

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE JULY 9, 2013 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Dennis Bass
Ms. Lauri Harding
Mr. Tony Pfeffer
Mr. Edward Stubbs
Mr. Michael Williams, TPO
Mr. Justin Verst, Vice Chair
Ms. Cynthia Minter, Chair

MEMBERS ABSENT:

Ms. Deborah Blake

STAFF PRESENT:

Mr. Ryan Hutchinson, Planner
Mr. Michael Duncan, Legal Counsel
Ms. Stephanie Turner, Secretary

Ms. Minter called the meeting to order at 7:05 PM. Following roll call, a quorum was found to be present. Ms. Minter asked if everyone had reviewed the May 14, 2013 meeting minutes and asked if there were any additions or corrections. There being none, Ms. Minter called for a motion. Mr. Williams made a motion to approve the May 14th meeting minutes as submitted. Mr. Verst seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed.

Ms. Minter introduced case #122-13-ZMA-01, Gary and Amanda Walters, with a request for approval of a zone map amendment proposing a change in zoning from R-CO to R-RE and asked Mr. Hutchinson to present the staff report and staff's recommendation to the Commission.

FILE NUMBER: 122-13-ZMA-01
APPLICANT: Gary and Amanda Walters
LOCATION: A 4.0119 acre lot located along the east side of Licking Pike, one mile from the AA highway in Unincorporated Campbell County KY.
REQUEST: Approval of a zone map amendment proposing a change in zoning from R-CO to R-RE.

Considerations:

1. The 2008 Campbell County Comprehensive Plan Update designates the area for Higher Density Single Family and Agricultural and rural. The Campbell County Zoning Ordinance classifies the area within the R-CO (River Recreation / Conservation) Zone.
2. The site in question is vacant.
3. The request is to rezone the lot from R-CO to R-RE. This would allow the applicant to build a home and be consistent with the adjacent zone in the neighborhood.
4. CAMPBELL COUNTY ZONING CLASSIFICATIONS:

R-RE

The R-RE Zone is a single family detached zone.

Zone RequirementsR-RE

Minimum lot area	- 1 AC.
Minimum lot width at building setback line	- One Hundred (100) feet
Minimum front yard depth	- Fifty (50) feet
Minimum side yard width on each side of lot	- Twenty Five & Ten (25 / 10) feet
Minimum rear yard	- Twenty Five (25) feet
Maximum building height	- Thirty Five (35) feet

5. The submitted plan indicates the following:

- a. The plan indicates a proposed 2,000 sq ft house (not to scale) on the lot.
- b. The site plans show an existing gravel parking lot fronting the existing lot along Licking Pike.
- c. The site plans show an existing gravel drive to be relocated to the other side of the gravel parking lot.
- d. The surrounding zoning is R-RE.
- e. The site plan shows an existing 150' foot high voltage easement from north to south along the west side of the property line.
- f. The site plan does not show contours at 5' foot intervals.
- g. The site plan does not show a notation for 20% slopes or hillside development controls.

Staff Recommendation:

The CC&MP&ZC recommend approval of the Map Amendment to subject to the following conditions:

1. That the Legislative Body adopts the map amendment portion of the submitted request.
2. That the applicant complies with all applicable building, subdivision and zoning ordinance regulations.
3. That the existing gravel parking lot be removed and replaced with natural features (grass, shrubs, trees are a few examples).
4. That the site plan be revised to show contours at 10' foot intervals.
5. That the site plan be revised showing a home at a proper scale.
6. That the following notation be added to the site plan "that the new building development on areas containing ground slopes of 20% or greater will require will require implementation of "Hillside Development Controls" contained within the Campbell County Zoning Ordinance.

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. Section 9.23, A., of the Campbell County Zoning Ordinance regarding Hillside Development Controls states that when development is proposed in those areas of the community which have physical characteristics limiting development (hillside slopes of 20% or greater) that said development will occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards.
2. Section 11.2, E., of the Campbell County Zoning Ordinance regarding, Driveway Provisions: Except for Residential (R-RE & R-1) Zones, parking or areas adjacent to streets, roads, highways, or deeded rights-of-way shall have driveways or openings not less than twelve (12) feet in width and no more than forty-eight (48) feet in width at the curb, excluding curve radius. These curb cuts shall be so located as to minimize traffic hazards and congestion. All such parking lots or areas shall have a protective wall or bumper block around each parking lot and said parking lots shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic. In the case of R-RE and R-1 Residential Zones, no driveway width at the street right-of-way junction shall be less

than nine (9) feet, excluding curb radius, providing that this width may be increased if it can be determined, after review and approval of the Planning and Zoning Commission that said additional width will not impede the flow of traffic.

