

**BOONE COUNTY PLANNING COMMISSION  
VIA LIVE VIDEO TELECONFERENCE  
BURLINGTON, KENTUCKY  
PUBLIC HEARING  
JANUARY 6, 2021  
7:30 P.M.**

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Chairman Rolfsen opened the Public Hearing at 7:30 p.m. and welcomed everyone to the Planning Commission's January 6, 2021 Public Hearing via Live Video Teleconference.

**COMMISSION MEMBERS PRESENT:**

Ms. Olivia Amlung  
Mr. Randy Bessler  
Mr. Kim Bungler, Secretary/Treasurer  
Ms. Corrin Gulick  
Mr. Steve Harper  
Mrs. Lori Hellman  
Mrs. Janet Kegley  
Mr. Rick Lunnemann  
Mr. Don McMillian  
Mr. Kim Patton, Vice Chairman  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mr. Tom Szurlinski  
Mr. Steve Turner, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

**LEGAL COUNSEL PRESENT:**

Mr. Dale T. Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Michael D. Schwartz, Planner

Chairman Rolfsen introduced the first item on the Agenda at 7:54 p.m.

**ZONING MAP AMENDMENT – Michael Schwartz, Staff**

1. Request of **Great Development Properties Inc. (applicant)** for **Smoky Acres LLC (owner)** for a Zoning Map Amendment from Agriculture (A-1) to Rural Suburban Estates (RSE) for an approximate 45.1 acre portion of the approximate 95.93 acre site located at 9696 Camp Ernst Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for detached single family dwellings.

Staff Member, Michael Schwartz, presented the Staff Report, which included a PowerPoint presentation. The site contains 50 acres of which 9% is currently zoned RSE and the remaining 91% is zoned A-1. It has 115 feet of frontage along Camp Ernst Road. Pages 1 & 2 of the Staff Report provide a history of the site. Mr. Schwartz showed the Board the original submittal from October, 2020 that was withdrawn. The site was 96 acres in size and the application was withdrawn by the applicant prior to action by the full Planning Commission. The minutes of the previous Public Hearing are included in the packet. The current application represents the southern half of the original proposal. The site is currently occupied by 2 mobile homes, various outbuildings, pasture/cropland and vacant/wooded areas. The east side of the site is bordered by an intermittent fork of Long Branch Creek. There is a 100 foot wide utility easement that runs through the site and parallel to Camp Ernst Road. Mr. Schwartz described the surrounding land uses and zoning. Page 2 of the Staff Report describes the purpose of the RSE zoning district. He also explained the topography of the site. Mr. Schwartz noted that Mr. Haines contacted him to express concern about stormwater runoff from the subject site draining downhill onto his property. The 2040 Future Land Use Map designates the portion of the site fronting on Camp Ernst Road to be Rural Density Residential (RD) as low density residential of up to one dwelling unit per acre and Suburban Density Residential (SD), single family housing of up to four dwelling units per acre on the remainder of the site. Camp Ernst Road is a County collector street. It has an approximate 20 foot pavement width and a 60 foot right-of-way. The posted speed limit is 35 mph. Pages 3-5 of the Staff Report identify the Goals and Objectives from the Comprehensive Plan that apply to the request. Pages 5-8 of the Staff Report includes excerpts from the Comprehensive Plan that pertain to the request. The site is part of an Agricultural District as described in the Staff Report. Approximately 20% of the site contains a tree canopy. The tree canopy is predominantly located along the north, east and west perimeter of the site. Mr. Schwartz showed photographs of the site and adjoining properties. Site distances along Camp Ernst Road are approximately 350 feet to the north and 450 feet to the south as measured by GIS. At the previous Public Hearing, the Board asked the Staff to collect traffic accident data. Between 1,600 feet north and south of the proposed street entrance, there have been a total of 19 accidents from 2016-2020 (October/November 2020). It is an average of 3.8 accidents per year. The submitted Concept Development Plan is the same as the previous submittal but just cut in half. It includes 32 lots at an overall density of 0.65 units/acre. The average lot size is 1.42 acres. The developer is providing a public water system and a public stormwater system and individual private sanitary sewer systems. A public street will be built with a 50 foot wide right-of-way. A street connection is planned to Mr. Haines' property and to the remainder of the 95 acres. A 40 foot easement will be placed on the majority of the perimeter of the site. The 40 foot easement will prohibit land disturbance and construction but will allow the installation of a fence. The applicant has provided a notation that the required sight distance of 390 feet at the intersection can be met.

