The purpose of the FMS Zone is to protect the existing character of the businesses and residences found along Main Street in Florence, Kentucky and to promote their continued vitality. The

Florence Main Street affords the opportunity to create a strong community identity and pedestrian environment. Therefore, the zoning should encourage and promote this type of development. The purpose of this zoning district is to provide a mixing of commercial, professional and residential uses which establish, protect and promote a neighborhood and community identity while establishing a more urban character that provides needed community services. Currently, there are twenty-seven (27) Principally Permitted Uses within the FMS Zone. Based on information contained in the Boone County GIS, there are currently fifty-four (54) parcels that are zoned FMS. He referred to a map on the projector screen. A Certificate of Appropriateness (COA) is required for any property zoned FMS in which a building is proposed to be erected, altered or expanded. Approval of a COA shall be based on compliance with the Design Review guidelines established for the Florence Main Street Zoning Study. That same study has a Special Sign District associated with it that was adopted in 1994. It provides for specific signage requirements for properties located within the FMS Zone.

The third part of the submitted request is to add "Body-Art Services when not adjoining a residential zoned property" to the list of Conditional Uses within the Commercial Two (C-2) zone inside the City of Florence. The purpose of the C-2 Zone is to provide comparable shopping goods, personal and professional services, and some convenience goods required for normal living needs as well as major purchase opportunities. Currently, there are eight (8) Conditional Uses within the C-2 Zone. Based on information contained in the Boone County GIS, there are currently three hundred seventy-one (371) parcels that are zoned C-2 within the City of Florence, that are not adjacent to a residential zone. Prior to a Conditional Use being allowed on a specific parcel, it must be approved by the Board of Adjustment.

The Boone County Comprehensive Plan's "2035 Future Land Use Plan" designates the majority of parcels zoned FMS and C-2, within the City of Florence, for Commercial. This designation is defined as retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc.

The following 2017 Boone County Comprehensive Plan's Goals and Objectives apply to this application:

1. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community.
2. The unique characteristics of the legislative units and their different development and infrastructure needs should be recognized and accommodated.
3. Provide appropriate services, housing, employment, and shopping opportunities in order to meet the needs of the population in all geographic areas of the County.
4. Industries shall be promoted in suitable locations to make the county a vital part of a strong regional economy.
5. Local agriculture, business products, and services shall be encouraged and supported.

6. Boone County shall seek a combination of land uses that balances revenues generated from those uses with the expenditures required to support them.
7. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe access and adequate parking.

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

Mr. Brett Hoerstring, 12 Park Avenue, Elsmere, Kentucky, stated that not allowing tattooing in your community will result in unlicensed artists in unlicensed locations (someone's house). It is due to a lack of education and options in the community. When done safely, tattooing poses no threat to the general public. If tattooing occurs at home, it is likely to occur in unsanitary conditions. Professional tattoo artists follow the rules from local health departments. Mr. Hoerstring noted that he drives 30 miles to work each day as well as his clients. By allowing the use, one will be promoting safe tattooing.

Ms. Susan Redding, owner of Hollywood Tobacco and Liquor on Mt. Zion Road is supportive of the topic but stated that she would like to see it expanded. Her property is zoned Commercial Four (C-4) and the request is for C-2 and FMS zones. The tattoo industry is mainstream now. It is a 3 billion dollar industry in the United States. The millennials are driving the industry now. It means business for Boone County. She offered to assist in expanding the use in Boone County. She also offered to provide additional information.

Mr. Costello mentioned that the request originated from the City of Florence. He stated that the Zoning Update will begin later this year and expansion of the use could be examined further. Ms. Redding replied that she knew about her options and some were not feasible.

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

Mr. Bunger asked why is it being restricted to the FMS area as a Principally Permitted Use? What about the size of the buildings? Why are both zones being considered as a Principal Use and a Conditional Use and not other zones? Has there been any public comments relating to 2B and 2C of the Staff Report? Mr. Schwartz replied that the City of Florence was approached by someone who wanted to open such a facility. The Staff provided a series of options to the City. He noted that he cannot explain why they City only chose 2 zoning districts. All tattoo artists must be certified by the local health department as well as the facility. The size of the building was not an issue in researching the topic. Most of these types of facilities are storefront facilities in a typical retail center. There are larger ones like the one in the City of Erlanger. There wasn't a need to add other stipulations because other sections of the zoning code apply. There were no negative impacts. Mr. Costello stated that the Staff examined other cities in Kentucky and Ohio. Mr. Schwartz mentioned that he examined Louisville, Lexington, Georgetown, etc.

