



MINUTES OF THE DANVILLE-BOYLE COUNTY
PLANNING & ZONING COMMISSION
REGULAR MEETING – COMMISSIONER'S CHAMBERS
CITY HALL, 445 W. MAIN STREET, DANVILLE, KY 40422
JANUARY 26, 2022, 9:00 a.m.

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COMMISSIONERS PRESENT: James Boyd, Vice-Chair
 Steve Griffin
 Anne Sleet
 Sam Collier
 Terry Manon
 Sally Davenport
 Rita Douglas

OTHERS PRESENT: Henry Smith, Attorney
 Steve Hunter, Director

A. CALL TO ORDER / INVOCATION

A quorum of commissioners being present, Chairperson Collier opened this January 26, 2022, regular meeting of the Danville/Boyle Planning and Zoning Commission with a moment in prayer at 9:00 am.

B. APPROVAL OF MINUTES - The minutes of the December 8, 2021, special called meeting was presented for approval.

A motion to approve the minutes was made by Commissioner Manon and seconded by Commissioner Sleet. It passed unanimously.

C. FINANCIAL REPORT – The November 2021 and December 2021 financial reports were submitted for approval. (Exhibit A)

A motion to approve the November 2021 and December 2021 financial reports as submitted was made by Commissioner Manon and seconded by Commissioner Griffin. The motion passed by unanimous vote.

D. CONSTRUCTION SURETIES – Director Hunter presented the construction sureties for January 2022 and requested a motion on the following requested action:
(Exhibit B)



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1. Joedy Sharpe Construction Co Inc/ Hunt Farm Section 4 – Requests the release of his Letter of Credit (LOC) in the amount of \$11,500.00 and accept a Cash Surety in the reduced amount of \$7,012.50, to be held for remaining Sidewalk Construction (425 linear feet).

A motion to:

- Accept the January 2022 construction sureties as presented
- To release of the Letter of Credit (LOC) for Joedy Sharpe Construction Co Inc/ Hunt Farm Section 4, in the amount of \$11,500.00,
- And to accept a Cash Surety from Sharpe in the reduced amount of \$7,012.50, to be held for remaining Sidewalk Construction (425 linear feet)

was made by Commissioner Collier. It was seconded by Commissioner Davenport and passed by unanimous vote of the Committee.

E. SUBDIVISION APPROVALS

1. Dorothy Martin has applied for an approval of a Subdivision on a tract(s) of land containing 8.934 acres, located at 50 Rosel Road, Junction City, KY. The property is zoned Agriculture (AG).

A motion to give both preliminary and final approval to the Dorothy Martin plat was made by Commissioner Manon and seconded by Commissioner Collier. It passed by unanimous vote of the Committee.

2. Diana Turner has applied for an approval of a Subdivision on a tract of land containing 0.404 acres, located at 109 Colonial Way, Danville, KY. The property is zoned RM-3.

A motion to give final approval to the plat for Diana Turner was made by Commissioner Griffin and seconded by Commissioner Collier. It passed by unanimous vote of the Committee.

3. Thomas & Donna Hunstad and David & Mary Martin have applied for an approval of a Subdivision on a tract(s) of land containing 9.737 acres, located at 112 Godbey Lane, Danville, KY. The property is zoned Agriculture (AG).

A motion to give final approval to the plat for Hunstad and Martin was made by Commissioner Davenport and seconded by Commissioner Manon. It passed by unanimous vote of the Committee.

4. William & Patricia Hundley have applied for an approval of a Subdivision on a tract(s) of land containing 19.547 acres, located at 0 Dry Fork Road, Danville, KY. The property is zoned Agriculture (AG).

A motion to give final approval to the plat for Hundley was made by Commissioner Manon and seconded by Commissioner Griffin. It passed by unanimous vote of the Committee.