3. Section 9.19 of the Campbell County Zoning Ordinance regarding site plan requirements.

Ms. Minter interrupted Mr. Hutchinson's report to ask him to clarify which gravel lot was being recommended to be removed. Mr. Hutchinson replied that it was the gravel lot located at the front of the property along Licking Pike. For safety concerns, we would not want that to be located at the entry point of the driveway. At the conclusion of the staff report, Mr. Hutchinson advised the Commission that the applicant's surveyor submitted a new plat yesterday which has not been distributed to the Commissioners. In that plat, the surveyor corrected the site plan to show the proposed home to scale, to reflect the contours at five feet intervals and added the notations regarding the hillside slope of twenty percent or greater. The surveyor forgot to remove the gravel lot at the front of the property along Licking Pike so Mr. Hutchinson is asking that condition #3 remain on the recommendation, but advised that conditions #4, #5 and #6 can be removed.

Mr. Hutchinson asked if there were any other questions he could answer for the Commission. Mr. Williams stated he was confused about the parking lot. Is it across the street of Licking Pike? Mr. Hutchinson replied that it is on the same side of the road as the property, along the front, where the site fronts on Licking Pike. Mr. Hutchinson pointed out the location of the gravel lot on the slide. Mr. Hutchinson advised that this is the location for the new driveway for the proposed home. Currently the lot is being used by other residents and visitors to the bar across the street from this site. The Commissioners faced a similar issue on Stonehouse Road for the church where they proposed one large parking lot around the church that went all the way to the road. We felt it was a safety issue as far as eliminating curb cut access. We made them change their plan to show an in and out rather than a fifty foot curb cut.

Mr. Williams asked if there was a business across the street. Mr. Hutchinson stated that the business that was directly across the street is gone now. Mr. Williams asked who used the parking then. Mr. Hutchinson stated no one anymore. It used to be affiliated with the Knotty Pine, but they are gone now. Mr. Williams asked if the intent was to prevent anyone from parking in that location in the future because of the safety issue. Mr. Hutchinson replied that was correct, but also so that no one thinks that it is a wider road in that spot and tries to drive off onto that area and to prevent anyone from parking cars all along the front of the property. Mr. Verst stated that the biggest safety concern there is that if you have anyone who pulls in to park there, head in, and then they try to back out, they will be directly into the roadway and another vehicle were coming from the south around that curve could make it very dangerous. Mr. Williams stated he understood now.

Mr. Bass asked what the white building to the south was. Mr. Hutchinson stated that it is gone. It was the Knotty Pine. Mr. Bass stated that he saw where that used to be located. He is talking to the other white house. Ms. Minter stated that was another residence in that area. Mr. Verst stated he thinks Mr. Bass is talking about the location to the south-east. There is another business just north of where the Knotty Pine used to be. Someone from the audience replied it was a bar. Mr. Williams asked if there were any homes on the adjacent properties. Someone from the audience replied that there were. Ms. Minter reminded the public that, at this time, the Commissioners were questioning staff. The public will be granted a time to speak and ask questions a little later in this session. Mr. Hutchinson replied that there were homes across the street from this lot, but there were none on the immediately adjacent properties.

Ms. Harding asked how this parcel of land ended up being demarked by two different zones – was it topographically determined? Mr. Hutchinson replied that this parcel has only one zone which is R-CO. Mr. Hutchinson asked if she was talking about the Comprehensive Plan Land Use reflected on one of the previous slides. Ms. Harding replied that she was. Mr. Hutchinson clarified that when looking at the whole county it may have been intended to follow the northern property line as the line of separation, but

it didn't quite get there when they were placing the lines across the county as a whole. Ms. Minter added that the mapping was based upon abilities and tools available for that time were not exact. Mr. Hutchinson continued that the zone itself of R-CO must be associated with the river. The property across the street was R-CO and was the same owner as this property at that time. There can't be any business on this property without a marina in R-CO Zone. The marina would be the permitted primary use in the R-CO and all other uses would be accessory to that marina. You cannot have a single family house in the R-CO zone without the presence of a marina. Ms. Minter asked Mr. Hutchinson to go back to the microphone to assist with the record taking for the minutes. Mr. Hutchinson did so and continued that since they have sold off and divided this parcel from the other side of the road, or rather he should say from the river, there is no R-CO activity that can occur on this site without the presence of a marina.

