

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE JUNE 8, 2010 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Tony Pfeffer
Mr. Justin Verst
Mr. Michael Williams
Ms. Kay Wright
Ms. Cindy Minter, Vice-Chair, late
Ms. Debbie Blake, Chairperson

MEMBERS ABSENT:

Mr. Robert Huck

STAFF PRESENT:

Mr. Peter Klear, AICP, Director of Planning & Zoning
Mr. Ryan Hutchinson, Principal Planner
Ms. Molly McEvoy Boh, Legal Counsel

Ms. Blake called the meeting to order at 7:00 PM. Ms. Blake asked for a roll call. Following roll call, a quorum was found to be present.

Ms. Blake asked if everyone had reviewed the May 11, 2010 meeting minutes and asked if there were any additions or corrections. There being none, Ms. Blake called for a motion. Mr. Barrow made a motion to approve the May 11th meeting minutes as submitted. Ms. Wright seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Williams, and Ms. Wright in favor of the motion. Ms. Blake and Mr. Verst abstained. Motion passed.

Ms. Blake introduced case #74-10-GRP-01, Koerner Property Waste Area to the Planning Commission and asked Mr. Hutchinson to give the staff report and staff's recommendation to the Commission. Before Mr. Hutchinson began the staff report, Mr. Klear noted for the record that Mr. Verst acted in the capacity of staff for this case. As such, Mr. Klear stated that Mr. Verst would not be voting on this case but would remain in case the Commission had any questions.

CASE NUMBER: 74-10-GRP-01 Koerner Property Waste Area

APPLICANT: Tom Buzek – Maxim Crane Works, LP

LOCATION: An approximate six point four (6.4) acre area located at the intersection of US 27 and Koerner lane 0.5 miles north of Siry Road, Unincorporated Campbell County.

REQUEST: A proposed Grading Plan for the area described herein, within the A-1 Zone.

1. The site in question, containing approximately six point four (6.4) acres, is located on the west side of US 27, approximately 0.5 miles north of Siry Road, Unincorporated Campbell County. The site in question is currently zoned A-1 (Agricultural One). The A-1 Zone, requires a minimum lot size of one acre, lot widths of 100 feet, minimum setback dimension of 50 feet, side yards of 10 feet (one side) and 25 feet (total both sides), and a minimum rear yard depth of 35 feet.

2. The submitted request is for approval of a grading permit for 6.4 acres. The area to be disturbed is on the north side of Koerner Lane and US 27. The site is a ravine; top elevation of the ravine is 744 feet, bottom elevation is 670 feet. The site contains steep slopes of 20% or greater. The applicant is proposing to fill the north-west portion of the site to an elevation of 740 feet. The remainder of the site will taper south-east from 744 feet to 670 feet.
3. The site in question is residential and vacant land with residential homes surrounding this property.
4. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies this site and areas for Rural Mixed Use.
5. The submitted Grading Plan indicates the following:
 - a. Approximate disturbance area of 6.4 acres.
 - b. The site plan indicates 6.9 acres of disturbed area will flow to a sediment basin.
 - c. Pre and post fill elevations.
 - d. Installation of erosion control matting, rock check dam, silt fencing, riprap, Temporary sediment basin, and seed/straw.
 - e. Several general erosion notations, including implementation of best management practices as required are listed.
 - f. The plans don't show approximate locations of existing underground utilities.
 - g. The applicant has noted a six inch water main fronting the proposed site.
 - h. The plans show a silt trap located on the south-east portion of the site.
 - i. The plans show the finished grade along the slopes will be at a 3 to 1 ratio. This is greater than 20 percent.
 - j. The applicant provided staff with copies of the "Right of Access" agreement between property owners to access and grading on the land.
 - k. The applicant provided staff with a copy of the approval letter from SD1.
 - l. The applicant has included a geotechnical report for the "Koerner Property Waste Area", from HC Nutting.
 - m. The applicant stated this site was pre-permitted by the US Army Corps of Engineers as an available fill location.
 - n. The applicant stated they filed a notice of intent (NOI) with the KY Department of Water.

