

**CITY OF UNION, KENTUCKY
PUBLIC HEARING / SPECIAL MEETING
MINUTES
L&M LAND SURVEYING AND ENGINEERING, LLC FOR UNION PONTE CENTRE, LLC
PROPOSED CHANGE IN A APPROVED CONCEPT DEVELOPMENT PLAND IN UNION
COMMERCIAL ZONE
7:00 p.m., Monday, SEPTEMBER 27, 2010
UNION COMMUNITY BUILDING**

Attendance sign-in sheet are on file and available to be viewed.

OTHERS PRESENT: Mayor Don Kirby, Commissioners Bob Kelly, John Adams, John Mefford and Todd Sayers, City Attorney Greg Voss, and City Clerk Kathy Porter.

Mayor Kirby opened the **Public Hearing** at 7:01 p.m. and stated the purpose of the hearing was a proposed zone change by L&M Land Surveying And Engineering, LLC for Union Pointe Centre, LLC for a change in an approved concept development plan for a 1.38 acre site located on the southeast corner of the US 42/Frogstown Road intersection, Union, KY. Lot 1 in Union Centre. This area is zoned Union Commercial, this request would be to allow a convenient store with gas sales, beer sales, and other permitted uses in the UC Zone.

Mayor Kirby opened the meeting by outlining the way the hearing would be handled. Mayor Kirby has a list of people who would like to speak for the change and a list of people who would like to speak against the zone change. Each person will be allowed one (1) minutes to make their arguments.

Mayor Kirby started by letting L&M Land Surveying LLC, the applicant, discusses the proposal that they are bringing before the commission.

Mr. Rouse from L&M spoke. On September 7, L&M presented to the commission their proposal. The proposal is what the mayor had mentioned, the convenient store with the ability to sale gas and beer. Mr. Rouse thanked the commission for the time that was set aside for him to speak, but would prefer if he could reserve the twenty (20) minutes that were allocated to them to the end for any brief rebuttal to clarify issues.

Mr. Rouse received Exhibit B, from Boone County Planning and Zoning, which is a series of nine (9) conditions that have been set forth that the land owner must adhere to if the City Commission votes in favor .

Mayor Don Kirby opened the microphone for comments from those in attendance. He asked attendees to keep their comments to two (2) minutes. Mayor Kirby started out with those wishing to speak against the proposal.

John Pelz of 1119 Lakeview Dr., his concern is a convenient store across from a church and high school is an eyesore for the community. He feels this would not be a benefit for the school.

Karen Franxman of 1791 Whispering Trails, feels the city has put together a plan and they should stick to it. She is also concerned with the health and safety of the children. She is also concerned about the right in and right out of the intersection.

Kim Leavens of 12969 Cool Springs, she attended the April meeting and has written a letter against this proposal, she understands that this proposal has been denied every time that it has been brought forward. She is also disappointed that the conditions of approval have not been disclosed. She feels that by not disclosing them, those against the change are at a disadvantage. Mayor Kirby said that he would be glad to read the conditions.

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Ms. Leavens is concerned about the hours of operations. She feels the current economic conditions are sufficient reason to authorize the change. She is concerned about the safety at this intersection. And she is concerned about the possibility of liquor sales across the street from a high school campus which has a high school, middle school and elementary school and there is a pre-school across the street at St. Timothy's. She is requesting that the commission deny this proposal.

City Attorney Voss is read the nine (9) conditions of approval for the audience at this point. These were prepared by Todd Morgan from Boone County Planning and Zoning. The nine conditions of approval are:

- 1) The approval is based on the revised Concept Development Plan submitted to Boone County Planning Commission on April 28, 2010. The plan is for a single use building. The building is permitted to have a partial basement and the gross floor area of the building should not exceed 10,000 square feet in area.
- 2) The building and gasoline canopy shall be constructed per the elevation drawings that were submitted to the Boone County Planning Commission on June 16, 2010.
- 3) Building mechanical units and propane tanks are the only items permitted behind the building screen wall.
- 4) The hours of operation for the business shall be limited from 6 AM to 12 AM.
- 5) All soda machines, vending machines, etc., must be located inside the building.
- 6) An ATM can be built into the building per the Union Commercial (UC) accessory uses requirements.
- 7) Any proposed speakers at the gas pumps shall not be audible past the property lines.
- 8) A photometric plan shall be required when the Major Site Plan application is submitted for review. In addition, any proposed light poles shall not be taller than 15 feet in height and shall be directed downwards and inwards towards the subject site.
- 9) The turning movements of gasoline tankers shall be analyzed in more detail when the Major Site Plan application is submitted to review. The applicant shall document that gas tankers can navigate the public streets, private driveway, and subject site in a safe manner.