Mr. Verst asked if the parcel across the street was still R-CO and if it were the only parcel that was zoned R-CO in this area. Mr. Hutchinson replied that was correct. The parcel across the street will remain R-CO and to the east, north and south was the R-RE zone. Mr. Verst asked what the minimum zoning size was for R-CO zone. Mr. Hutchinson stated that he did not know and he did not have the zoning ordinance with him. Mr. Williams asked if they were asking for the minimum lot size. Mr. Verst replied no, he was asking what the minimum zone size was. Mr. Williams asked Mr. Hutchinson to go back to the aerial slide. Mr. Williams asked if he understood that these two parcels were the only R-CO zoned parcels in this area. There is no marina connecting to the river and there is no foreseeable possibility of a marina on the site on the river. Whatever reasons that existed that made this parcel part of the R-CO zone, those reasons no longer exist. Is that a fair statement? Mr. Hutchinson replied that was correct. If the parcel in question is no longer affiliated with the parcel across Licking Pike, then there is no R-CO related use that can be used on this property.

Ms. Minter asked if there were any other questions for staff. Mr. Pfeffer asked about Mr. Verst's question about what the required size of a zone was. Mr. Verst explained that typically if we want to request a zone change on a lot, there is a requirement that the lot must be a certain size or must be adjacent to the zone we are requesting. In this instance, if we subtract this lot from the R-CO zone, would we be leaving a remaining parcel large enough to encompass what is required for this zone? Mr. Duncan stated that according to Article X it says that you must have a minimum lot size of one acre. It does not specify how large a particular zone must be to exist. Mr. Hutchinson stated that the Ordinance says that if you want to create a different zone then you must have a minimum acreage of five acres to create the zone. We currently have only four acres in this situation. But it also says that if the zone you are requesting is immediately adjacent to the lot in question, you can have less than the required five acres. Mr. Hutchinson stated that technically, the parcel across the street with access to the river is large enough to meet the lot size requirement for the R-CO zone so it can be separated from that parcel without violating the zoning ordinance. It would be pre-existing non-conforming.

Mr. Verst asked about the way condition #3 was written. It states "That the existing gravel parking lot be removed and replaced with natural features..." Would Mr. Hutchinson be agreeable to a change that identifies the gravel lot as "the existing gravel parking lot along the road..."? Mr. Hutchinson replied that would be fine. Mr. Duncan asked Mr. Hutchinson to state definitively for the record that conditions #4, #5, and #6 as stated in the staff report have been met. Mr. Hutchinson stated that was correct. Those conditions have been met.

Ms. Minter asked if there were any other questions for staff. There being none, Ms. Minter asked the applicant to step forward and identify himself for the record. Mr. Gary Walters stepped forward and stated his name for the record. Mr. Walters stated that he wanted to clarify that the parcel in question as part of the R-CO zone. The original Knotty Pine site was there as an R-CO zone before this parcel was purchased by the owners. They actually purchased this lot to be able to have parking for their employees and patrons. That happened about three years after they opened the restaurant. As far as the gravel lot along the road, Mr. Walters does not have any issues with doing it. It is convenient for the people who live around there that don't have parking and for the other business that operates to the north end of this parcel. He didn't have a big deal with leaving it for that business to use or with removing the parking lot

as listed in the conditions. He will comply with whatever the Commission requires. Mr. Walters stated that he had nothing to add and asked if the Commission had any questions for him.