Campbell County Staff Recommendation:

To approve the proposed grading plan subject to the following conditions:

1. That the applicant complies with all conditions associated with the approval of that SD#1 land disturbance permit.
2. That the applicant complies with all applicable building, subdivision and zoning ordinance regulations.

3. That the applicant complies with the recommendations contained within the submitted geotechnical report for the "Koerner Property Waste Area", from HC Nutting prepared for the site.

Bases for Recommendation:

1. Pursuant to Article VII Improvements of the Campbell County Subdivision Regulations, the Planning Commission has the authority to review site plans wherein grading activities occur.
2. As of August 1, 2003, Sanitation District #1 has taken over the authority, by law, of reviewing storm water calculations and approving land disturbance permits for all land with a disturbed area of one acre or greater, to determine compliance with the newly adopted storm water regulations.
3. CAMPBELL COUNTY ZONING ORDINANCE SECTION 9.23.a., HILLSIDE DEVELOPMENT CONTROLS States: "hillside slopes of 20 percent or greater will occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards."

Ms. Minter joined the Commission during Mr. Hutchinson's presentation at approximately 7:12pm. Mr. Hutchinson concluded the staff report. Mr. Hutchinson asked if there were any questions concerning the staff report. Ms. Blake asked who's responsibility is it to obtain the permit from SD#1? Mr. Hutchinson replied that it was the applicant's responsibility to submit and obtain approval from SD#1. Mr. Hutchinson noted that this approval had already been obtained. Ms. Blake inquired about the Army Corps of Engineers. Mr. Hutchinson stated that he was not aware of any blue line streams in the area, but that this question should be directed to the applicant. Ms. Blake asked if the Commission had any questions of Staff. There being none, Ms. Blake requested that the applicant come forward to address the commission. Mr. Tom Buzek, representing Maxim Crane Works, LP (the applicant) addressed the commission. Ms. Minter disclosed that she had purchased property from the Koener's over twenty years ago but she had no other dealings with the Koeners since that time. Mr. Klear recommended that Ms. Minter abstain from voting. Ms. Minter left the Planning Commission podium but remained in the room. Mr. Buzek replied in response to Ms. Blake's earlier question that there was not a blue line stream in the area according to the Corps of Engineers. There is a drainage swale in the area that is normally dry except during rainy conditions. Ms. Blake asked if there were any questions of the applicant. There being none, Ms. Blake opened the case up for further discussion. There being none, Ms. Blake asked for a motion. Prior to the motion, Mr. Klear suggested that Mr. Verst and Ms. Minter leave the room. Mr. Verst and Ms. Minter left the room. Ms. Blake asked the applicant about the grade of the slope and how it was to be planted. Mr. Buzek replied that the slope would be three to one in some areas. The slope would be seeded and strawed like any other grading site. Ms. Blake again called for a motion. Mr. Barrow made a motion that the Planning Commission approve case #74-10-GRP-01 Koerner Property Waste Area. He cited the following as his findings of fact and basis for his motion.

1. Pursuant to Article VII Improvements of the Campbell County Subdivision Regulations, the Planning Commission has the authority to review site plans wherein grading activities occur.
2. As of August 1, 2003, Sanitation District #1 has taken over the authority, by law, of reviewing storm water calculations and approving land disturbance permits for all land with a disturbed area of one acre or greater, to determine compliance with the newly adopted storm water regulations.
3. CAMPBELL COUNTY ZONING ORDINANCE SECTION 9.23.a., HILLSIDE DEVELOPMENT CONTROLS States: "hillside slopes of 20 percent or greater will occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards."

Mr. Pfeffer seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Williams, and Ms. Wright in favor of the motion. Ms. Blake abstained. Motion passed.

Mr. Verst and Ms. Minter entered the room and rejoined the Planning Commission.

Mr. Klear requested that the Planning Commission take case #70-10-PPD-01, Leahy Subdivision off the table. Ms. Minter made a motion to take the case off the table. Mr. Pfeffer seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Verst, Mr. Williams, Ms. Wright, and Ms. Minter in favor of the motion. Ms. Blake abstained. Motion passed. Mr. Klear distributed copies of the staff report, for this case, to the members of the Planning Commission. Ms. Blake introduced case #70-10-PPD-01, Leahy Subdivision to the Planning Commission and asked Mr. Hutchinson to give the staff report and staff's recommendation to the Commission.