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5. Donald & Katherine Kaiser have applied for an approval of a Subdivision on a tract(s) of land containing 1.275 acres, located at 103 Stewart Ave, Perryville, KY. The property is zoned Agriculture (AG).

A motion to give final approval to the plat for Kaiser's consolidation was made by Commissioner Collier and seconded by Commissioner Sleet. It passed by unanimous vote of the Committee.

F. PUBLIC HEARINGS

1. Redbud Farm LLC has filed an application to rezone property on a tract of land containing 6.025 acres, located at 0 Sanctuary Road, Danville KY. The requested zone change is from Single Family Residential (R1-A) to Single Family Residential (R1-C).

- a. Director Hunter presented his staff report (Exhibit C).

- i. He pointed out the requirements of the comprehensive plan, transportation goals/map of approved City streets, and land use goals and map directives. He quoted from his report, "Applicants to zone changes must demonstrate that the proposed use of the development is consistent with the future land use map designation."

The Director also read from his report that all proposals for new developments must be assessed to determine if compatible with existing surrounding developments.... Either by compatibility or by some other site work measure, i.e.. buffering measures.

He explained the primary differences between an R1A zone and an R1C zone which is in the population density/smaller lots in R1C and less setbacks required.

- b. Chair opened the floor to public comment in favor of this zone change request.

- i. Hon. Stephen Dexter took the podium in favor of this zone change and to represent his client, Redbud Farm. This request is to change a little over 6 acres on Sanctuary Road from R1A to R1C. It agrees with the comprehensive plan. The development plan, as currently submitted, is sufficient at this stage. The current use is single family detached structures and the future use of the parcel will be single family detached structures. This zone change simply allows for a narrower lot width, from 75' in R1A to 50' in R1C.

Hon. Dexter then announced that he reserves the right to respond to any opposing opinions hereafter stated.

- c. Chair opened the floor to public comment against this zone change request.

- i. None

- d. The Chair closed the floor to public comment and requested discussion/action of the Committee.



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A motion was made, subject to the applicant's narratives and conditions, by Commissioner Collier to approve the zone change request for Redbud Farm, LLC., stating as follows: "I make the motion to **APPROVE** the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan Conditions submitted by the applicant.

Based upon the testimony and documents presented in this public hearing, the proposed Zoning Map Amendment is consistent with the adopted Comprehensive Plan as demonstrated by its compliance with the following items:

- a. Is consistent with the Future Land Use Map (FLUM);
- b. Is consistent with the adopted Goals and Objectives;
- c. Is consistent with the Development Review Provisions.

Therefore, the proposed Zoning Map Amendment is in agreement with the adopted Comprehensive plan. Further, I request that this motion include the summary of evidence and testimony presented by the witnesses at this public hearing.

The motion was seconded by Commissioner Griffin and passed by unanimous vote of the Committee.

2. Joedy Sharpe Construction Company Inc has filed an application to rezone property on a tract of land containing 32.484 acres, located at 0 Hartland Drive and 0 Ridge View Road, Danville KY. The requested zone change is from Single Family Residential (R1-A) to Single Family Residential (R1-C).

Commissioner Davenport did not participate in this action due to possible conflict.

The Board took a momentary break as Commissioner Davenport exited.

- a. Director Hunter presented his staff report (Exhibit D).
 - i. The Director discussed this request for a zone change near Colonial Heights and the Candlewood areas. The property address is 0 Heartland Drive and/or 0 Ridgeview. Its current zone is R1A and it's proposed to go to R1C, a single family residential zone for detached single-family homes. No more than five (5) units to an acre. This property was changed to a residential zoning from AG in 1974.

The Director explained that he has received multiple questions pertaining to the streets, existing stub streets, and so forth. He points out the City's Street Connections Map as is included within Chapter 7 of our Comprehensive Plan. He also pointed out points on page 5.1 of our subdivision regulations, requiring stub streets to the next property. The City's Street connections map was last revised in 2017. The Director explained that a traffic study would be required. At the time the Commissioner packets were sent, neither a traffic study nor waiver had been received. My office received notice this week that



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the city will require a traffic study, but they are willing to accept it in a later phase of development. It is not as common that traffic studies be performed with residential developments but Planning and Zoning will follow the city engineer's directive.