Mr. Wilson responded to the comment that proposed use be Conditional in all zones. Since the use is considered to be protected speech, making it subject to discretionary conditional use review could be viewed as impermissible prior restraint on speech.

Mr. Bunger again asked if the proposed use was consistent with the historic value of Main Street? Mr. Schwartz responded that if the use was permitted the same requirements would apply like other uses - obtain a Certificate of Appropriateness and Design Review if exterior changes are contemplated. This would include signage.

Ms. Heilman asked if Staff could provide information about zoning requirements for these types of facilities in Kenton and Campbell counties? Mr. Schwartz stated that he would send the report to the Committee Members. Ms. Heilman requested a GIS Map of the residential properties or residential zoning districts within 50' - 100' of residential zoning. Mr. Schwartz agreed to provide the map.

Mr. Lunnemann asked if the City of Florence provided any information of why it is a Conditional Use in a C-2 zone when such a facility is not located next to a residential zone? Mr. Schwartz stated that no information was provided to Staff.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on January 23, 2019 at 6:00 P.M. in the Fiscal Courtroom. This item will be on the Agenda for the Special Business Meeting on January 23, 2019 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 8:22 P.M.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Kim Bunger, Secretary/Treasurer
Ms. Corrin Gulick
Mr. Steve Harper
Mrs. Lori Heilman
Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Don McMillian
Mr. Kim Patton
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mr. Brad Shipe
Mr. Steve Turner, Temporary Presiding Officer
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mr. Mark Hicks

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director, Zoning Services
Mr. Todd K. Morgan, AICP, Senior Planner

Chairman Rolfsen called the Public Hearing to order at 8:23 P.M. and introduced the third item on the Agenda:

ZONING MAP AMENDMENT - Todd Morgan, Staff

3. Request of **Viox & Viox, Inc. (applicant)** for **Suzanne Cress Estate, Herbert H. Cress, and Cindy L. Cress (owners)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Suburban Residential One (SR-1) for an approximate 21.8 acre site located at 7456 Camp Ernst Road and 488 Cress Court, 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. He showed the location of the subject property located between Creekside and Pebble Creek Subdivisions. He presented the Concept Development Plan. The request is to change the zoning of the site from Rural Suburban Estates (RSE) to Suburban Residential One (SR-1) to allow 54 single family detached lots. The density is approximately 2.48 dwelling units per acre. Two of the houses already exist and 52 are proposed on the site. The existing house on Parcel A will remain and will be conveyed separately. It would retain its access point on Camp Ernst Road. The other 53 homes will be accessed through the existing street Cress Court. The applicant is also seeking a waiver from the subdivision regulations to increase the number of flag lots than can be permitted from 15% of the total lots to 22.64% or 12 lots out of the 53 proposed lots proposed. The Zoning Administrator would make a decision on the flag lot waiver if the request is approved and he receives input from the Planning Commission and Boone County Fiscal Court. The rear portion of the site adjoins Gunpowder Creek. The SR-1 zoning allows a minimum of 8,000 square foot lots similar to Pebble Creek and Creekside Subdivisions. Mr. Morgan showed photographs of the site.

In 2013, a zone change request was approved to create Creekside Subdivision with SR-1 zoning. Cress Court was constructed to connect to the subject property. The Comprehensive Plan designates this site a Suburban Density Residential (SR), which allows single family housing up to four units per acre and Developmentally Sensitive (DS). Other references to the Comprehensive Plan are noted on pages 2 of the Staff Report.

In terms of staff comments, Staff has attached a copy of a 12/3/18 email from the County Administrator, which was sent to the applicant regarding Parcel B. The County is interested in taking ownership of the parcel located along Gunpowder Creek. Staff sent out an Agency Memo and received comments back from Boone County Public Works, Burlington Fire Department, Boone County Water District, and Sanitation District No. 1. The agency comments are attached to the Staff Report. Mr. Mike Ford submitted comments from the Boone County School District after the report was finalized (See Exhibit A).

Staff would like the applicant to address the following: the findings for a Zoning Map Amendment as outlined on Page 6 of the Staff Report, the County Engineer asked for a Traffic Study in his email, the comments from Burlington Fire Department regarding the number of flag lots that are proposed, and finally, the Concept Plan shows that grading would occur on four adjoining properties on Lucia Drive if the project is approved. Has this grading been discussed with the adjoining property owners?