Ms. Minter asked if Mr. Walters had any issues with conditions #1 and #2. Mr. Walters stated that he had no issues with those conditions. Ms. Minter asked if there were any other questions for the applicant. Mr. Williams asked if, with the construction of his new home, Mr. Walters would have a need of the gravel lot area for construction equipment or materials. Mr. Walters stated that he does not believe so. Mr. Duncan asked Mr. Walters to confirm for the record that he only owns that portion of the land on that side of the road and does not own the parcel zoned R-CO that is right on the river. Mr. Walters stated for the record that he only owns the one parcel on the east side of Licking Pike.

Ms. Minter asked if there were any other questions for the applicant. There being none, Ms. Minter opened the public comment portion of the meeting. Ms. Minter asked Mr. Hutchinson to hand her the sign in sheet so that they could see who had registered to speak.

Ms. Minter called the first speaker – Ann Baumbach. Ms. Ann Baumbach approached the podium and identified herself as Ann Baumbach and spelled her name for the record. She began by identifying on the slide the parcels that she owns. They are the parcels to the immediate north of the parcel in question as well as the home directly across Licking Pike to the north west of the parcel in question tonight. Ms. Baumbach stated that she came basically to see what was being proposed for the site. There are a lot of issues with water coming down off the hill. When Drees put their subdivision in at the top of the hill, they were approached to sell their parcels. Drees wanted to purchase their property so they could bank the water coming off the top of the hill. They also had someone at the top of the hill that cut down a number of acres of trees and they now have tons of water that comes down on top of them. Ms. Baumbach stated they were a little bit leery because there is a creek that runs between the properties and they just wanted to try to make certain no additional water would come down on them. They already have to have landscape work done to deal with the water issue that comes down the other driveway. That is why they were concerned. They just want to make certain that whatever construction gets done is going to be done in a manner in which no additional water will run onto their properties.

Ms. Minter called the second speaker – Katherine Meyers. Ms. Katherine Meyers stated that she had no comments to add to the discussion.

Ms. Minter called the third speaker – Ernie Vilardo. Mr. Ernie Vilardo approached the podium and identified himself as Ernie Vilardo. Mr. Vilardo stated that he owns the business across the street from this parcel. It is a bar. He believes it is great that they are going to build a house there. It is additional tax base for the community. It is a house and not trailers or barns. They got rid of them. Mr. Vilardo doesn't see any problems for anything, but he would like to argue for the parking lot at the road front to stay. It isn't so deep that anyone could pull straight in. They have to pull in to the side. Mr. Vilardo's business uses that parking and it was ok with the current owners. Mr. Vilardo would like to request that the parking lot remain.

Ms. Minter asked if anyone else wanted to speak. There being no other speakers or audience members present, Ms. Minter closed the public hearing and opened the floor for discussion among the Commissioners. Mr. Verst asked Mr. Hutchinson if Licking Pike was a state maintained road or a county maintained road. Mr. Hutchinson did not have an answer. Both Mr. Williams and Mr. Bass stated it was a state maintained road. Mr. Stubbs stated it was 915 now.

Ms. Minter asked if there were any other questions or comments for discussion. Mr. Verst stated he wanted to ask for discussion on condition #3. He is inclined to make a motion and would like to amend condition #3 to clarify that the parking to be removed is the gravel lot that abuts directly to Licking Pike; that the area be restored to maintain proper drainage along the roadway; and that the proper permits be obtained from the state highway department for all work to be done. Mr. Verst stated that this was because the driveway would require a permit from the state and the state could make sure that all the road

side ditches could be created to allow for the drainage because some of the water runs out into the road right now.

Mr. Williams stated that if he was the applicant and he owned that gravel parking lot, and it was his lot, he would be very concerned about people parking their cars there. He would be concerned about liability and legal actions. Mr. Williams stated he believes Mr. Verst's idea is a great one. He understands the gentleman who owns the bar that his people have used it, but if Mr. Williams was the owner, he would definitely not want people parking there. It would be a real liability exposure.

Mr. Duncan asked Mr. Verst to clarify his comments. Did Mr. Verst make a motion or just starting a discussion? Mr. Verst stated he was not making a motion at that time. He just wanted to see what the other Commissioners thought of his ideas. Mr. Barrow stated that he had no problem with Mr. Verst's comments at all.

Ms. Harding asked if she could ask Ms. Baumbach a question. Ms. Minter stated that the public hearing was closed and asked Ms. Harding if she was making a motion to re-open the public hearing. Ms. Harding stated that she was making a motion to re-open the public hearing. Ms. Minter called for a second. Mr. Verst seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed.

