



Danville-Boyle County Planning & Zoning Commission
445 West Main Street P.O. Box 670
Danville, Kentucky 40423

MINUTES OF THE DANVILLE-BOYLE COUNTY
PLANNING & ZONING COMMISSION
REGULAR MEETING – COMMISSIONER'S CHAMBERS
CITY HALL, 445 W. MAIN STREET, DANVILLE, KY 40422
FEBRUARY 23, 2022, 9:00 a.m.

City of Danville YouTube Media Channel

***** ****

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

OTHERS PRESENT: Henry Smith, Attorney
 Steve Hunter, Director
 Lisa Bowman, Administrative Assistant II

- A. ALL TO ORDER / INVOCATION** - A quorum of commissioners being present, Chair Baird opened this January 26, 2022, regular meeting of the Danville/Boyle Planning and Zoning Commission at 9:00 AM. Vice-Chair Boyd led a moment of prayer.
- B. APPROVAL OF MINUTES** – A motion was made by Commissioner Collier to approve the minutes of the January 26, 2022, PZC meeting. The motion was seconded by Commissioner Sleet and passed by unanimous vote.
- C. FINANCIAL REPORT** – A motion was made by Commissioner Manon to approve the January 2022 financial report as submitted, attached herewith and marked as Exhibit A. Commissioner Griffin seconded the motion and it passed unanimously.



Danville-Boyle County Planning & Zoning Commission

445 West Main Street P.O. Box 670

Danville, Kentucky 40423

D. CONSTRUCTION SURETIES – The construction sureties report for February 2022 (Exhibit B herewith) required no action by the Commission.

E. SUBDIVISION APPROVALS

1. Rhonda Doss has applied for an approval of a Subdivision on a tract(s) of land containing 1.610 acres, located at 108 Gose Pike, Danville, KY. The property is zoned Industrial Business Development (IBD).

Commissioner Boyd made a motion to approve the plat for Rhonda Doss. Commissioner Davenport seconded the motion and it passed by unanimously.

2. Bux, Bux, Rivard & Serey, LLC have applied for an approval of a Subdivision on a tract(s) of land containing 7.715 acres, located at 1001 Ben-Ali Drive, Danville, KY. The property is zoned Highway Business (HB).

Commissioner Collier made a motion to approve the plat for Bux et al. Commissioner Ruby seconded the motion and it passed unanimously.

3. Shelby Green, LTD have applied for an approval of a Subdivision on a tract(s) of land containing 11.203 acres, located at 0 Clements Drive and 0 Willis Drive, Junction City, KY. The property is zoned Single Family Residential (R1-A).

Commissioner Douglas recused herself from this vote due to conflict.

Commissioner Boyd made a motion to approve the major plat for Shelby Green Phase 2, Section 2, that was seconded by Commissioner Manon. The motion passed by unanimous vote of the 7 voting commissioners.

Commissioner Douglas acknowledged her reentry to the commission vote.

4. Raymond & Vivian Belcher have applied for an approval of a Subdivision on a tract(s) of land containing 0.509 acres, located at 0 Hustonville Road, Junction City, KY. The property is zoned Highway Business (HB).

After a brief discussion pertaining to a barn that encroaches over this property's line and unto a neighboring parcel and asking clarification from counsel, it was determined that a non-conforming notation on the plat was sufficient, and the encroached property owner need not sign this plat in acknowledgment of the encroachment.

Commissioner Griffin made a motion to approve the Belcher plat. Commissioner Davenport seconded the motion and it passed unanimously.

5. Mark and Janelle Farrell & Chris and Heather Stewart have applied for an approval of a Subdivision on a tract(s) of land containing 16.587 acres, located at 6210 and 6252 Perryville Road, Danville, KY. The property is zoned Agriculture (AG).



Danville-Boyle County Planning & Zoning Commission

445 West Main Street P.O. Box 670

Danville, Kentucky 40423

A motion was made by Commissioner Collier to table this final approval of Farrell and Stewart until a signed plat application, fee payment, and corrected plat copies have been received. Commissioner Davenport seconded the motion and it passed unanimously.

6. Paul and Patricia Murray have applied for an approval of a Subdivision on a tract(s) of land containing 12.745 acres, located at 3212 Persimmon Knob Road, Junction City, KY. The property is zoned Agriculture (AG).

A motion to approve the plat for Murray was made by Commissioner Boyd, seconded by Commissioner Griffin, and passed by unanimous vote of the Commission.