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

Marc Gloyeske, Viox & Viox, Inc., stated that he was representing the Cress family and reviewed a PowerPoint show. The Cress family has been in Boone County for over 100 years. The site has been in the family since 1965. The Cress family has worked with the County to provide easements for water and sanitary sewer service to the neighboring properties. The applicant is requesting a zone change to match the zoning of the adjoining subdivisions. The Comprehensive Plan recommends Suburban Density Residential for the site. Access to the site is by Cress Court. Lucia Drive is 28 feet in width leading the intersection with Cress Court. This was done in anticipation of the Cress property developing next to the Creekside Subdivision. The wide street allows for additional traffic.

The County Engineer asked for a trip generation analysis. Based upon this analysis, 53 dwelling units will create approximately 45 A.M. peak hour trips and 59 P.M. peak hour trips. The A.M. peak hour will possess approximately 11 entering trips and 34 existing trips. The P.M. peak hour will possess approximately 35 entering trips and 21 exiting trips. The proposal meets all of the requirements for zone change from RSE to SR-1.

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

Mr. Joshua Rusk, 7109 Susan Court, inquired about the need for the residential lots. Currently there are 7 lots still undeveloped in Creekside Subdivision. This is about 14% of the 53 lots they are adding. There isn't a need. The second concern is the number of flag lots. Currently, the flag (or stem) part of the flag lots in the Creekside Subdivision are not maintained or mowed. The type of house on these lots are different. There are no basements.

Ms. Jen Allen, 6980 Lucia Drive, stated that she lives at the end of the development and has lived in the subdivision for 3 years. Her main concern is the flag lots. The houses sit farther back. Because of the grade in their subdivision, they have already had a crack in their house foundation. Water has leaked into the house. She expressed a concern about the impact of the new houses. The grade of lots 19-25 is more than 45 degrees on the back of their hill. They only have 10 feet of flat land behind their house. There may be more damage to her house because of the new development. Even though there is an extra 3 feet on the main road, one can only park on one side of the road. From Cress Court to Camp Ernst Road, there is a 100-120 foot drop in grade. There are safety issues because one can't see people coming at you. It is very dangerous during rush hours. There is no need for the 4 additional flag lots at the end because of the topography. There is no need to go from 15% to 22% flag lots. Ms. Allen pointed to a map of her house location.

Mr. Frank Hendy, 6916 Lucia Drive, expressed a concern about the retention pond towards Camp Ernst Road. It is his backyard. Will the overflow from the retention basin go into his catch basin or will the developer have their own catch basin or will they extend his catch basin since there is an easement? Also, maybe a speed bump could be installed to slow people down the hill to make it safer.

Ms. Penny Barton, 7440 Big Horn Court, stated that Finke Homes told her that the Cress farm would never be sold or developed. Having one entrance for 53 houses does not sound good and is dangerous. She offered to sell her lot and it would provide new access through Pebble Creek Subdivision. She objected to the proposal.

Mr. Dan Allen, 6980 Lucia Drive stated that because of the hill, it is quiet. The houses on the proposed flag lots will be seen now along with lights from the new houses. The privacy will go away. They knew the property would eventually be developed but the flag lots were not anticipated. Will the developer add pine trees to screen the houses located on the flag lots?

Ms. Diane Russ, 6929 Lucia Drive, stated that her house is located at the top of the hill. It is dangerous to turn into her driveway when cars are parked on the street. More traffic will mean more safety problems.

Mr. Billy Phillips, 6928 Lucia Drive, asked if a traffic study has been submitted? That is a major concern with small children living in the subdivision. There are a lot of fatalities on Camp Ernst Road. What about storm water from the subdivision and its impact on his lot and downstream? Why keep the existing house? Why not create another entrance to the subdivision from Camp Ernst Road? Because of the hill and on-street parking, the road is unsafe. Why allow more traffic from the proposed development? He inquired about the Public Hearing notification procedure? The area is overpopulated and the only change on Camp Ernst Road in the last 40 years is the removal of brush. Mr. Phillips stated that he wouldn't be as opposed to the request if there was a separate entrance to the development like other subdivisions such as Oakbrook and Pebble Creek. What are the housing prices? Will it be similar?