Kathy Schlegel at Glen Springs Place in the Cool Springs neighborhood, chose to live here because of the country setting.

Jeff Wallace at 10573 Sedco Drive, feels that it is inappropriate since they were told that there was going to be an upscale restaurant in this area, not convenient stores.

Lorraine Loftman at 1472 Rolling Meadows in the Cool Spring Subdivision, asking the City to turn down the proposal because the proposed use is not compatible with the surrounding area which includes a school campus, several nice residential neighborhoods and churches. What attracted people to Union is the small town residential feel with accessibility to all you need within a few minute drive. She has concerns over the noise, pollution this will bring. The first meeting she attended the hours of operations was stated as 6 am to 9pm and has changed to 6am to 12pm and she is now hearing talk of staying open till 1am. She has concerns over the traffic that this business will bring to the area. She stated there is a convenient store already in Union with gas sales. Boone County Planning Commission has already turned down this proposal twice, Ms. Loftman asked that the City of Union do the same.

Ann Clinch of 1473 Rolling Meadows asked the if the nine conditions of approval that were read, was read at Boone County prior to their vote to turn down the request. Mayor Kirby said this was written by Todd Morgan at Planning and Zoning,

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She came forward asking to turn down this project. She was told five (5) years that there would not be any gas sales or beer sales. She would like for the city to maintain the integrity of this community and follow through with the plan that they set forth. She also feels that this project would cause a nuisance with traffic, noise, odor, and pollution. This has already been rejected twice. The owners knew that this zoning was in place when they purchased the property and bought it anyway.

Carol Laufman of 1472 Rolling Meadows court. Concerned about the traffic conditions in this area. Was drawn to this area by the landscape and was drawn by the support of zoning. He feels this wasn't a good idea in 2005 when it was originally proposed and is not a good idea today.

Deb Schauburger of 12953 Pavilion Ct. in the Cool Springs Subdivision. She is opposed to this development because it will back up to her back yard. She moved to this area because of the atmosphere and the city had a plan in place to keep the area beautiful. She as a problem with a gas station in her back yard, and feels that it will decrease her property value.

Ann McClure of 12953 Pavilion Ct., in the Cool Springs Subdivision, is opposed to this development. The change is not compatible with the area and is not a part of the Union Towne Plan. Long term planning takes vision and commitment and should not change because a new proposal comes about. Traffic is also an issue in this area. Ms. McClure is also concerned about property value decreasing.

Mark McClure of 12953 Pavilion Ct, in the Cool Springs Subdivision, his main concern is a convenient store across from schools. The safety of the students is his biggest concern.

David Menze of Glen Springs Place in the Cool Springs Subdivision, Mr. Menze is a board member of the Cool Springs homeowners association. He has spoken many of the residents and not any of them are in favor of the development. By putting a convenient store in this location would take away from the country atmosphere that many of the residents have moved to this area for. He is also concerned about the look of the convenient store in ten or fifteen years. He is also concerned about the safety of the school children.

Barbara Miller of 14850 Cool Springs Blvd. in the Cool Springs Subdivision, has just moved to the area from the Detroit area and her major concern is the predatory nature of certain individuals that this type of business breeds. She is also concerned about the traffic and safety of the school children. Many of the students are unsupervised because they are there for after school activities.

At this time Mayor Kirby allowed those who are for the proposed zone change to come forward and state their opinions.

Jim Wright spoke about the zone change being turned down twice previously. The discussion that was held five (5) years ago was about the development as a whole, not the convenient store. In the last few days of the negotiation with the county the developer agreed to try to avoid putting in a convenient store and try for upscale restaurants and shopping. During the past five years they have actively tried to get the upscale restaurants to come to the area, but were unsuccessful. The Union Towne plan from 2000, states on a major intersection you can ask for zoning variance, gas stations and convenient stores would be allowed if they are on the outskirts of town and not in the center. This property is on the outskirts of town. The gas station that was on the corner previously, was a large sponsor for the schools in the area.

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Mayor Kirby asked if a convenient store without gas pumps a permitted use. Mr. Wright stated that it was, but they would like to have the gas pumps and beer sales.

James Wright of 6288 White Oak in Burlington, was born and raised in the area. He graduated from Ryle High School in 1988 and went to the Ameristop every day. He feels that a convenient store would be a great idea for this location. He feels the building will not be an eyesore because it is an all brick building.