SUBDIVISION: 70-10-PPD-01 Leahy Subdivision
APPLICANT: Elizabeth Leahy
LOCATION: A 1.49-acre area along the west side of Nine Mile Road ½ mile south of Mary Ingles Hwy, Unincorporated Campbell County.
REQUEST: To approve a Preliminary Plat consisting of one (1) lot, with no public improvements.

Considerations:

1. The 2008 Campbell County Comprehensive Plan Update designates the site for Agriculture. The area is PRDA, a Physically Restrictive Development Area due to steep slopes. The Campbell County Zoning Ordinance classifies the plat within the A-1 Zone, a Agriculture Zone, requiring a minimum lot size of one acre, lot widths of 100 feet, minimum setback dimension of 50 feet, side yards of 10 feet (one side) and 25 feet (total both sides), and a minimum rear yard depth of 35 feet, not including flag lots and/or mobile home lots.
2. Review of the Preliminary Plat in accord with the Comprehensive Plan, Zoning Ordinance and Subdivision Regulations results in the following issues:

- a) The Plat indicates a proposal to subdivide a 1.49-acre area along the west side of Nine Mile Road for the creation of one lot, with no public improvements.
- b) The Plat shows the proposed lot has an existing house and barn on the tract. The remaining 25.992 acre tract also has a house.
- c) The Plat shows an existing 8" ductile iron water line fronting the proposed lot.
- d) The Plat shows a 25-foot right-of-way parcel fronting along the proposed lot to be dedicated.
- e) The existing barn is approximately 45 feet from the right of way. Therefore, it encroaches approximately 5 feet into the minimum front yard setback.
- f) The Plat indicates the lot does not fall within the 100 year flood plain.
- g) County records indicate centralized sanitary sewers are not available for this area. Notation on Plat indicates that on-site sewage disposal systems are being utilized.
- h) The Plat correctly notes that the new building development on areas containing ground slopes of 20% or greater will require implementation of "Hillside Development Controls" contained within the Campbell County Zoning Ordinance.
- i) The width of Nine Mile Road is 18 feet, in conflict with minimum county standards of 20 feet. The escrow funds required for widening this portion of road fronting the proposed will need to be submitted.

Recommendation:

To approve the proposed Preliminary Plat with the following conditions.

- 1. That the funds required to widen one-half (1/2) of Nine Mile Road to a minimum of 10 feet in accord with minimum subdivision regulation standards, for the portion contiguous to the proposed development, be escrowed with the Campbell County Fiscal Court.
- 2. That the lot design be changed to make right angles parallel to Nine Mile Road.
- 3. That the pre-existing nonconforming structure (the barn) sitting within the front yard setback can be maintained, but not enlarged or extended. The barn, if destroyed over 50% of its value, can be rebuilt only if it meets existing zoning requirements.

Bases for Recommendation:

The proposed subdivision is consistent with the recommendations of the 2008 Campbell County Comprehensive Plan Update, the Campbell County Subdivision Regulations and Zoning Ordinance, except as noted below:

1. CAMPBELL COUNTY SUBDIVISION REGULATIONS SECTION 7.3 states: "When a subdivision is located on only one side of an existing street, and where pavement width of such existing street is less than that required by these regulations, the subdivider may be required to construct one-half (1/2) the required pavement width, as per these regulations, along the side fronting his property on such street. The planning commission, in its discretion, may . . . require the subdivider to deposit sufficient funds within an escrow account, maintained by the Campbell County Fiscal Court, to accomplish the street improvements contemplated by this ordinance, on the basis of the reasonably anticipated, future burden the development will have upon Nine Mile Road.

