

Cold Spring Planning & Zoning November 9, 2016

The regular meeting of the Cold Spring Planning and Zoning Commission was called to order by Chairman Peter Glenn. Pledge to the flag was led by the city clerk. Roll call showed the following present –Peter Glenn, Sam Conner, Mike Foulks, Robin Hahn, and Ron Schumacher – excused were Steve Popovich and Mark Stoeber. Also present were City Clerk Rita Seger, City Attorney Brandon Voelker and Campbell County P&Z Staff Member Cynthia Minter.

Peter Glenn pointed out the exits from the building, per Fire Department regulations.

The August 19, 2016 regular meeting minutes were reviewed by all. Ron Schumacher made a motion to approve the minutes and Sam Conner seconded the motion. All were in favor. Motion carried.

Peter Glenn stated there were no subdivision items, public facilities, public hearings, unfinished business, correspondence, or planning and zoning staff items.

Chairman Peter Glenn stated that there are two public hearings on the agenda tonight, both related, and questioned if the Board would prefer to hear and vote on these separately or together. The Board agreed to hear these separately.

Chair Glenn opened **public hearing #164-16-TXA-01, on a text change to Section 10.10 Neighborhood Commercial (NC) Zone, proposing to add outdoor dining as a conditional use.** Cindy Minter, Campbell County Planning and Zoning, addressed the Board. The text amendment was sponsored by the City of Cold Spring and legal notices were duly published twice, simply because Kentucky statues and Cold Spring statues conflict in this respect. They also mailed notices to adjoining property owners. Brandon Voelker added that this is not even required by law, so Staff went above and beyond. Ms. Minter informed members that zones have permitted uses along with accessory uses that have to be with permitted use, and then you have conditional uses which are stand alone and are approved on case by case bases by our Board of Adjustment. Conditional uses are not carte blanche on a piece of property but a special condition placed on it by either the Board of Adjustment or Planning & Zoning if it comes before this Board as a site plan. Additional conditions can be placed on a conditional use to make it compatible. She referred to the city's zoning text in the Industrial Park Zone, which does allow a conditional use for outdoor dining at a sit down restaurant.

With a power point presentation, Ms. Minter pointed out the current areas in the City of Cold Spring which are in the Neighborhood Commercial zone. She also pointed out the residential areas surrounding these sites. The second public hearing tonight is a request for a zone change from SDA to NC which currently houses an office and a restaurant at Ripple Creek and US27. At Peter Glenn's questioning she stated that this area has a little of over seven acres. One parcel out lot has been sold and the developer is currently developing the remaining parcels which could be subdivided at a future time.

Ms. Minter reviewed the proposed text amendment as listed in Staff report, and the conditional uses per the requirements as listed in staff report. She compared the requirements of the conditional uses of outdoor dining in the IP zone versus the proposed outdoor dining requirements in the NC zone. Peter Glenn questioned if additional outdoor dining would create a need for additional landscaping. Cindy Minter stated that if a site needs additional landscaping and screening buffers you can request that as a conditional use at a specific site. If anyone wants to expand their outdoor dining it would go back to the Board of Adjustment. They must designate and identify the limits of outdoor dining area. Peter Glenn verified that they could place the outdoor dining in the front, side, or rear as long as it doesn't encroach into the buffered areas. Ms. Minter replied that they would have to get a variance. Peter Glenn questioned if they could serve alcohol in the outdoor dining area.

Ms. Minter stated that this is outdoor dining for an eating establishment, so it is for food. She is not saying they can't service alcohol if it meets the conditions of the Cold Spring alcohol permits. Brandon Voelker stated our alcohol rules are that you must have a permit for general beer, and spirits and wine by the drink, but you have to serve over fifty percent food at the establishment. Cindy Minter stated that the hours of operation are currently 7 am to 10 pm, but with the conditional use the Board of Adjustment could change and modify those hours for the outdoor dining. Peter Glenn questioned where those timelines came from. Ms. Minter stated that 10 pm to 7 am are considered the quiet hours and are the norm for any kind of noise standard when neighborhoods calm down.