Ms. Harding apologized because it did not occur to her until just now, but she asked Ms. Baumbach to step forward towards the aerial photograph slide and point out where the excess water was coming from. Is it from the west side of Licking Pike? Ms. Baumbach pointed out where she lived. She stated that water was ok between her and the bar. There is a big tall oak right in there. There is a big old sinkhole that keeps getting worked on that sometimes gets backed up because it gets big old rocks in it. The water is coming from an area that right beyond the view of this map. Mr. Eckert is the neighbor who tore the trees out. His property is right where there is a creek that comes down. So he tore out the trees and we noticed that fall that we got huge soil erosion. The culvert here on the edge of the map is the driveway before this. Ms. Harding asked Ms. Baumbach to confirm that the creek up there was not affecting her parcel. Ms. Baumbach agreed that it was not affecting her property. There is a creek that is right here on the boundary line of her property and the Walters property. That was her main concern. She loves that there is going to be a lovely new neighbor living there. It's not that. It's that in the process of their construction she wants to make sure they don't start just taking down trees and compounding their water run off problem. Ms. Baumbach added that she is pretty sure that this part of the road is still county not state. Ms. Baumbach stated that Mr. Vilardo could attest that the culvert that is located by the road is where the water overflows. Mr. Vilardo spoke up at that point and stated that it appears the culvert is too small at the road and then it is larger at the other side of the road. Huge rocks get in there and block the culvert.

Ms. Minter asked if there were any additional questions or comments while the public hearing was open. Mr. Verst stated he would like to ask the applicant if they have any issues with the conditions that he was proposing to add to the approval. Those conditions are that the parking would be removed along the road way which we had previously discussed. He would add that, when parking is removed, proper drainage will be established along the road and would be maintained. The final condition would be that the proper permit would be obtained from the state highway department to complete all work along the road way. Mr. Walters stated that he had no problem with those conditions.

Ms. Minter again asked if there were any additional questions or comments while the public hearing was open. There being none, Ms. Minter closed the public hearing portion of the meeting again. Ms. Minter re-opened the floor for discussion among the Commissioners. She asked if there were any additional comments they wished to discuss. There being none, Ms. Minter asked if they would like to entertain a motion.

Mr. Verst made a motion on case #122-13-ZMA-01, Gary and Amanda Walters, to recommend to the Campbell County Fiscal Court to approve the request as submitted tonight for a change to the zone map changing the zoning from R-CO to R-RE. Mr. Verst includes in his motion conditions #1 and #2 as they were stated in the staff report. Mr. Verst includes condition #3 as modified to state:

3. That the existing gravel parking lot ***which directly abuts to Licking Pike*** be removed and replaced with natural features (grass, shrubs, trees are a few examples).

Mr. Verst adds two additional conditions as follows:

4. ***That once the existing gravel parking lot which directly abuts to Licking Pike has been removed, proper road side drainage will be established and maintained along the edge of Licking Pike.***
5. ***That the owner obtain all appropriate encroachment permits for work along the road way along Licking Pike***

Mr. Verst stated that the proposed map amendment is consistent with the recommendations of the 2008 Campbell County Comprehensive Plan Update, the Campbell County Subdivision Regulations and Zoning Ordinance. Ms. Minter asked Mr. Verst about the previously stated conditions #4, #5 and #6. Mr. Verst stated that the previously stated conditions #4, #5 and #6 as listed in the staff report are not included in his motion. Ms. Minter called for a second. Mr. Bass seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs, Mr. Williams and Mr. Verst in favor of the motion. Ms. Minter abstained. Motion passed.

DIRECTOR'S REPORT

There being no other cases to come before the Planning Commission, Ms. Minter asked if there was a Director's Report this evening. Mr. Hutchinson replied that there was no Director's Report this evening.

Ms. Minter asked if there was any other business to discuss. There being none, Ms. Minter asked for a motion to adjourn. Mr. Barrow made a motion to adjourn. Mr. Stubbs seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:44 PM.

Respectfully Submitted,

Approved:

Ryan Hutchinson
Planner

Justin Verst
Vice Chair