In regards to Staff comments, the applicant should confirm that the front yard setback is greater than the minimum required of 40 feet in a RSE zoning district. The submitted plan is showing 50 feet. Is this an error? Lastly, the Staff did receive a letter from Ms. Amanda Chism (see Exhibit A). Mr. Schwartz read the email and entered it into the record.

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

Ms. Brittany Finke-Mayer, stated that she was speaking on behalf of the applicant, George Finke. Mr. Finke has decided to develop the front 50 acres and the project will be done in phases. At the time he is ready to develop the "back" acres, he will submit another zone change application at that time.

Mr. Mark Rosenberger, Bayer-Becker Engineers, stated that his firm physically surveyed the site entrance and determined that they meet the sight distance in both directions (Item #10). Mr. Finke is also willing to relocate the existing driveway to the residence located at 9678 Camp Ernst Road, owned by Ms. Natalie Moore (Item #11). The reference to the minimum front yard setback is correct. It is an error. It should be 40 feet and not 50 feet.

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

Mr. Ben Mathis, 3049 Deer View Drive, stated that in using Boone County GIS, he estimated that the distance to the peak of the hill south of the entrance is 231 feet. In the other direction going toward Central Park, it is 558 feet at the crest of the hill or Deer View Drive. Both have curves and both are elevated. All the measurements need to be certified by code and meet the engineering design requirements. There has to be a safe travel distance from an intersection. Factors must be taken into consideration with curves in the road and elevated roadways. Are the distances mentioned in the Staff Report inverted or correct? Camp Ernst Road is elevated and doesn't have a drop off or shoulder. It gently slopes to the opposite direction. It is a dangerous left turn out of the site and no one has anywhere to go to avoid a vehicle if not given enough time to pull out. Mr. Mathis isn't against development. Access to the site needs to be addressed and be safe. It needs to be made right from the beginning and the developer needs to do it. The County or taxpayers shouldn't do it. The subject property has been for sale for 10 years. Chairman Rolfsen responded by telling Mr. Mathis to focus on the current application and not in conjecture on why the site hasn't sold in the past. Mr. Mathis again stated that the applicant has not been able to certify that the entrance meets safety standards. In addition, the volume of traffic on Camp Ernst Road has increased. It serves as a bypass to U.S. 42. It is a heavy truck traffic route for gravel trucks. For morning and evening, it is rush hour residential traffic. In 15 minutes, he witnessed 72 cars go by. It is heavy congestion for the type of road that it is today. What is the status of the New Camp Ernst Road proposal? It has been on the books for at least 20 years. It should be addressed with the application. The property next to the subject site is in the process of being purchased and it could tie into Ballyshannon Subdivision. The new road is needed but nothing is being done about it. Development is occurring without taking into consideration the Comprehensive Plan. If nothing is done, all the traffic will use the existing Camp Ernst Road. Infrastructure and the safety of the public must be first.

Mr. Charles Haynes, 9382 Camp Ernst Road, expressed a concern about a future road built by the developer on top of the hill. There is about a 100-125 foot drop from where the street ends to his property. There will be a river of water going onto his property that is 45 feet below the applicant's property. It will wash everything out. There are other options. The road could be built on the south side or the road could wrap around his property and connect to the back of it. It is unacceptable. The proposed project will dump 150 people onto Camp Ernst Road instead of 4 people today. There was a detention pond built in Central Park and the dam broke. It made the creek larger from 18 inches deep to 8 feet deep. Detention ponds need to be maintained.

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

Mr. Schwartz showed the drawing of where the proposed street connection would occur and how it would affect Mr. Haynes' property. He explained the subdivision review process. The approved Improvement Plan would show the final grade, the street construction location and storm water system. Predevelopment storm water amounts must meet post development amounts. Any difference must be detained or retained on site. The individual lot owners or HOA would be responsible for maintaining stormwater facilities.