Mike Foulks verified with Ms. Minter that the conditional use does not set precedence for all businesses in that zone with what we decide on tonight. Ms. Minter stated that this is case by case. This text amendment is not to a specific land but to a specific zone. It can be applied to any of these properties if they were to establish or already have an eating establishing and wish to add outdoor dining.

Robin Hahn asked Ms. Minter to define electronic media. She stated that Staff doesn't know what the media will be in the future. Any electronic media that would attract noise and engage people at other tables would be a use that should be conducted indoors and not in an outdoor dining area. She reminded the Board that the text amendment on this issue will be for this Board's recommendation which will then go before City Council. Staff is recommending that the Cold Spring Planning Commission recommends to the City of Cold Spring that they adopt the text amendment with the bases as listed in staff report and as presented tonight.

Peter Glenn opened up the discussion to the public for comment. Jim Goetz addressed the Board. He stated that there are a lot of homes behind that area at the end of Ripple Creek. You are familiar with LaRosa's and the office building and vacant land. If you develop that property it would be in the back of Schabell Drive homes. That area is in unincorporated Campbell County. Mr. Goetz hopes the City would give some consideration to the neighbors. With outdoor dining, you have extra noise. You can hear people talking, laughing, having a good time, but the people who live close may just want to sit on their deck and not hear all of the noise. You also have lighting that will light up the backyards. Cindy Minter stated that entertainment shall not be permitted in this NC zone. Peter Glenn said no outdoor TV's will be permitted. Any kind of lighting would have to meet regulations to be a minimum of zero at the property boundary, and that would be a part of the approval process to make sure there is no flooding of light. Jim Goetz said you can't control light. He is not against outdoor dining. People who are in the outdoor dining areas make more noise.

Mr. Goetz said that he utilizes north and south Ripple Creek Road. US27 traffic is getting terrible. Traffic now backs up from Campbell County Auto Body and if someone doesn't let you out you are stuck there. People are trying to get out at the turn lane at the same time as you are trying to get out of Ripple Creek. A drive out of LaRosa's was put on Ripple Creek. People are getting tired of waiting to get onto US27 and they pull out of the little drive onto Ripple Creek and drive too fast through there. He added that he appreciates this volunteer Board for the City of Cold Spring.

David Cawdrey, of Cawdrey Commercial Real Estate addressed the Board. He was hired by SRM Investments to market the property and he is very concerned about Mr. Goetz's comments. They do want to be good neighbors. He pointed out on the power point presentation the SDA zone around Ripple Creek Road. They call it the Cold Spring Business Park at US27 and Windsor Drive. The LaRosa's site is 1.8 acres with a 1.2 area at the extreme site. The current office building, built in 2008, hopefully offers a significant amount of buffer for the LaRosa's site, and they have plans for another office building which will hopefully further buffer the two retail sites. They can't have anything under the transmission lines except parking. The transmission lines cut through the property. Of the 7.4 acres left, only 1.2 acres are for consideration tonight. Cindy Minter clarified that the zone change being offered tonight is for the entire parcel, not just the one specific lot. We do not have a case tonight for that site development.

Mr. Goetz stated that Mr. Cawdrey is missing the homes on Blossom Lane. Mr. Cawdrey replied that there is a significant tree line that buffers that site, and in fact they have had several users saying they can't locate the office because you can't see them going northbound. He pointed out that the new office building and the existing office will not and do not have doors or access from the back of the building.