2. CAMPBELL COUNTY ZONING ORDINANCE SECTION 10.1 D: Minimum lot size for the R-1C Zone.
 1. Minimum Lot Area – one acre (1) acre.
 2. Minimum Lot Width – one hundred (100) feet
 3. Minimum Front Yard Depth – fifty (50) feet
 4. Minimum Side Yard Width
 - a. Total - 25 feet
 - b. One side - 10 feet
 5. Minimum Rear Yard Depth – Thirty-five (35) feet
 6. Maximum Building Height - Thirty-five (35) feet

The design of the back half of the 1.498 acre tract should be reconfigured so it's parallel to Nine Mile Road. The current design creates a property boundary that is inconsistent with the county's goals of dividing property that is orderly, efficient and appropriate. It would also create maintenance issues for the owner and neighbors.

3. CAMPBELL COUNTY ZONING ORDINANCE SECTION 9.12 C: Non-conforming structures:
 1. CONTINUANCE: Except as herein provided, any lawful nonconforming structure existing at the time of adoption of this ordinance, may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended.

 2. TERMINATION: Except as otherwise provided, any nonconforming structure may be repaired or reconstructed to its original condition, including structures damaged or substandard under any applicable ordinance for which the cost of reconstructing or repairing said structure exceeds 50% of the market value of such structure. However, if a nonconforming structure is to be reconstructed on a new foundation, said structure must meet existing zoning requirements (inclusive of the right to request a dimensional variance) and, in such cases, the right to continue the nonconforming structure would be terminated.

Mr. Hutchinson concluded the staff report. Ms. Minter requested that Mr. Hutchinson return to the slide in his presentation that showed both properties together. Mr. Hutchinson returned to the slide and identified the existing and proposed property lines. Ms. Minter asked if the existing property would surround the new parcel. Mr. Hutchinson responded that the existing parcel would touch the new parcel on two sides all the way up to Nine Mile Road. Ms. Blake asked the 50% of the barn item. Mr. Hutchinson responded that if 50% of the barn or more was destroyed, the barn would have to be torn down or relocated to meet the setback requirements for the zone. Mr. Barrow asked Mr. Hutchinson to point out where he wanted the right angles on the new parcel. Mr. Hutchinson replied that the lot should be squared off to be more rectangular in shape. The lot lines that began at Nine Mile Road could come back straight and end with ninety degree angles to square off the rear of the property. The lot would be a rectangle as opposed to a triangle. Ms. Blake inquired who was the engineer for this plat? Mr. Hutchins replied Mr. Feinauer. Ms. Blake asked if the Commission had any more questions of Staff. Ms. Minter asked about a topo map for the area. Mr. Hutchinson displayed the topographic map of the property from his presentation. Mr. Hutchinson offered a brief history of the property and suggested that either the surveyor or property owner may go into additional detail. Mr. Hutchinson stated that the property was originally surveyed perhaps 15 to 20 years ago. The owner subdivided the property and sold it to their daughter. The daughter has lived on this property for quite some time. The property owners were not aware that the subdivision had not been reviewed and approved by planning and zoning. The lot design is the same lot design of 15 to 20 years ago. The applicant brought Mr. Feinauer back in to redo what the applicant had done before. Ms. Minter expressed her appreciation for that history. Mr. Williams asked if the existing barn was in use for anything. Mr. Hutchinson replied that this question should be directed to the applicant. Mr. Williams inquired how the value of a barn was calculated. Ms. Minter suggested that this was not something for the planning commission to make a determination but rather it was up to the standards listed in the regulations. Ms. McEvoy Boh stated that this language and condition was typical for non-conforming uses and structures. The regulations specify the 50% threshold. Mr. Williams stated that he wasn't questioning the rules, but he wanted to understand how the 50% of the value was calculated. Mr. Klear stated that staff would use an industry standard such as the Means Guide to establish the value and calculation. Staff performs the calculation on behalf of the planning commission. Mr. Hutchinson explained that if someone came in for a permit, the calculation could be performed at that time. If the cost exceeded the 50%, the building would either have to be rebuilt to conform to the setback requirements or the applicant could petition the Board of Adjustment for a variance. Ms. McEvoy Boh said that there was a lot of case law about non-conforming structures and that the methodology listed in the ordinance was an accepted and standard set of procedures. Ms. Blake asked if there were any further questions of staff.