Mr. Jim Sakevits, 7915 Driftwood Drive asked how are people informed about rezoning? He found out about it through a neighborhood watch. He is against the request. Mr. Morgan explained there are three forms of notice. The first is the posting of a sign on the subject property. One was placed on Camp Ernst Road and the other near Cress Court. Second, all of the adjoining property owners were notified by certified mail. Third, a legal ad was placed in the Boone County Recorder based upon State law.

Ms. Kelli Benedict, 6932 Lucia Drive, stated that she risks an accident every time she pulls into her driveway. What will the developer do with the loose sandy soil? Will she have more water issues as a result of the grading next door?

Ms. Jen Allen, 6980 Lucia Drive, asked what about the impact of this project and school redistricting? Longbranch Elementary School is currently bursting at the seams. How are the schools being addressed? Will they have to redistrict again? Mr. Costello replied that Mr. Ford from the School District responded to the request. He also stated there is land available in front of Ballyshannon Middle School to build an elementary school if needed. The School District would make that decision. The Planning Commission assists the School District in locating new schools. Ms. Allen inquired about a possible park in the new subdivision just like Pebble Creek Subdivision since Creekside Subdivision has a lot of kids. Mr. Costello responded that Central Park is located just down the street. Pebble Creek Subdivision was a larger subdivision, a Planned Development (PD) which required open space, a small recreational park and a community building. Ms. Allen

suggested changing the abundance of flag lots for park space. Mr. Costello referred to land in Creekside Subdivision owned by the County and a letter in the Staff Report refers to the donation of additional land to the County. Maybe something could happen with this acreage?

Mr. Alan Hicks, 1780 Oakrose Court stated that he is worried about the traffic on Camp Ernst Road. He runs in the area and has been doing it for the past 20 years. It is getting less and less safe without any sidewalks. What will 50 more houses add to the traffic on Camp Ernst Road? Mr. Costello responded that there will be a multi-use path built along KY 237 from Ky 18 to US 42. The Boone County Transportation Plan recommends improvements to Camp Ernst Road but it is in the future. Currently, there is no funding. Improvements need to be made from the proposed roundabout past Central Park.

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

Mr. Bunger inquired whether a Homeowners Association would be formed to maintain the green space? Mr. Gloyeske replied no. The only open space that will remain will be donated to Boone County. The County has agreed to accept it. Mr. Bunger asked if it has been determined who the builder will be? Mr. Gloyeske responded no at this time. Mr. Bunger asked if there has been a study of the soils? Mr. Gloyeske replied not yet. Mr. Bunger asked if any of the grading work will result in the construction of a wall? Mr. Gloyeske replied that no retaining walls are anticipated at this time. Mr. Bunger inquired whether the grading of the 4 lots in Creekside will resolve the concern of the neighbors? Mr. Gloyeske replied that none of the grading in Creekside will touch any of the existing homes. No storm water from the proposed site will sheet flow onto the existing subdivisions. It will be collected in grass swales and routed to the proposed detention ponds. The proposed retention ponds will outlet into the existing storm water system. They swales will be constructed on private lots. The grade of the proposed subdivision will be lower at the property line. The emergency spill ways will route storm water towards Gunpowder Creek and Camp Ernst Road. Mr. Bunger asked if the applicant could show how that would work at the Committee Meeting. He asked if the applicant would evaluate a curb cut to the proposed subdivision opposite of the entrance to the YMCA for the safety of the residents and not allowing all of the traffic to go through one entrance. He also inquired about the number of accidents in the area from the last several years.

Chairman Rolfsen asked why the application doesn't have its own access? Mr. Gloyeske replied that the County only required a one access to the property at the time of the Creekside rezoning as a result of the close proximity of Lucia Drive. Having two intersections so close to each other on Camp Ernst Drive is dangerous. That is why Lucia Drive is 28 feet in width due to the anticipated number of homes. Mr. Costello stated that Staff will have to research this information. There was no preconceived notion not to allow a curb cut because the subject site was not part of the application years ago. Mr. Bunger noted the reduction of speed in the area and residents often have to accelerate uphill to go north on Camp Ernst Road.