Al Brickler, 6159 Ripple Creek Road addressed the Board. He is next to the office complex and it took about three years before they put anyone in it. It wasn't a very good investment. Why put up another office complex beside it when we can't even fill up the first one. Mr. Cawdrey stated that the first building is 85% occupied. It was built at the height of the recession in 2008 and he was called in 2010 to start leasing. They only have 2,000 square feet space left in a 10,000-square foot building. Mr. Brickler stated if we build another office complex right next to that, which will be going down the backyards of everyone on Schabell Drive, all of the sudden we have double the traffic that will be going onto Ripple Creek Road. It was originally a residential road and at this point they have made Ripple Creek Road a wreck. Mr. Cawdrey stated that they can use the new access road that ties into that site off of US27. Cindy Minter said they do have on record that the approved site plan for this entire parcel includes out lots and three office buildings running parallel. They are already approved. Brandon Voelker said part of the annexation agreement was for three buildings and two out lots. One out lot is developed. Peter Glenn questioned if Mr. Brickler was aware of this. Mr. Brickler stated they had not given him advanced notification. Newport told him it was under consideration, and the following week they had bulldozers there. Peter Glenn questioned if they could break ground on the new office building at any time. Cindy Minter replied that the site plans for the office buildings have already been approved and they could break ground.

Mr. Brickler questioned what side of the building they would be putting in a beer garden or whatever it is. Ms. Minter stated that they have no proposals from LaRosa's to put in outdoor dining. They are co-applicants on the zoning map amendment and they are currently zoned SDA. The SDA zone allows accessory outdoor seating, not necessarily outdoor dining. Mr. Brickler's stated that if it is on the south side he wouldn't have a problem but if it is on the north side then it is going to be right in front of all of the residential areas which will contribute to more noise. Cindy Minter re-iterated that

conditional uses are subject to additional scrutiny and possibly additional provisions. Mr. Brickler verified that the City of Cold Spring is a co-partner investor for this area. He questioned taxation. Brandon Voelker stated that the City of Cold Spring is not co-partner, just an applicant for the text amendment because only City Council or Planning and Zoning can be applicant on a text amendment. Mr. Brickler stated he is referring to the payroll taxes for employees working at this site. It is an investment for the city. Peter Glenn stated any retail development pays city taxes as a whole. Mr. Brickler stated that Ripple Creek is a county maintained road, but since the return is for the City of Cold Spring and not the county, why doesn't the city maintain the area that is getting this traffic. The city is gaining for this development and the city should maintain the road. Peter Glenn stated that the owners and employees pay county payroll taxes also.

Brandon Voelker stated that it is a county road. We can't spend Cold Spring taxes on county roads. The state doesn't bill the city for traffic on US27. We have city, state and county roads. Mr. Brickler verified that he should call the county to come down and fix their road. Mr. Brickler stated that there doesn't seem to be curfews. The dumpsters are picked up at 6:20 in the morning. Brandon Voelker stated he should call the city about this. We do have a provision that they can't begin pick up trash in the city until 7 am.

Peter Glenn questioned if anyone else in the audience would like to add additional comments. There were none. Michael Foulks questioned the condition under 1 C which states that you shall not exceed forty percent of the maximum capacity and questioned if there was a limit on maximum seating capacity for any establishments that would go in. Cindy Minter stated that there is a limit based on the actual size of their building. The forty percent of the actual seating area is the same number as we have in the Industrial Park zone but if this Board wishes to adjust that figure and make it smaller it is something you could definitely take into consideration. Mr. Foulks verified that when a new restaurant comes in, we will know the seating capacity of it. Brandon Voelker stated that we could always take that figure down on a case by case bases and we could make it more stringent. Cindy Minter stated that we could not increase it because that would change the density. Peter Glenn questioned the parking requirements. The numbers would have to include outdoor seating as well. Cindy Minter stated that any additional outdoor seating would create a demand on the parking for the additional seats.

Mike Foulks made a **motion to make a recommendation to the City of Cold Spring council to adopt the text amendment to add outdoor dining to the Neighborhood Commercial (NC) zone as a conditional use. No building or occupancy permit, including primary and accessory structures, shall be issued for any of the following uses unless the location of said use has been approved as set forth in Section 9.12 as follows: Outdoor Dining, with an Eating Establishment as the primary use of the property, may be provided subject to the following requirements: (a) such area shall be designed to clearly identify the limits of the outdoor dining area and be used only for dine-in sit-down patrons; (b) such area shall be limited in use from 7 am to 10 pm; (c) such area shall not exceed forty percent of the maximum seating capacity of the total dining area; (d) entertainment including live or electronic media shall not be permitted within the outdoor dining area; (e) such designated area shall not be located within the minimum required front, side, or rear yard, except where a variance has been approved, and (f) such designated area shall not encroach upon approved landscaped area, except where a variance has been approved. The supporting bases are as listed in items 1 thru 4 in the Staff report.** Ron Schumacher seconded the motion. Roll call vote showed four yeses and one no – Robin Hahn. **Motion carried.**