F. PUBLIC HEARINGS

1. Paul Feistritz has filed a Site Development Plan on a tract of land containing 4.387 acres located at 101 Kim Avenue, Danville, KY. The property is zoned Highway Business (HB).

- a. Director Hunter presented this Site plan for Feistritz's 101 Kim Avenue proposed storage units, indicating the following conditions for possible approval:

- A Landscape Plan must be submitted and approved by the Director prior to the issuance of a zoning permit.
- A drainage plan must be submitted to the City Engineer and approval acknowledged prior to issuance of a zoning permit, and
- A plat that removes the unused utility easement, granted by the authority of the utility providers, must be submitted, with a signed plat application and recording fees, for inclusion in the upcoming PZC on March 23, 2022. Said plat must be recorded in the Boyle County Clerk's Office prior to the issuance of a zoning permit.

- b. Chair opened the floor to public comment in favor of this site development plan.

1. Dale Shepperson of AGE took the podium to explain Feistritz's intent to submit a revised plat, eliminating the easement, at the next PZC meeting. He added that Feistritz desires to discuss landscaping options with the director, preferring to possibly plant trees on 8' centers rather than using a standard fencing option. The landscaping shall be only on the Northside boundary and on the West.

- c. Chair opened the floor to public comment against this site development plan. No response being made, the Chair closed the floor to public comment and requested discussion/action of the Committee.



Danville-Boyle County Planning & Zoning Commission

445 West Main Street P.O. Box 670

Danville, Kentucky 40423

A motion to approve Paul Feistritzter's Site Plan, together with the conditions stated in the points of F.1.a herein, was made by Commissioner Boyd. It was seconded by Commissioner Manon and passed unanimously.

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

A motion to remove this item from its tabled position was made by Commissioner Manon and seconded by Commissioner Ruby. It was then approved unanimously.

- a. Director Hunter reminded the Commission that, per directive of the Fiscal Court, he researched and drafted ordinance language to be considered for the revision of Article 5 with regards to Solar Farms and particularly Merchant Solar Facilities.

During the last PZC meeting, Kentucky's proposed House bill 69 and House bill 392 were discussed. They address this subject on a state level, particularly with regard to Merchant Solar Facility regulations and decommissioning regulations. If bill 69 shall pass, it would not alter the verbiage in the ordinance revision proposed today. Further, should house bill 392 pass, it will grant specific authority to counties to add their own decommissioning regulations.

The proposed Article 5 revision for review today helps to address what solar related uses may be allowed within the Agricultural district and at what level/degree a solar project then becomes industrial, requiring a Zone Change.

- b. Commissioner Collier asked the Director if the State will dictate when an Agricultural zoned project property would require a zone change to Industrial?

- c. Counsel Smith advised Commissioner Collier that the decision whether a zone change would be required would be a local decision, not state.

- d. The Director went on to explain, per the proposed Ky. House Bills and under current law, ALL facilities that sell energy into a central grid, must file an application with the Commonwealth first. All Merchant Producing Facilities creating 50 megawatts or more of power, will be required to be industrially zoned under the draft proposal to Articles of the Zoning Ordinance. Solar producing facilities under 50 megawatts of power, may be zoned Agricultural if 50% of the property remains in Agricultural use (production) as defined by KRS 100.111.

- e. Commissioner Ruby and other Commissioners entered discussion about the possibility of Merchant solar facilities acquiring use of multiple 10-acre AG parcel operations to feed power into one grid, as a way of bypassing the rezoning ordinance.



Danville-Boyle County Planning & Zoning Commission

445 West Main Street P.O. Box 670

Danville, Kentucky 40423

1. Director Hunter explained that any source of power being fed into the grid would be considered a part of the Merchant Solar Operation.

2. Counsel Smith offered the following verbiage possibility for the proposed revision:

f. Chair Baird opened the floor to public input.

3. Danville resident Mike Hamm took the podium and asked the Commission to keep in mind, during revised ordinance proposals, the excessive need for pollinator friendly plantings and animal habitat preservation efforts with the creation of any solar endeavor, at perhaps the site plan or zoning permit level.

a. Commissioner Manon directed a question to the Director, asking if pollinator friendly plantings and/or animal habitat preservation addressed anywhere within the proposed House bills or the proposed ordinance revision?

b. The Director answered that it was not.

4. Boyle County resident, Anne Ferguson, took the podium to second Mr. Hamm's points and to thank the Commission for their thorough consideration of this subject.