Mr. Patton asked how school buses would circulate in the subdivision? Mr. Gloyeske replied that he would provide that information to the Committee. Mr. Herb Cress (owner) explained when Creekside Subdivision was developed, Cress Court was further down Lucia Drive. The County

moved it up to service the area. He didn't oppose the development because he thought everyone would work together. Mr. Costello also noted there were provisions for improvements to Camp Ernst Road possibly a left turn lane that were not installed because the County didn't require them to occur later on. Mr. Cress noted that keeping the house was in the original plan. Chairman Rolfsen asked Mr. Cress about the possibility of a second curb cut on Camp Ernst Road and possibly eliminating the existing house? Mr. Cress replied no because it affects the value of the property. If the house was on public sanitary sewer, then a road could be located closer to the house. Mr. Bunger stated it would be a benefit to connect the existing house to public utilities. Mr. Cress stated that the house is on the market to sell. It is not an option at this time.

Mr. Lunnemann asked what is the reason for increasing the number of flag lots? Mr. Cress responded there is a Mid-Valley pipeline easement and a Duke Energy easement on the back of the property. The flag lots will be on the other side of the easements. The easement area is about 100 feet wide. It creates a green space area. Mr. Gloyeske stated that the odd width of the property only allows a single street in the middle of the property. In order to maximize the depth of the property along Creekside Subdivision, flag lots could be an option to fully utilize the property. The cul-de-sac street can't be extended further because of the pipelines.

Mr. Bunger asked if the 4-5 flag lots were essential to the viability of the development? Mr. Cress responded yes. Chairman Rolfsen suggested taking the house off the market, add more lots in its place, extend the road to Camp Ernst Road and remove some of the flag lots. Mr. Cress stated that he worked with J.J. Miller and the County years ago toward this layout. Mr. Costello noted that the zone change process includes good design and all the comments came up in the pre-application meeting. Mr. Gloyeske responded that he will take a look at a second access point to Camp Ernst Road based upon adequate spacing, geometrics and sight distance.

Mr. Turner noted that his flag lot concerns relate to the ones that adjoin the Creekside lots. Mr. Cress noted that Creekside Subdivision has flag lots that back up to his property.

Ms. Gulick asked for a turn lane analysis for the existing curb cut and the proposed curb cut? Mr. Gloyeske responded that Mr. Pennington did not require a full blown traffic impact study but requested expected trip generation. They intend not to provide a full impact study unless it is required. Ms. Gulick mentioned that she did not want a full traffic impact study but rather a left turn lane warrant analysis.

Mr. McMillian asked if there are any regulations that tell us how many houses can be built with one entrance? Mr. Costello replied no. There are access management regulations and guidelines for connecting to adjoining properties. Mr. McMillian asked why do people build in subdivisions with only one entrance? It is a safety issue.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on January 16, 2019 at 5:00 P.M. in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on February 6, 2019 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 9:25 P.M.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director

Exhibit A: January 2, 2019 Email from Mike Ford, Boone County School District

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Kim Bungler, Secretary/Treasurer
Ms. Corrin Gulick
Mr. Steve Harper
Mrs. Lori Heilman
Mrs. Janet Kegley
Mr. Rick Lunnemann
Mr. Don McMillian
Mr. Kim Patton
Mr. Bob Schwenke
Mr. Brad Shipe
Mr. Steve Turner, Temporary Presiding Officer
Mr. Kenny Vaught

COMMISSION MEMBERS NOT PRESENT:

Mr. Mark Hicks
Mr. Charlie Rolfsen, Chairman

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director, Zoning Services

Vice Chairman Patton called the Public Hearing to order at 9:32 P.M. and introduced the fourth item on the Agenda:

ZONING MAP AMENDMENT - Kevin Wall, Staff

2. Request of **Legendary Ridge Properties LLC (applicant)** for **Roslyn Wachs Trustee (owner)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban Estates/Planned Development (RSE/PD) for a 50.78 acre tract located on the north side of Burlington Pike, between the properties at 3300 and 3446 Burlington Pike and across from the Burlington Pike/Saddle Ridge Drive intersection, Boone County, Kentucky. The request is for a zone change to allow a subdivision for detached single family residences.