Peter Glenn opened **public hearing #168-16-ZMA-01 for a zone map amendment proposing a change in zoning from Special Development Area (SDA) to Neighborhood Commercial (NC) zone at 6189 Ripple Creek Road (applicant SRM Investments).** Cynthia Minter of Campbell County Planning & Zoning addressed the Board. She emphasized that SRM Investments has been the point of contact on this case, but it is actually a joint application with SRM Investments LLC and Flohn Investments LLC. It is for the entire parcel and there are actually two addresses on this site, 6189 Ripple Creek Road and 4757 Alexandria Pike, both in the City of Cold Spring. The zone map amendment is for proposing a change in zoning from the Special Development Area (SDA) zone to Neighborhood Commercial (NC) zone. With considerations on this, K.R.S. 100.211 is a relatively new statute that puts a sixty day clock on decision timelines. She also noted that there are specific conditions within Cold Spring by-laws on it and they are in conflict with each other. The applicant did waive the sixty day timeline in writing at the time of application knowing that we need the time to go through this process. This waiver is on file at the Campbell County Planning & Zoning office. This application was submitted jointly by SRM and Flohn Investments and each paid a portion of the fees.

The applicant also gave their development intentions with application but that is strictly for informational purposes only. This is not a site plan and should not be reviewed as such. They did legal notice, publications, mail outs to the adjoining property owners, and a sign notification on site. They placed additional publications and repeated the entire process. With a power point presentation, she showed the area of the site, and the surrounding city and county areas. This was annexed in 2006. The annexation preceded the future land use map of our comprehensive plan. She emphasized that the applicant sent a letter to Cold Spring requesting annexation in May, 2006 and at that time they had requested Mixed Use

Office and Commercial. The final annexation determined it to be the SDA zone. There is a difference between the land use map and the zone. In the future land use map there are ten types of land uses written into the text of the comprehensive plan, but the city actually has 17 classifications of zones in the zoning ordinance. The land use map shows a special development area and a special development zone and they are two different things. She read text in the comprehensive plan regarding annexations, and elements of the land use and the impact and other relationship between the other elements within the comprehensive plan developments. She also read text on utility land use elements, utilities and management elements, community facilities and transportation. The generality of the comprehensive plan and the contents are intended to serve as a guide to public and private actions to assure development of public and private properties in the most appropriate relationships. The land use element is not intended to provide precise boundaries between proposed land uses but is designed to provide land use recommendations in general areas. Various areas may be suitable for more than one type of land use. Ms. Minter read several areas of the goals and objectives of our comprehensive plan.

She pointed out the site and the neighboring land uses. She gave a brief history of the site, with a multi-story office building, and then the addition of the LaRosa's site. The applicant has indicated that there is a potential second restaurant which would require a drive thru and outdoor dining. She reminded all that this public hearing tonight is just to change the zone, and is not for a site plan. The Board's decision tonight will be a recommendation to City Council. Ms. Minter pointed out the topography of the site, and the acreage of the proposed office buildings and out lots. She compared the purposes between the SDA zone and the NC zone and the size comparisons between the two zones. Ms. Minter emphasized the differences between a carry out, drive in, sit down restaurant, and a combination. She also gave the definitions of drive in and drive thru facilities. She compared the differences in the permitted uses within the SDA and NC zones and stated that there are some trade-offs.

Staff recommendation is that the zone map amendment be approved and forwarded to the Cold Spring Council for adoption, with the bases as listed in Staff report. The decision made tonight and before City Council reflects the zone change only, and does not constitute any component of a site plan and all revisions to the existing or new development are subject to all applicable zoning, subdivision, and building regulations.