- b. Chair opened the floor to public comment in favor of this zone change request.

i. Hon. Stephen Dexter took the podium in favor of this zone change and to represent his client, Joedy Sharpe Construction. The intended purpose of this zone change request, which will be for single family detached homes, not multi family, not modular, no mobile home, not mix uses nor commercial use. The current use is single family detached structures and the future use of the parcel will be single family detached structures. This zone change simply allows for a narrower lot width, from 75' in R1A to 50' in R1C. Today the shown streets must be connected because it is required. The additional about 30 lots, created by this zone change for density, would not normally require a traffic study.

Hon. Dexter reiterated the agreed upon conditions and the added condition that a traffic study will be done at the construction phase. He points out that this proposed use meets several objectives of the comp plan, and that this is infill development. It is an efficient use of existing resources. This meets that objective. All staff items of concerns have been addressed. I request the right to make concluding remarks.

- c. Chair called for a 7minute recess with the meeting to reconvene at 25 'till.
- d. Chair called the meeting back to order and opened the floor to any wishing to speak against this development.

i. Hon Brandon Shevlin of Helton Law Office took the podium to speak in opposition of this zone change as representative on behalf of Anna Claire Compton who speaks for herself and many residents of Colonial Heights. He said, "From a technical standpoint, I do not know that requirements for this submittal have been met. The need for a traffic study and submittal of a general development plan, as the submitted development plan does not offer enough information."

"The commission is tasked with determining compatibility with the existing surrounding use. Regardless of what Counsel for the development state, they are not reflected specifically in the stated conditions. That, with the lacking information on the submitted development plan, leaves the commission unable to properly judge compatibility. The commission is here to be a buffer between the developer's self-interest and the needs of the community, and the commissions need to steer development toward compatibility."



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Hon. Shevlin argued that a traffic study, particularly with regards to this connector road, should be done now and that there isn't the demand for this density of single-family homes according to statistics quoted by P&Z. That without a zoning change the 91 homes allowable as is would still be 3 times more new homes than table 5-5 of the comp plan says would be needed for the next 8 years. (Exhibit B). There is no justification to change this 2-year-old zoning. He read objective 5 in the comp plan that stated "Respect the character of existing neighborhood...conform to existing..." at a minimum, if this is to go forward, additional conditions should be made to ensure that mobile homes, modular houses, or apartments would not be permitted in this R1C Zone.

- ii. Jacob Webb, 127 Betsy Ross. He presented 126 signatures on a petition. The map included in the letter to adjacent properties did not show the roadways. The additional traffic that may occur with this development is a matter of concern for residents.
- iii. Eddie Compton, 133 Betsy Ross. He expressed concerns about the increased density of housing in the area and questioned how the compatibility will work with the new development being connected to our deed restricted Colonial Heights.
 - a). Commissioner Collier asked Mr. Compton to provide more detail about the deed restrictions he feels may be impacted.
 - b). Mr. Compton pointed out that Colonial Heights is restricted to at least 1500 square foot houses, no outbuildings, connector buildings can only exceed so far from the house, and more.
- iv. Rod Hullet, 152 Ridgeview. He expressed concern about traffic, the speed of vehicles driving through, with the number of children that play in the neighborhood.
- v. Carolyn Powell, 115 Ridgeview. Expressed her concern that a traffic study after the project has gotten a go ahead does not make any sense.
- vi. Judy Short, 147 Ridgeview. My house feels like home because there is little traffic in the area. There are sidewalks and lighting, and a general atmosphere that will change with an increase in traffic.
- vii. Stacy Sandy, 109 Betsy Ross. We looked for a closed neighborhood where my special needs daughter could have the freedom to walk our dog safely. If this road must be built, can it be built with curves and things that could regulate the speed of traffic in the area. She asks that development not be restricted to small lots because many people are looking for larger lots.
- ix. Hon. Dexter spoke in closing stating as follows:



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- a) A revision to conditions #2 with an added comma and “that shall not consist of mobile homes, modular homes, or manufactured homes.”
- b) The general development plan submitted is more than sufficient and is in concert with the plans this commission has received for decades.
- c.) In regard to compatibility – in zone change hearings compatibility is broad. To the north is low density residential, to the east, west, and south is low density residential. Therefore, this single-family low density residential use is compatible.
- d.) This will be a phased development. It will be developed over time as the market directs. This developer owned this land prior to the establishment of Colonial Heights; therefore, the deed restrictions for Colonial Heights would not apply to land owned prior to the establishment of the restrictions.
- e.) This parcel has had single-family residential zoning since 1971.
- f.) If a traffic study was supplied today, we would say is construction plans will be developed in accordance with the traffic study. There is no benefit to the commission in having that study today. The traffic study will be completed as an engineering tool that is provided by the developer in conjunction with city engineering, at the time of construction. To delay a commission, vote to have a traffic study prior to your consideration is extreme inefficiency of process. Furthermore, you have a directive from city of Danville staff saying that traffic study will only be required at construction phase.
- d. The Chair closed the floor to public comment and requested discussion/action of the Committee.
- i. Commissioner Collier asked Counsel to read the suggested condition revisions.
- ii. Counsel Smith stated the revisions are to Condition #2 which now reads as follows: “The applicant agrees that each dwelling will be a detached single-family dwelling that shall not consist of mobile homes, modular homes, or manufactured homes.” And Condition #6 that states “there shall be submission of a traffic study to city engineering staff prior to the subdivision construction phase.”
- iii. Commissioner Griffin spoke, saying he has heard neighboring residents’ concerns about compatibility, and he has not seen any insurances that the development will be compatible. There is no mention of materials to be used, square footage minimums, or cost. He further stated he is concerned



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that the city is not requiring a traffic study prior to the project being initiated.

iv. Director Hunter offered clarification on traffic study requirements. It starts with a scoping exercise – going out to further intersections – which would be set by the city engineers. The developer will then go out and do a traffic impact study. The level of service would be studied and trip generations (where is traffic going). Traffic studies are more common in subdivision developments at the zone change level when a new entrance is considered. This traffic study would review internal circulation and connectivity factors. This traffic study needs to look at traffic problems and design, which is likely more applicable at the construction phase.

A motion was made, subject to the applicant's narratives and conditions, by Commissioner Collier to approve the zone change request for Joedy Sharpe Construction, stating as follows: "I make the motion to **APPROVE** the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan Conditions submitted by the applicant.

Based upon the testimony and documents presented in this public hearing, the proposed Zoning Map Amendment is consistent with the adopted Comprehensive Plan as demonstrated by its compliance with the following items:

"We find the Applicant met its burden to receive a recommendation of approval, per the state statutory and consistent zoning ordinance standards. A future land use map amendment is not necessary because the applicant's proposed conditions create conformity with the Comp Plan and FLUM."

EXHIBIT K MADE A PART HEREOF AS IF COPIED HEREIN – AGREED UPON CONDITIONS BY JOEDY SHARPE CONSTRUCTION

"Attorney testimony suggested that the Comprehensive Plan's housing need numbers are dated, and moreover Applicant suggests that housing at a certain price point is needed and will be provided in the proposed development. The Commission finds that a modified exemption from the traffic study requirement is warranted, as set out in the applicant's amended conditions; that the proposal constitutes an infill project, highlighted as preferred in the Comprehensive Plan; and that the proposal is conforming to and compatible with the surrounding area: it comprises only a slight modification to existing zoning and use. What will be designed and built under the rezoning and applicant conditions is not so different in kind of scale from surrounding properties, and especially from what is currently already permitted on the subject property." "The motion was seconded by Commissioner Manon and passed by full vote of the Committee members minus Commissioner Davenport.