Emily Wright of 6288 White Oak in Burlington, was born and raised in this area, stopped at the Ameristop. Traffic will always be a problem, no matter what is put in this location.

Donna Sawyer, has been a lifelong resident of Union, would like to relay to the city a need for a new business in Union. The Union Town plan and the relocation of Mt. Zion are going nowhere. They have been in the works for ten years and nothing has come out of it.

Cathy Conrad from Triple Crown feels that it is an inconvenience to travel to Walgreen's or go to Kroger's when she needs a gallon of milk. This would be a convenience for the teachers.

Connie Zmurk of 10057 Indian Hill Rd, understands the complaints against the convenient store. She feels that the alcohol and cigarette sale concerns, should be up to the parents to tell the kids what is right. There are laws against selling to minors.

Casey Behne from Union Village feels that change is inevitable and Kroger has not lessened their property value.

Matt Behne from Union Village has driven kids to school and understands the traffic congestion concerns. Feels the Ameristop was a benefit to the schools and feels the IGA Express would be a benefit as well.

Philip Rudolph from 10324 Lea Way in Union Pointe will be affected, but would like having the IGA.

Megan Rudolph from 10324 Lea Way, feels this will help people by not having to go out of their way to get gas.

Tom Torline feels the people who are talking against the IGA Express, do not live within the City of Union. He feels that Union does not have any big businesses and this would bring in tax revenue to the City and will also bring jobs to this area.

Tyler Torline graduated from Ryle High School and feels that kids, walking across the street is safer than having kids pile into vehicles and driving down the street racing and acting wild.

Mary Kotzbauer from 10458 Big Bone Road, feels that this is a perfect set-up. Her son worked at the Ameristop and had not problems. As far as Cigarettes and Beer, people are carded. Ms. Kotzbauer feels we need to give Boone County Police officers the credibility to handle traffic concerns. If kids are staying after school for activities, there are teachers present they are not left unattended.

David England from 10456 Big Bone Road, has lived in this area since 1977. Mr. England wanted to clarify that the store will sell only beer not liquor. Mr. England mentioned that Callie Way is another use and you will not have to make a right hand turn.

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Christy Zmurk who lives off Hicks Pike, has been wanting a convenient store in this area for a long time.

Steve Kuntz who lives on Omaha Trace in the Triple Crown Subdivision, when he moved to the area the subdivision of Cool Springs was not there, the only thing that was there was farmland. He knows Dr. Wright and he is for the community and of the community. Everyone has their own perspective of what is right and wrong.

Vicky Kuntz is for the convenient store.

Will Hall from 5218 Idlewild Road feels that it is just a convenient store. And the kinds need to grow up with a positive influence such as Dr. Wright.

Autumn Short from 1308 Oxley Court, went to Ryle High School and went back and forth to the Ameristop and survived. US 42 was widened to allow for subdivisions. The Ameristop was a great supporter of Ryle athletics.

Sheila Reis who lives at 10336 US Highway 42, feels that the Ameristop supported the schools and feels that the IGA Express will do the same. Taught at Gray and Ryle High School for eight years.

Jim Bell is in favor of the convenient store.

Jamie Wright, would like to thank everyone for listening and give the opportunity to voice opinions.

Bryan Miller from 2084 Bayberry Lane, respects everyone's opinion, but feels everyone needs a chance. He feels that this is good for Union.

Bryson Warner from 10752 Riddles Run, coaches at Ryle High School. He supports this convenient store. Dr. Wright has tried to put in restaurants, a big restaurant will not go in because of not enough traffic.

Tom Sawyer from 1733 Mt. Zion Rd. has just recently started driving and feels that the convenient store is a good idea.

Dillon Dupree from 11798 Schmitt Lane feels that the convenient store is a good idea, he feels that walking across the street is safer than piling in a vehicle and driving.

Darlene Evangelist from 11056 Galileo in Cool Springs, is not for or against the convenient store, but will shop there.

Sherry Wright clarified that when they purchased the property, they were not told that they could not build the convenient store. When they purchased it they went to the current mayor who told them the city would like to have a convenient store at the location.

Mayor Kirby at this time gave the applicant time to speak.

Mr. Rouse pointed out that the biggest concern listed by more than half of the people speaking against the convenient store. The study indicates that for the uses already approved that the net increase visits over a whole day is 182.

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There were concerns of a convenient store so close to a school. Mr. Rouse pointed out that many high schools in this area have convenient stores close to their campuses without any real problems presented.

Mr. Rouse mentioned the right-in and right-out, he said that is the states decision and not that of the applicant.