5. 4th District Magistrate, Jason Cullen, took the podium and expressed his concern that the possible water run-off and wildlife impact solar facility development could cause has not been properly addressed. He expressed his thought that the PZC must require the proper zoning classification for the use of property, i.e. Agricultural uses in AG, Industrial uses in Industrial, Commercial uses in Commercial, because to do otherwise could weaken the community planning process. Solar facilities, particularly over 50 megawatts, are an industrial use.

6. Magistrate John Caywood took the podium to express his gratitude to the Commission for their hard work.

g. Chair Baird closed the floor to public input and requested debate and/or action from the Commission.

Commissioner Collier made a motion to table this amendment and to present a redrafted Article 5 Amendment document at the next PZC Meeting that will include the following changes:

- Replace all "tract" with "lot":
 - **D. Merchant Electric Generating Facility [...]**
 - 4. Exceptions.
 - [...] b. Merchant Electric Generating Facilities in the unincorporated area of Boyle County located on a **single lot, multiple lots** or on contiguous **lots** with



Danville-Boyle County Planning & Zoning Commission
445 West Main Street P.O. Box 670
Danville, Kentucky 40423

project areas capable of operating at an aggregate capacity greater than 50 megawatts [...]

- **5. Specific Use Standards.**
 - [...] b. Merchant Electric Generating Facilities shall not be located in the Agriculture (AG) district on ***lots*** less than 10 acres in size and shall not contain a facility capable of operating at an aggregate capacity greater than 50 megawatts on a ***single lot, multiple lots*** or contiguous ***lots*** in the Agriculture (AG) district. Merchant Electric Generating Facilities located in the Agriculture (AG) district shall maintain at least 50 percent of the property as an agricultural use as defined in KRS 100.111 and/or preserved as a conservation area.
 - c. Merchant Electric Generating Facilities located on a ***single lot, multiple lots*** or contiguous ***lots*** with project areas capable of operating at an aggregate capacity greater than 50 megawatts shall only be located in Light Industrial (LI), Heavy Industrial (HI) or Industrial Business Development (IBD) Districts.
 - d. A Site Development Plan Application and Approval is required for any proposed Merchant Electric Generating Facilities on a ***single lot, multiple lots*** or contiguous ***lots*** in the Agriculture (AG) district, Light Industrial (LI), Heavy Industrial (HI) or Industrial Business Development (IBD) District[s].
- Add reference to "structures"
 - **5. Specific Use Standards.** Wind and Solar electricity Generating Facilities must be located a minimum of 500 feet from any residential district, use or structure. ***Merchant Electric Generating Facility ("MEGF") infrastructure, except for power lines connecting the MEGF site to regulated utility facilities shall be considered "structures" as defined in, and for the purposes of this Zoning Ordinance.*** Merchant Electric Generating Facilities in the unincorporated area of Boyle County are subject to the following Specific Use Standards in all applicable zoning districts [...]
 - d. A Site Development Plan Application and Approval is required for any proposed Merchant Electric Generating Facilities. In addition to the Site Development Plan requirements outlined in Article 3, Section 3.11.5, the Planning Commission shall consider the impact of the proposed facility upon surrounding properties and institute other site design measures so that the character of the area is protected.
 - c. ***MEGF infrastructure on one lot or on multiple, contiguous lots, shall be considered a single facility for purposes of this***



Danville-Boyle County Planning & Zoning Commission

445 West Main Street P.O. Box 670

Danville, Kentucky 40423

Ordinance. Facilities capable of operating at an aggregate capacity greater than 50 megawatts shall only be located in Light Industrial (LI), Heavy Industrial (HI) or Industrial Business Development (IBD) District. **Development of an MEGF on an adjacent property to a previously developed MEGF - and connection of the two MEGFs - shall cause the connected MEGFs to be considered one MEGF and shall trigger the necessity of industrial zoning for the lots upon which the connected MEGFs are situated, should all operate at an aggregate capacity greater than 50 megawatts.**

Commissioner Ruby seconded his motion then passed by unanimous vote.

3. **TABLED ITEM** - 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 Motion, to remove this application to amend Articles 3, 5, 6, and appendix A, from its tabled status, was made by Commissioner Ruby and seconded by Commissioner Sleet. The motion passed by unanimous vote.

a. The Director recalled the revisions to the Commissioners, acknowledging the months and months of effort that went into developing them by and through staff, committee, Counsel, and others. His brief description of the revisions to each article and appendix are as follows:

1. Article 3 revisions regard improvement bonding options for developers

2. Article 5 deals with Road Standards, which calls for 'deeper' road paving and wider sidewalks. Clearly, there will be an additional cost to the developer. Current cost example is \$525.00 per linear foot of road and additional cost after revision has not been calculated. However, the revised sub regs also offer the developer a great deal more 'wiggle room' and options that may result in some cost savings.