Commissioner Davenport returned to her commissioner duties at this time and Commissioner Griffin left the meeting. Vice-Chair acknowledged a quorum remains.



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3. The Danville-Boyle County Planning & Zoning Commission has filed an application to amend Article 3 (Procedures & Requirements), 5 (Design Improvement Standards), 6 (Construction Procedures) and Appendix A (Street Design Standards) of the Boyle County Subdivision Regulations.

a. Director Hunter addressed the commissioners to suggest they review this text amendments/documents, sub reg changes, and then table them so they may be reviewed in depth.

ii. The goal of this text review and amendments was to build a better project. It has been a huge collaboration of engineers and builders/developers.

iii. Article 3's major change had to do with when we build subdivisions, we require builders to post bonds, to backstock the project with money. They can do performance bonds, letters of credit, or cash. We have required the developers to put up a 100%. We will now offer a 20% option and build all the roads upfront then record plat once roads have been accepted by city/county.

iv. Article 5 is design standards. It states how we want streets built. Street design, construction, drainage, lot shapes, lot frontages, stub streets. Roads will be 8 inches dense grade (DGA stabilizer stone combo) 2 ½ inch base, and 1 ½ final surface.

v. Article 6, new, construction oversight, process inspections and certifications of curbs, storm sewers.

A motion was made by Commissioner Manon to table the amendments to Article 3(Procedures & Requirements), 5 (Design Improvement Standards), 6 (Construction Procedures) and Appendix A (Street Design Standards) of the Boyle County Subdivision Regulations. His motion was seconded by Commissioner Sleet and passed by unanimous vote of the 6 seated commissioners.

4. The Danville-Boyle County Planning & Zoning Commission has filed an application to amend Article 5 (Use Regulations) of the Boyle County Zoning Ordinance.

a. Director Hunter explained that, by directive of the fiscal court, and directed P&Z to revise our regulations to get ahead of any development that may be coming our way. The week following the county's moratorium a group of individuals flew in and met with me about their proposed project. It was an approximate 1100-acre facility in Boyle, with acreage in Lincoln and Garrard as well. I explained that our ordinance regarding solar farms was currently under revision. They said they understood the review/revisions and to let them know when our ordinances are set.

b. Chair opened the floor to public comment in favor of the suggested changes to the ordinance standard.



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- i. Sara Vahlcamp, with smart growth Boyle, 875 Shadeland Drive. As a group we strongly support solar energy, but we do not want to see more farmland go out of production.
- ii. Francis Hollern, 382 Briarcliff Lane. She stated that she would like to see additional points added to the proposed ordinance amendment –
- a) Preserve farmland
 - b) Protect pollinators
 - c) Consider bonds for clean up in case of fail
 - d) Protection from run off and silt during construction
 - e) Proper disposal of panels
 - f) Fencing
 - g) Rezoning from Ag to lite Industrial being that it could revert to AG should the facilities fail
- iii. John Cotton – General Manager Wilderness Trace Solar – VP Ky Solar Industries. Spoke about senate bill 69, from Sen Hornback, and senate bill 52, also by Hornback, which is a legislative mandate that will change if you take AG property into any other zoning, industrial or residential, it will include a \$100.00 per acre tax to be paid to the county pva and forwarded to the State for Pace programs in the future.

Installers feel 50 megawatts is the bare minimum for a financial return on their investment – the cost of instillation – though 75 to 100 would be even better. Bonding for the retirement of a system and replacement of parts for upkeep needs to be a consideration. Solar farms are cheaper to create than power plants, even for natural gas. The demand will only increase. Keep in mind the ordinances will need to grow with the continually growing/changing solar industry.