There being none, Ms. Blake asked the applicant or their representative to come forward and address the commission. Mr. Joe Feinauer, surveyor, addressed the commission on behalf of his client Ms. Leahy. Mr. Feinauer indicated that the lot was originally surveyed in 1987. Mr. Leahy, the applicant's husband, wanted an acre and a half surveyed off as they had already built another house. The reason the lot was laid out as it is, on the left hand side (of the parcel) there is an old fence line. On the right side, he did not want to go into the ravine. This is why the parcel came to a point in the back. This configuration results in about an acre and a half of land. Mr. Feinauer indicated that he was not aware that the lot had not been recorded. When Ms.

Leahy contacted him about what needed to be done, Mr. Feinauer learned that the plat had to come before Planning Commission. When the plat was first prepared, the subdivision regulations called for divisions to be counted from 1982. Under the old subdivision regulations, this plat would have only been the second out sale and could have been handled as an identification plat; however, the new subdivision regulations call for divisions to be counted from 1966. Under the new subdivision regulations, the new lot represents the third out sale and therefore a subdivision plat was needed. The Leahys are trying to obtain approval for what they had surveyed back in 1987. Ms. Blake asked if the Commission had any questions for Mr. Feinauer. Ms. Minter noted that the staff recommendation was for approval of the plat subject to three conditions. Ms. Minter asked if the applicant was prepared to comply with those three conditions. Mr. Feinauer they will but would prefer not to change the configuration of the lot because they did not want to cross the creek on the right side of the lot and they wanted to follow the contours on the left side and the fence line. Ms. Minter asked for clarification as to what was left and right on the lot. Mr. Feinauer indicated that the right side was the north side of the lot along the creek and the left side was the south side of the lot along the fence line. Ms. Minter asked if the fence line was still present. Mr. Feinauer replied that the fence line was still present. Ms. Blake asked if Mr. Feinauer answered Ms. Minter's questions about the three conditions. Mr. Feinauer indicated that the other two conditions were fine. The only condition of concern was the second condition that called for the lot to be reconfigured. Mr. Feinauer indicated that the applicant would prefer not to reconfigure the lot. Mr. Feinauer stated that he was also an engineer and that he had already prepared an estimate of the amount needed for the road escrow for the first condition. Mr. Feinauer indicated that he discussed this issue with Mr. Hutchinson. Mr. Feinauer continued that if the road were to be widened, the widening would have to occur on the other side of the road because the side of the road for his client's property was too close to a creek and had other constraints. Ms. Minter asked for clarification as to which side of the road would be widened. Mr. Feinauer stated it would be the eastern side of the road. Ms. Blake asked if the Commission had any more questions. Mr. Pfeffer asked if the main reason to keep the shape of the lot as is was because of the shape followed natural grades and that this was the only reason for the unusual shape of the lot. Mr. Feinauer replied that this was correct. This shape was what Mr. Leahy asked Mr. Feinauer to do. When Mr. Feinauer walked the property, this lot configuration made sense to him. Mr. Pfeffer did not know to whom to address his next question. Mr. Pfeffer wanted clarification. In 1987, if this lot were laid out as shown it would be approved; however, Mr. Feinauer stated that there have since been changes in the subdivision regulations. Mr. Feinauer explained that in 1987, this lot would only have been the second out sale of property and would not have been drawn as a subdivision plat. It would have been drawn as an Identification Plat or Convenience Plat and would not have come before the board. It would have gone to staff for review. Ms. McEvoy Boh clarified that Mr. Feinauer was just providing background and history of this land; however, the current regulations are what the Commission has to consider. Mr. Klear added as a further clarification that staff would not have automatically approve this plat as Mr. Feinauer has suggested. Mr. Pfeffer noted that he was trying to understand the regulations in place back in 1987. Mr. Feinauer suggested that the staff back then would have approved this plat. Mr. Klear disagreed and stated that if the staff of today was the staff back then, the same recommendations and conditions would have been made for this plat including squaring off the back of the lot. Ms. McEvoy Boh asked if Mr. Pfeffer had gotten the clarification he needed. Mr. Pfeffer responded that he understood regardless of the past regulations it was the current regulations that applied to this subdivision plat. Mr. Pfeffer