Brandon Voelker stated that the Board Members sit in a quasi-judicial setting where you hear evidence and the public has a right to question it and/or comment on it. Planning & Zoning Commission Member Mark Stoeber is not here this evening, but he submitted his comments regarding this public hearing in an e-mail to P&Z Members. In going forward Board Members should not be e-mailing comments because of the possibility of violating open meetings. You can't solicit opinions outside of the public hearing. But because the City has always allowed the public to submit letters if they can't be present at the public hearing, in this case we are considering this as someone who has sent in a letter which you would have received and entered into public record, and he asked Ms. Minter to provide her comments to it. The submittal has Mark Stoeber's comments on the left and Cindy Minter's comments on the right and this will be made as part of the public record. Transparency is very important in our country. You cannot conduct business by e-mail, and it is good that Board Members did not respond, but we do need to be careful about this.

There is some question about the background of this site, with a comment that this was an annexation agreement and it was questioned why we are changing the zoning. Because the two public hearings are linked, the applicant came to City Council and requested that they consider text to add a drive thru to the SDA zone as a conditional use. City Council then said that they would rather sponsor outdoor dining which is not allowed in NC but was allowed in the SDA zone, on the condition that the property owner petition for a zone change. Attorney Voelker stated that just because someone has an annexation agreement, that doesn't mean that you give up your rights under KRS 100 to change your zoning. The background is not germane to your deliberations. You need to make your decision based on the merits. If it was violating an annexation agreement we wouldn't let this Board hear it.

Cindy Minter stated that in staff report they give this Board a recommendation and she is not offended if this Board wishes to change something. In this case, with an approval of a map change you really can't put any conditions on the site. Conditions would be subject to a site development plan which will be for a future date and time. Your choices are to approve the zone map amendment and forward it on to Cold Spring Council, or decline it.

Peter Glenn questioned how this site would develop and what we could see with this zone change, especially in respect to pedestrian and vehicular traffic movement, and references to a small town-like setting and what would we be getting or not getting with a zone change. Cindy Minter stated that on this specific site you are really not going to get much of a difference between the two, because the site is so isolated. The SDA zone is really not connected to any other community facilities. In this case, because of where it is it was annexed by itself. Peter Glenn questioned sidewalks requirements. Cindy Minter stated that you have some sidewalks at the site but they really don't attach. Peter Glenn stated that LaRosa's wasn't made to put in sidewalks along US27 to the intersection of Ripple Creek. There is really only one little

section of sidewalks and he questioned with the zone change if we would be giving up the ability to put in sidewalks. Cindy Minter stated that you could look at the site plan and say that you need to create within this complex some pedestrian connectivity and this is something you could recommend as part of that site plan development. You would not be giving up the right to say you want more pedestrian access. When a site plan comes in for development they will look at all aspects, including traffic patterns for cars and for people. You may see that you want more internal pedestrian connectivity but maybe external doesn't work because it is not connected closely to something else.

Peter Glenn questioned the different interior landscaping between the properties. Cindy Minter responded that these are different properties, but they would still look at the same landscaping requirements within our zoning ordinance. She discussed the differences of landscaping in the SDA and NC zones. Peter Glenn verified that as the site develops and the improvement plans are received, there could be more impervious surface if it was to be rezoned, and questioned if it would affect the existing detention basin designed for the current zone. Cindy Minter stated the existing detention basin is designed based on the runoff that you are getting for the site development so if someone would put in a larger impervious area, they are going to have to put in the stormwater management system for that whole plan. Any proposed development plan would be studied to make sure the detention was at the appropriate capacity. Peter Glenn questioned if this property was to be rezoned, would they have to recalculate the stormwater runoff. Cindy Minter stated that is not contingent on the zone change as much as it is the development and if someone proposed to go forward with another development such as an office building, Staff would review it to make sure the detention basin system is sufficient to handle that or if it would have to be modified. They would have to meet the stormwater quality and quantity regulations. Cindy Minter stated that when this site was originally laid out it predated City of Cold Spring doing their own stormwater management.