Chairman Rolfsen asked what is the plan to manage the stormwater? Mr. Rosenberger replied that the developer would have to build a detention basin on the back side of Lot 10 if the street is extended to Mr. Haynes' property line. The developer hasn't decided who will own and maintain the detention basin in the subdivision.

Mr. Schwartz noted that it will be up to the Boone County Public Works Department to determine what the safest sight distance would be on Camp Ernst Road as the County owns the road. To date, the County hasn't determined it yet. Typically, it is done at the Preliminary Plat and Improvement Plan stage. The County would validate the developer's study and final intersection location.

Mrs. Kegley questioned whether there is a need for a street connection to Mr. Haynes' property considering the topography and creek? Chairman Rolfsen asked the applicant why is it necessary? Mr. Rosenberger responded because there is a limit on the length of a dead end street of more than 1,200 feet and adding the side street helps meet this requirement. Mr. Schwartz stated there has to be a mid-block crossing. There is also a regulation of continuing access to adjoining properties. Mr. Haynes' property is a sizeable parcel of land.

Mr. Bunger expressed a concern not only about the amount but also the velocity of storm water to Mr. Haynes' property. Mr. Bunger asked the applicant to provide the sight distance study data to the Staff for the Committee meeting. He also asked if the overall stormwater system for the subdivision be built in the very beginning instead of phases.

Mr. Schwenke inquired about the 3.8 accidents per year figure? Mr. Schwartz responded that it was an average in the last 5 years for an area 1,600 feet north and south of the planned entrance to the new subdivision. Mr. Schwenke suggested getting the figures that the County prefers and providing them to the Committee members. The proposed is fine as long as we can get the entrance safe enough.

Mr. Patton stated that it is not only the sight lines but also the volume of the traffic leaving and entering the subdivision. What is the threshold of being safe or unsafe? Chairman Rolfsen said that it is difficult to generalize since one will have to research the cause of each of the 19 accidents. None of the accidents could have been caused by sight distances. Who knows? Was it the road? Was it a drunk driver? Mr. Costello stated that he will invite the County Engineer to the Committee meeting in order to address the questions posed by the public and Board. Ms. Gulick responded that she would also attend the Committee meeting. The Green Book has set criteria measuring from a set elevation such as the driver eye height and vehicle headlights on the road. The County Engineer will know how to measure it. Measurements will be taken to see if anything is blocking the view (e.g. a house, tree, etc.). There is a specific formula that is based upon speed and how people drive. Mr. Rosenberger stated that he would provide all of the data to the County Engineer before the Committee meeting.

Mr. Bunger asked the applicant to consider making road improvements or removing trees/debris along Camp Ernst Road to assure safe sight distance. Mr. Costello replied that the County Engineer will make that decision since the developer must apply for an encroachment permit. It would most likely have to be a condition.

Mr. McMillian inquired about another way out of the proposed subdivision? Also, the short road connects to a larger tract to the north. He expressed a concern about more traffic coming out of the subdivision with inadequate sight distance. Will the sanitary sewer include a treatment plant or be individual systems? Mr. Rosenberger replied individual septic tanks.

Mr. Lunnemann asked about the proposed housing type? Ms. Mayer responded that they are not at that stage yet. There will be private covenants about house size and building materials. Ms. Mayer asked if there was a requirement of all subdivisions having more than one way in and out? Mr. Schwenke replied there is no regulation.

Mr. Bunger asked if the applicant could provide a range of house prices for the subdivision if possible? Ms. Mayer responded based on developments completed previously it would be a range of \$300,000 - \$500,000. It would be different for this subdivision. The developer is just selling the lot and the new owner will have a custom builder.

**Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on January 20, 2021 at 5:00 P.M. via Live Video Teleconference. This item will be on the Agenda for the Business Meeting on February 3, 2021 at 7:00 p.m.** If someone wants to observe the Committee Meeting, please contact the office and provide the necessary information for logging into the meeting. The Chairman closed the Public Hearing at 8:59 p.m.

**APPROVED:**

**Attest:**

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**Charlie Rolfsen**  
**Chairman**

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