Mr. Rouse stated that the hours of operation from 6:00 to 12:00 midnight, has been approved by Dr. Wright and the planning commission.

Mr. Rouse mentioned that times have changed and progress has occurred. If this convenient store is not approved, Dr. Wright as a developer, who has received a proposal from CVS Pharmacy who is willing to build on two lots, without any say from the community because it is an approved use.

Mr. Rouse mentioned that there will always be those that are opposed to any type of business that is offered for development.

Mr. Rouse thanked the commission for the opportunity to speak.

Dr. Wright stated that he has an offer from CVS to utilize both lots. Dr. Wright would rather see a business that is locally owned come into this location as opposed to a nationally owned business who will be open twenty-four (24) hours a day move into it. However, he has tried for five years to develop it and needs to make some income.

The mayor at this time gave the commissioners time to ask any questions that they feel is necessary to the applicant.

Commissioner Mefford asked about the right-in and right-out turn. His concern is about the gasoline tankers making a right hand turn from Frogtown Road. Dr. Wright said that the engineering drawing submitted to Boone County showed the tanker at a non stop always forward movement. The island at Callie Way will be twelve feet from the highway which will allow the tanker to enter and exit from that way. The right in / right out is twenty-six feet, will be able to come in or out.

Commissioner Adams asked about the traffic studies, he asked who actually provided the studies. Dr. Wright said that the study was performed by Bayer and Becker. Mr. Rouse, said that the study says that the increase of vehicles that do not normally go through the area is 182.

Commissioner Kelly asked about the amount of gas pumps that are proposed for this site. He would like to know if the pumps are going to be limited to the four that is being proposed. Dr. Wright stated that there will be eight lanes with four pumps and an electric charging station for Hybrids. These will not be visible from the entrance. No other pumps will be added in the future.

Commissioner Kelly also confirmed that the alcohol sales are limited to beer sales only. Dr. Wright also confirmed this.

Commissioner Mefford asked about a piece of land that is on the East side of the proposed IGA Express, he would like to know what will be there. Dr. Wright said there will be a brick retaining wall there and shrubbery. Basically this will be green space.

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Mayor Kirby thanked the attendees for coming the evening. At this time Mayor Kirby closed the Public hearing.

Mayor Kirby asked for a motion to close the public hearing. Mr. Adams made the motion. Mr. Sayers seconded the motion. **Motion carried.**

Mayor Kirby called to order the special meeting of the City of Union Kentucky at the Union Community Building, Monday, September 27, 2010, at 8:53 p.m.

Old Business:

- **SECOND READING AND CONSIDERATION TO THE ADOPTION OF ORDINANCE NO. 2010-006 – AN ORDINANCE LEVYING AND FILING THE TAX RATES OF THE CITY OF UNION, KENTUCKY, FOR THE FISCAL YEAR 2010; LEVYING SID TAX UPON REAL AND TANGIBLE PROPERTY; FIXING THE DATE OF PAYMENT, DISCOUNT PAYMENT, DELINQUENCY AND INTEREST CHARGES; FIXING THE PURPOSE THEREFORE; AND SETTING FORTH THE PROCEDURE FOR COLLECTION OF TAXES.** Commissioner Sayers made a motion to accept, Commissioner Kelly seconded. **Motion carried.**

New Business:

Mayor Kirby asked if anyone on the commission, before the ordinance is read, would like to add any additional conditions to the list other than what has already been set forth by the Boone County Planning Commission.

Commissioner Kelly, asked if the beer sales could be added to the list. Number 10 will be the sales of liquor is limited to packaged beer.

- **FIRST READING AND CONSIDERATION TO THE ADOPTION OF ORDINANCE NO. 2010-007 - AND ORDINANCE OF THE CITY OF UNION, KENTUCKY GRANTING THE REQUEST OF L&M LAND SURVEYING AND ENGINEERING, LLC FOR UNION POINTE CENTRE, LLC FOR A CHANGE IN A APPROVED CONCEPT DEVELOPMENT PLAN IN A UNION COMMERCIAL (UC) ZONE FOR A 1.38 ACRE SITE GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE U.S. 42/FROGTWON ROAD INTERSECTION, UNION, KENTUCKY.** Commissioner Sayers made a motion to accept, Commissioner Kelly seconded. **Motion carried.**

No further business came before the Commission. Commissioner Sayers moved to adjourn the meeting at 9:04 p.m.

Commissioner Adams seconded the motion. **Motion carried.**

Signed this 1st day of November, 2010

APPROVED:

ATTEST:

Don Kirby, Mayor

Kathy Porter, City Clerk/Treasurer