He spoke about “Aggrotech” which augments current largescale solar farm systems to co-used with pollinators, grazing cattle under them, growing certain row crops beneath them. He stated “This keeps this farmland a viable AG product as well as having the co-use of being a power generating facility. People in AG realize solar works for them. The large-scale fields let farmers lease their lands for 25 years, the land stays in their family, it offers a retirement income for aging farmers looking for a way to keep their lands and pass it along to their children.”

Senate Bill 69 will require fencing and screening above and beyond what is stated in your local ordinance.

- iv. Commissioner Collier spoke to the point that this industry is in flux. When looking to develop an ordinance we will need to review every few years. The Aggrotech projects are extremely interesting, and this dual use of land is a trend of the future that we need to keep in mind.



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v. Director Hunter said that right now, under state law (krs 100), does not address dual use. There are a lot of laws to be redrawn on many levels.

vi. Mary Robins Spoonamore – 5035 Lancaster Road. She said that “Farmers deserve options for their lands that are not automatically shut down by county ordinances.” Consider the farmer’s voice. Farm families have a great appreciation of the land, the beauty of the land, and the desire to preserve the land. Older farmers understand full well the sobering economic picture of the farming industry. We all try to keep the farm going but do not see the action being any easier in the future. We turned down the solar development contract offered us for our own reasons. Our concern is if we should be approached with a suitable contract option, would we then be blocked by county ordinances blocking our choices.

vii. Lucian Dearborn on behalf of Fred and Louise Dearborn, 495 Clifton Road. He talked about how his family were alarmed when we realized this huge solar project was attempting to develop around them. He talked about the storage of the solar energy. Merchant solar does not care about our rural heritage. Ordinances need to be beefed up. (See Exhibit J)

viii. Magistrate Jason Cullen – This is not about moving solar in or out of here, it is about the fact that we have Planning & Zoning and if you are going to have industrial things happen, it must be zoned properly. If we keep skirting around our P&Z by allowing things like this, we may be at risk of losing our P&Z with things struck down in court because we have allowed it in other ways. The Court greatly appreciate or farmer’s, I appreciate our farmer’s, but we are asking all industrial activity be zoned properly.

x. Ron Barbados, Chrisman Lane. If you change from Ag to Industry is that permanent?

xi. Director Hunter answered that a new zone change would be required to take the area back to AG. It would be easier to revert a Use back to AG but an actual zoning would require a zone change.

xii. Counsel Smith added that, there’s no such thing as zoning that would automatically revert to prior zoning, another zone change would be needed. But with decommissioning requirements, changes that may happen in state law, could have something that returns to AG after the facility ceases.

xiii. Jim Roagan, Jenkins Lane. If part of the county is zoned Industrial for this use and many years ahead the solar facility leaves, can this land then be purchased and used for factories or some other industrial use?

xiv. Counsel Smith answered that any zone changes to industrial, if restricted as it should be by the Commission, would be limited to use as merchant generating facility.



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xv. Director Hunter answered that the commission would have to be aware and condition a zone change from AG to Industrial to prevent incompatible uses occurring on the rezoned land.

A motion to table the public hearing on this ordinance amendment was made by Commissioner Manon. The motion was seconded by Commissioner Sleet and passed by unanimous vote of the Commission.

G. NEW BUSINESS -

1. Advisory Committee Report
2. Personnel Committee Report
3. Budget Committee Report
4. Other New Business
5. Announcements

H. ADJOURN - A motion to adjourn this January 26, 2022, meeting of the Danville-Boyle County Planning and Zoning Commission was made by Commissioner Davenport and seconded by Commissioner Sleet. The motion then passed by unanimous vote of the Committee.

Transcribed by:

LISA G. BOWMAN, Administrative Assistant II

Approved this _____ day of 2/23/22 2022.

DANVILLE-BOYLE P&Z COMMISSION Chair