indicated that he had a better understanding and felt comfortable moving forward and making a decision on this case. Mr. Feinauer indicated that if the Commission still wanted the lot squared off, he would not want to move the north lot line because of the creek. Mr. Verst asked for Mr. Hutchinson's assistance with two issues. First, Mr. Verst was concerned about any revised lot lines and the setbacks with the existing structures. Mr. Feinauer did not know what the new setback would be, but he felt that he could reconfigure the lot and still meet the setback for all the existing structures. Mr. Verst expressed concern over a flat spot on the topo map and that there might be an additional structure. Ms. Leahy addressed the Commission. Ms. Leahy stated that the flat spot on the topo map was an old lake that had since been filled in. Mr. Verst said that his second issue or comment was that he felt that the creek was a good natural boundary for a property line. In his experience, Mr. Verst felt that having a property line go past a feature like a creek was a bad idea. Mr. Verst continued that he felt the northern property line perhaps should have been extended to the center of the creek. Mr. Feinauer stated that this would be a good idea if the creek had water in it a lot of the time; however, the creek is dry most of the time so he established the northern boundary where he thought best. Ms. Blake asked if the Commission had any more questions of the applicant. Ms. Minter stated that she concurred with Mr. Verst's opinion about the property line that bordered the creek. Ms. Minter asked for clarification to add this information into the discussion on making right angles for the lot. Ms. McEvoy Boh stated that she was unsure which section of the subdivision regulations called for right angles. Mr. Klear clarified that there was not a "right angle" provision in the subdivision regulations. Instead, both the Comprehensive Plan and Subdivision Regulations call for uniform design considerations and that a triangular-shaped lot was not a uniform or traditional design for a lot. Mr. Klear suggested that this shape could be problematic in the future. Mr. Klear continued that he disagreed with Mr. Verst's assessment that water formed a good boundary. Mr. Klear stated that water moves over time and the boundary would move with it. Mr. Verst agreed that water does move over time, but it still makes for a good boundary provided appropriate measures are added to the lot line details. Mr. Verst felt that keeping a property line parallel to the creek was a very good idea. Mr. Verst suggested maintaining the northern property line along the creek as shown, and altering the remaining property lines to square off the lot. Ms. Minter asked if his rationale would be due to a geometric or topographic issue. Mr. Verst suggested that this was the case. Ms. Blake asked if there were any more points of discussion from the Commission. There being none, Ms. Blake called for a motion. Mr. Verst moved that the preliminary plat for case # 70-01-PPD-01 Leahy Subdivision be approved subject to the following conditions:

1. That the funds required to widen one-half (1/2) of Nine Mile Road to a minimum of 10 feet in accord with minimum subdivision regulation standards, for the portion contiguous to the proposed development, be escrowed with the Campbell County Fiscal Court.
2. That the lot design be changed. The southern property line be revised intersect Nine Mile Road at a ninety degree angle and the back or rear of the lot to be squared off in generally squared-off or rectangular fashion. The northern property line along the creek can remain as shown to make right angles parallel to Nine Mile Road.

3. That the pre-existing nonconforming structure (the barn) sitting within the front yard setback can be maintained, but not enlarged or extended. The barn, if destroyed over 50% of its value, can be rebuilt only if it meets existing zoning requirements.

He cited the following as the basis for his motion: the proposed subdivision is consistent with the recommendations of the 2008 Campbell County Comprehensive Plan Update, the Campbell County Subdivision Regulations and Zoning Ordinance, except as noted in the attached staff report. Mr. Klear asked Mr. Verst for clarification of his modification to condition number two. Mr. Klear suggested that the way staff wrote condition number two, staff wanted the lot to be made rectangular but left the design up to the applicant. Mr. Klear said it seemed that Mr. Verst's modification called for a specific design and still supported the concept of making the lot rectangular. Ms. Minter stated that she would prefer the language read that the lot have more uniform design. Mr. Verst amended his motion relative to condition. Condition number two should read, that the lot design be changed to make right angles parallel to Nine Mile Road, where possible, while also respecting existing natural and topographic conditions of the site. Mr. Pfeffer seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Verst, Mr. Williams, Ms. Wright, and Ms. Minter in favor of the motion. Ms. Blake abstained. Motion passed.