Staff Member, Kevin Wall, presented the Staff Report, which included a PowerPoint presentation (see Staff Report). The site is located on the north side of Burlington Pike and across from the intersection of Saddle Ridge Drive and next to Hidden Creek Subdivision. The site is vacant, wooded, and has a 100 foot electric easement that runs north and south. The Comprehensive Plan designates the site as Suburban Density Residential (SD), which allows for single family residential uses for up to 4 dwelling units per acre. There is a small area (4%) of the site that is designated as Rural Density Residential (RD) and Developmentally Sensitive (DS). There is a ridge located in the middle of the site which allows it to drain to the north and south. Mr. Wall showed the 2007 approved Concept Development Plan. It included 40 lots and a density of 0.79 dwelling units per acre. It had one access point onto KY 18 just opposite of Saddle Ridge Drive. A street connection was planned to the adjoining property to the east. The applicant submitted two Concept Development Plans with the most recent submitted on Monday. It was slightly revised. The Staff Report was based upon the first submittal. Fifty-nine (59) lots are proposed. The biggest change is that the access point has been relocated to the eastern property line. The site has a perimeter of open space along the north, south and west sides of the property. The application shows a temporary cul-de-sac and a connection to the property to the east. The proposed density is 1.16 units/acre. Under the PD designation, they are proposing a smaller lot size of 14,000 square feet. The applicant is also requesting some flexibility with the front yard setbacks. Mr. Wall showed photographs of the site and adjoining properties.

In terms of Staff Comments, Mr. Wall referred to page 9 of the Staff Report that outlines the text of the Land Use Element and the specific site. There are 11 PD standards in Section 1514 of the Zoning Regulations. The first one refers to mixed uses and pedestrian orientation. Additional intensity is allowed if mixed uses or amenities are provided. An example of this is open space. Compatibility of uses is a second standard. This involves the buffer area. A lot of the existing vegetation will be retained. How will it be maintained? By easement or some other means? The applicant has submitted a landscaping plan. Other standards refer to building architecture. The next comment refers to the 2007 zone change conditions and making sure if there conditions are still applicable. Comments have been received by outside agencies. The Boone County Water District has requested new water main loops. The Kentucky Transportation Cabinet commented that it prefers that the proposed curb cut to the subdivision line up opposite of Saddle Ridge Drive. The applicant submitted a revised plan showing the curb cut to be located on the eastern part of the site. The Burlington Fire Department also commented on the original proposed curb cut. Mr. Wall submitted this email (see Exhibit A). Finally, Mr. Wall noted that they Planning Commission must evaluate the request based upon the 3 criteria outlined in KRS 100.

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

Mr. Jim Bertram, Keystone Surveying & Mapping and KDH Consulting Engineers, stated the name of the proposed subdivision is Greenwood Forest. Legendary Ridge Properties, LLC is buying the property and Niehaus Builders will be developing the site. They are from the west side of Cincinnati. They developed Aston Oaks, Eagle Cliff and Annie's Place Subdivisions in Ohio. They build upscale single family housing. The topography of the site starts at 742 on the west side to 812. Mr. Bertram stated they moved the subdivision entrance because of the development of a new stream on the site. They would also have to remove a lot of trees due to the steepness of the hill. By moving the entrance, it preserves the trees and creeks. They are trying to preserve the natural environment. The new entrance location to the east is on the high point. It helps with sight distance and the Kentucky Transportation Cabinet likes it. They are awaiting final approval. They currently have had preliminary discussions with the Greens to connect their driveway to the new road, thus eliminating their curb cut off KY 18. The setbacks will be staggered as they are trying to pull the houses closer to the road in order to preserve more trees and the hillsides. KY 18 has a posted 35 mph speed limit instead of 45 mph when it was posted in 2007. They exceed the sight distance requirements (425 feet on the east side and 770 feet on the west side). Mr. Bertram showed a photograph of the proposed subdivision sign made out of stone and wood. It will be built into the hillside. Trees will be removed only in the area of the sanitary sewer construction. Landscaping will be installed near the detention basin and entrance. Trees will line the street and near the utility poles. All the green space will be owned and managed by a Homeowners Association. The temporary cul-de-sac will be removed once the street is extended to the east. In conclusion, the proposal is an upscale development. They are trying to preserve the trees to comply with the PD requirements.

Vice Chairman Patton asked if there was a benefit to the request being a cluster development as opposed to a PD? Mr. Wall responded that the big change is the density. It is slightly over what the RSE allows so a PD is required or another zoning district other than the RSE zone. The proposal in effect is a cluster development.

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

Ms. Cindy Potter, 6266 Saddle Ridge Drive, expressed a concern about the safety of pulling out of her subdivision. It is difficult to see to the left because of the curves in the road. No one keeps to the speed limit. She asked if there was enough sanitary sewer capacity? She had heard that building stopped in Hunter's Ridge Subdivision. If approved, she prefers 1 acre lots. What is the price range of the houses?