3. Article 6 deals with Inspection Standards

4. And Appendix A shows options in table form

b. The Director continued: We need to figure out how to bridge the gap that will likely occur between current developments, which have not yet submitted construction plans, for which they have a 3-year submission period from the date of their preliminary plat, and new developments filed after approval of these amendments.

c. Counsel Smith suggested we implement the new (Revised) standard for all development **construction plans submitted on or after June 1, 2022.**



Danville-Boyle County Planning & Zoning Commission
445 West Main Street P.O. Box 670
Danville, Kentucky 40423

A motion was made by Commissioner Ruby to approve the Amendments to Articles 3, 5, 6, and appendix A of the Sub Regs, adding the following in addition to his motion:

- Sub reg update:
 - **ARTICLE 3**
 - **SECTION 3.1 Subdivisions**
 - **C. NOTIFICATION LETTER** - If application deficiencies are found, a letter advising the applicant of an incomplete application status and what must be done to complete the application to make it eligible for review. This letter will be sent to the applicant by the Planning Commission Staff within three (3) business days of submission.
 - **ARTICLE 5**
 - **SECTION 5.1 PURPOSE AND EFFECTIVE DATE**
 - The purpose of this Article is to set forth the basic and minimum design and improvement standards required as a prerequisite for development or in conjunction with lot, street, utility, other physical development in the subdivision. The developer may exceed the standards set forth in these regulations, or in some cases, be required to exceed the standards. Construction Plans for Plats approved prior to ratification of this Article, and submitted by June 1, 2022, shall be governed by the prior Article 5's "Design and Construction Standards."
 - **SECTION 5.7 STREET STANDARDS**
 - [pg. 5-12 – Delete -] ~~S. STREET-IMPROVEMENT REQUIREMENTS FOR DEVELOPMENT ADJOINING EXISTING ROADWAY—Any substantial development of subdivided property may reasonably be anticipated to create a burden on existing public roads, thereby posing a traffic and safety hazard. In order to mitigate that hazard and to advance the interest in having safe and adequate roadways, the following requirements shall apply whenever a subdivision is proposed for property abutting an existing public roadway which does not meet the right-of-way and pavement width standards for the functional classification of that street.~~

Commissioner Boyd seconded the motion and it passed by unanimous vote of the Commission.

G. NEW BUSINESS

1. Advisory Committee Report - none
2. Personnel Committee Report - none
3. Budget Committee Report
 - FY22 Budget Amendment #1
 - FY23 Preliminary Budget



Danville-Boyle County Planning & Zoning Commission

445 West Main Street P.O. Box 670

Danville, Kentucky 40423

Commissioner Ruby made a motion to approve the FY22 Budget Amendment #1 and the FY23 Preliminary Budget. Commissioner Griffin seconded the motion and it passed by unanimous vote.


4. Other New Business

- Elect Officers & Committee Assignments
- By nomination of Commissioner Manon, a motion was made to retain Jeff Baird as PZC Chair and Jim Boyd as PZC Vice-Chair, if they are so willing. Commissioner Griffin seconded the motion and it passed by unanimous vote.
- Committee appointments were altered slightly, with the addition of 'substitute' committee members.

5. Announcements- none

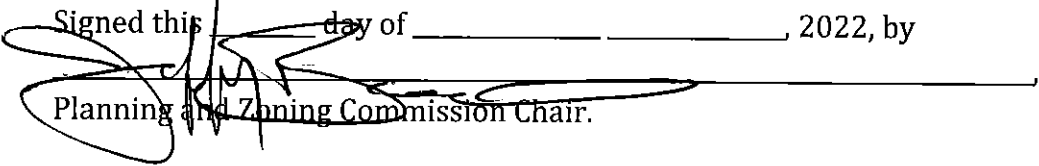
H. ADJOURN - Commissioner Boyd made a motion to adjourn this February 23, 2022, meeting of the PZC. The motion was seconded by Commissioner Sleet and passed by unanimous vote.

Drafted By,



LISA G. BOWMAN, ADMINISTRATIVE ASST. II

Signed this _____ day of _____, 2022, by



Planning and Zoning Commission Chair.