Ms. Blake advised there is a public hearing tonight for the next case to be heard. Ms. Blake opened the public hearing. Ms. Blake introduced case #73-10-TXT-01 to the Planning Commission and asked Mr. Klear to give the staff report and staff's recommendation to the Commission.

FILE NUMBER: 73-10-TXA-01

APPLICANT: Campbell County Planning Department on behalf of the City of Silver Grove

REQUEST TO BE REVIEWED: Proposed text amendment to the City of Silver Grove Zoning Ordinance Article X Section 10.6 HC Highway Commercial Zone - Adding new use in Item A. Permitted Uses item 13. Variety Store.

Background:

The City of Silver Grove has submitted a request to modify its Zoning Ordinance for its HC Highway Commercial Zone. Specifically, the City wants to add a new item "Variety Store" as a Permitted Use.

Proposed Text Amendments:

The following addition is proposed:

Section 10.6 HC Highway Commercial Item A. Uses Permitted adding a new item

13. Variety Store

Staff Recommendation:

That the Planning Commission recommends that the City of Silver Grove adopt the proposed text amendment to the City of Silver Grove Zoning Ordinance.

Supporting Information/Bases For Staff Recommendation:

1. Per Kentucky Revised Statutes (KRS) 100.203, the City of Silver Grove has the authority to enact zoning regulations within its jurisdiction. This authority includes the provision to amend its zoning classifications, uses, etc.
2. Pursuant to the City of Silver Grove Zoning Ordinance Article XVII AMENDMENT PROCEDURE, the Planning and Zoning Commission has the authority to amend the zoning ordinance.
3. The proposed text amendment is consistent with the general purpose and uses associated with the HC Highway Commercial Zone.
4. Proper notice has been given in accordance with Article XVII Amendment Procedure of the City of Silver Grove Zoning Ordinance.

Mr. Klear concluded the staff report and asked if there were any questions. Mr. Williams asked for a definition of the term “variety store”. Mr. Klear referred to the City of Silver Grove Zoning Ordinance. Mr. Klear apologized and stated that it was a term of art already used in the zoning ordinance in the NC Neighborhood Commercial Zone. Mr. Klear gave some examples of what a variety store might entail. Among the examples, Mr. Klear mentioned a five and dime store, a retail establishment that sold not one, but several different types of items. Ms. Blake noted that she liked the term variety store. Mr. Williams listed book store, video store, and magazine shop as possibilities. Mr. Klear corrected Mr. Williams and stated a store like Blockbuster Video or Walden Books or Kroger would not be considered a variety store. Ms. McEvoy Boh mentioned Dollar General as an example of a variety store. Ms. Blake mentioned Walgreens. Mr. Klear agreed that a store like Dollar General would be an example of a variety store but Walgreens would not be considered a variety store. Walgreens is considered a pharmacy. Ms. Blake asked if the Commission had any more questions of Staff. There being none, Ms. Blake asked if there was anyone present that wished to speak on this issue. Ms. Blake noted for the record that there was no one present that wish to speak on this issue. Ms. Blake asked for a motion to close the public hearing. Ms. Minter made a motion to close the public hearing. Mr. Verst seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Verst, Ms. Wright, and Ms. Minter in favor of the motion. Mr. Williams voted against the motion. Ms. Blake abstained. Motion passed.

Mr. Williams expressed concern that the term “variety store” was not defined in the ordinance. Mr. Williams felt that this term was a very broad category of possible uses. Mr. Williams mentioned that under certain conditions Kroger or Walmart might be considered to be a variety store. Mr. Verst asked for input from the representative from the City of Silver Grove. Is this something that the city wants? Has the city been discussing this issue for a while? Ms. Wright