Ms. Susan Archambault, 3215 Burlington Pike, stated that she owns 43 acres east of the site. Since 2007, nothing has changed in the County. There have been no improvements to widen KY 18. They are still gravel trucks. There is only one way in and one way out. She thought subdivisions couldn't be approved unless they had another way out? Has the developer approached people in the back to see if they could connect? No one has approached her about connecting to her property. She likes less houses. If the project is approved, she requested a

chain link fence running along her property. The reason is that it would prevent people from crossing onto her property. This is what the Boone County Fair Board did years ago.

Mr. Paul Jackson, 6251 Saddle Ridge Drive, stated that he has lived in the area for 4 years. He asked how realistic is the State going to approve the new curb cut location? Traffic is a concern. Can a traffic study be conducted? By increasing the number of lots from 40 to 59, the lot sizes become smaller? What is the price range for the homes? What is the plan to improve KY 18 especially with Hunter's Ridge Subdivision? They area will continue to develop but he wants to make sure it is done right.

Ms. Donna Bray, 3300 Burlington Pike, stated that she is located next to the proposed curb cut. She is unsure if it is a safe location. If you take out the 14 acres for the power lines, that leaves you 37 acres, which means 2-3 houses per acre. That is not half or one acre lots. There is no proposed builder even though they said it would be \$300,000 - \$500,000 homes in the subdivision. Can the site be restricted to certain types of homes in order to maintain property values? With only one access, there will be 50 people going in and out next to her driveway or parcel. Is that dangerous? Will the HOA maintain the area around her?

Mr. Ignatius Archambault, III, stated that a chain link fence is necessary because their farm has cattle. This is what was done in Hunter's Ridge next to the Kinman Farm. It has to be a new safe fence. Vice-Chairman Patton asked Mr. Archambault to provide any pictures of the type of fence he would like as well as any photos of the site.

Ms. Brenda Vandresar, 3456 Burlington Pike, stated that her land is on the west side and she expressed a concern about the small lots next to her. Will there be a buffer next to her? There is a drainage problem in the area. Will there be any sidewalks in the subdivision to make it more appealing? Will they bulldoze the mature trees? There will be more than 1 car per household on the development causing more traffic.

Mr. Charles Bray, 3300 Burlington Pike, stated that he has a working horse boarding farm. He expressed a concern that clearing the trees to provide better access to the fence will impact the horses with people feeding them or jumping over the fence. The green space shouldn't go away. Homeowners should not clear near the fence. Mr. Bray stated that he is working with Mr. Niehaus on connecting to the subdivision road thus eliminating their driveway on KY 18.

At this time, Vice-Chairman Patton asked if there were going to be restrictions on the type of size of houses? Mr. Bertram responded that there will be private restrictions/covenants on the lots. He agreed to have a draft of them available at the Committee meeting. He also stated that the HOA will maintain the buffer area on both sides of the subdivision. He offered to maintain the existing stockade farm fence along the eastern portion of the site during construction. Mr. Patton noted that it is 2 different uses next to each other - agriculture and residential.

Mr. Schwenke stated that trimmings from residential ornamental landscaping are poisonous to livestock and they should not throw it over an older fence. A new fence will help.

Mr. Bertram added that by moving the curb cut east and allowing the neighbors to connect to the

new road, it will address the safety issue of pulling in and out at higher grade. Vice-Chairman Patton asked the Staff to look into this more.

Mr. Bunger stated that the adjoining property owners are looking for a long term solution to the fence and not just repairing a portion of it during construction. Mr. Bertram responded that maybe the HOA could play a role in maintaining the fence. Mr. Bunger stated that the HOA will not pay for the fence. The developer would be responsible for it.

Mr. McMillian asked if there was another entrance planned for the site? Mr. Bertram responded no as they can't obtain another entrance from the State. That is why they are planning to connect to the Archambault property.

Mr. Lunnemann asked the developer to identify the specific amenities they are proposing in the subdivision in order to meet the PD requirements? Mr. Bertram stated that a sidewalk will be installed on both side of the public road for pedestrian access.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on January 16, 2019 at 5:00 P.M. in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on February 6, 2019 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 10:26 P.M.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director

Exhibit A - January 2, 2019 email from Chief Jeff Barlow, Burlington Fire District