indicated that the city does want this text amendment and that they have had many discussions on this issue. Mr. Verst again asked if the city wanted this change in the text. Ms. Wright repeated that the city wanted this change to occur. Mr. Verst asked about the definition for the term variety store. Mr. Klear replied that he thought that the term was defined but he was not able to find the definition in the copy of the Silver Grove Zoning Ordinance he brought with him to the meeting. Mr. Klear repeated that the term was already in use for the Neighborhood Commercial Zone. Mr. Verst asked if the commission could also request that the term variety store be defined. Mr. Klear responded that the commission had the ability to make that change and request. Mr. Klear noted that adding a definition would require a public hearing. Ms. Wright noted that the Neighborhood Commercial Zone already had the term variety store listed as a permitted use. The city wants this same use added to the Highway Commercial Zone. Mr. Pfeffer stated that the only issue is the definition of the term variety store. Mr. Verst suggested that the Commission recommend or at least make a comment that the city adopts a definition for the term variety store. As there seemed to be no further discussion, Ms. Minter made a motion that the Planning Commission recommends that the City of Silver Grove adopts the proposed text amendment to its Zoning Ordinance. Specifically, Article X Section 10.6 HC Highway Commercial Zone - Adding new use in Item A. Permitted Uses item 13. Variety Store. She cited the following as her findings and basis for approval:

1. Per Kentucky Revised Statutes (KRS) 100.203, the City of Silver Grove has the authority to enact zoning regulations within its jurisdiction. This authority includes the provision to amend its zoning classifications, uses, etc.
2. Pursuant to the City of Silver Grove Zoning Ordinance Article XVII AMENDMENT PROCEDURE, the Planning and Zoning Commission has the authority to amend the zoning ordinance.
3. The proposed text amendment is consistent with the general purpose and uses associated with the HC Highway Commercial Zone.
4. Proper notice has been given in accordance with Article XVII Amendment Procedure of the City of Silver Grove Zoning Ordinance.

Mr. Verst seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Verst, Ms. Wright, and Ms. Minter in favor of the motion. Mr. Williams voted against the motion. Ms. Blake abstained. Motion passed.

Mr. Verst noted for the record that the Commission discussed, at length, the need for the City of Silver Grove to define the term variety store. Mr. Verst encouraged the City to define the term in the very near future.

There being no other items before the Commission, Ms. Blake recognized Mr. Klear to present the Director's Report.

DIRECTOR'S REPORT

Mr. Klear began his report with a request for the Commission to approve a training session held on May 26, 2010 entitled "KAPA Spring Conference" that Ms. Minter attended. This training satisfied 7.75 hours of training as required by HB 55. Mr. Verst made a motion to approve the training session. Mr. Pfeffer seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Verst, Mr. Williams and Ms. Wright in favor of the motion. Ms. Minter and Ms. Blake abstained. Motion passed.

Mr. Klear continued with a request for the Commission to approve a training session held on May 11, 2010 for the Campbell County & Municipal Planning & Zoning Commission entitled "Primer on Board of Adjustments and Planning Laws in the Commonwealth of Kentucky". This training satisfied 1½ hours of training as required by HB 55. Ms. Minter made a motion to approve the training session for all participants. Ms. Wright seconded the motion. A roll call vote found Mr. Barrow, Mr. Pfeffer, Mr. Verst, Mr. Williams, Ms. Wright and Ms. Minter in favor of the motion. Ms. Blake abstained. Motion passed.

Mr. Klear indicated he had no further issues for discussion.

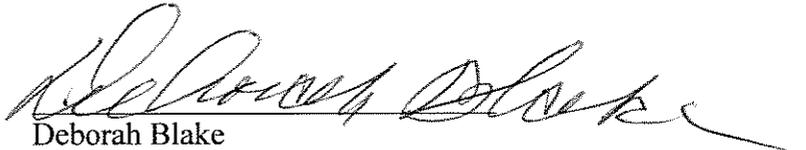
Ms. Blake asked the Commission if there were any additional items for discussion. There being none, Ms. Blake called for a motion to adjourn. Mr. Verst made a motion to adjourn. Ms. Minter seconded the motion. An oral vote found everyone in favor. None opposed. Motion passed. Meeting adjourned at 8:17 PM.

Respectfully Submitted,

Approved:



Peter Klear, AICP
Director of P&Z



Deborah Blake
Chairperson