Rick Carr, project engineer for SRM Investments addressed the Board. Also present were Mike Mangeot, developer and owner of the parcel and the real estate agent. Mr. Carr also represents Mark Flohn, owner of LaRosa's. Mr. Carr stated he has been involved with this project from the very beginning. The economic conditions have changed and they tried to put several users on that property in the past decade. The office building was built and sat for several years, but now it is getting filled. Then LaRosa's went in and they have several other national restaurant chains that are interested but they all want a drive-thru with some outdoor dining because that is the trend now. He believes that the zoning that they are asking for, Neighborhood Commercial, is consistent with the City's comprehensive plan. They agree with the staff recommendations and if someone comes in to build a restaurant at the south end, or the new office building, they know that they have to do a site plan which will evaluate the additional runoff and will end up putting in more parking. If the restaurant wants to come in or if LaRosa's wants to come in for outdoor dining, he understands that they have to come in with a conditional use permit. Each parcel will be evaluated at that time. He commented on the sidewalk which came up when they did the site plan for LaRosa's. That stretch of the highway is not like the US27 in front of the firehouse where you have sidewalks and curbs. This section of road is designed different. It is more of a country setting where the water will flow off the pavement and across the shoulders and out into the grass. If you put a sidewalk there it would have to be pretty far off of the shoulder and down low, and then they would have to put in additional drainage. You just can't put a sidewalk on the side of that shoulder because it is unsafe. David Cawdrey of Cawdrey Commercial Real Estate added that the highest and best use for the 1.5 acre site is retail, and the highest and best site for the rear of the property is office. They will not have retail users in the back.

Jim Goetz, 6007 Ripple Creek Road addressed the Board. When you plan, you are thinking about what we have now, but he hopes we are thinking about this area five years from now. There is a lot of construction going on to our south, and this is a dangerous area to get in and out of. You would be negligent if you didn't have someone do a traffic study on this site. You will have accidents here and the only thing you can do is either lower the speed limit, or put up a traffic signal. Regarding the sidewalks, there have been two people killed from the Car Wash to Crossroads walking along the side of US27, which people do quite frequently.

Cindy Minter emphasized that it has been the practice of this Planning Commission when a new development comes forward to request a traffic analysis as part of the application, and not at the time of a zone change. Owner Mike Mangeot stated that they did have a traffic study done prior to the LaRosa's development in 2015 which included US 27 and Ripple Creek and the office building.

Bobbie Jones, 6159 Ripple Creek Road addressed the Board. She said the sidewalk dead ends in one of their pine trees. She gave a background on the site before the office building went up. When the office building went up there were specific zoning regulations that required a buffer area to give them privacy, but they just have tiny one foot bushes that are growing very slowly. Now with this zoning you are going to add more traffic. When that office space was built there was slightly more traffic, but now with the LaRosa's there is even more traffic and people don't stop or look when they are coming out of Windsor Drive onto Ripple Creek. There is not a stop sign there. That turn lane is no longer utilized in a safe way because now you have people using it to turn into LaRosa's and are not cognizant that someone is already in that turn lane. Also when LaRosa's was being built the gas company came in looking for the gas lines, and they dug holes in her

driveway without prior authorization, and left them open. They finally came in and filled them. Adding more businesses with drive thru's makes it more dangerous since there are no pedestrian walkways to the restaurant. A sidewalk that goes all the way down to the restaurant should be considered for it to be safer. Also think about the noise level just from a drive thru speaker. There is no noise from the pickup window, but when you put in a drive thru speaker people can be very loud and noise bounces off the surrounding perimeters of the property. It would be great to get people to use the access from US27 to Larosa's but they are not. They are going thru Windsor Drive to Ripple Creek. There is a huge pothole in that area because of the additional traffic.

Mark Flohn, of Flohn Investments and the franchisee for LaRosa's addressed the Board. He pointed out that LaRosa's has no intention of putting in a drive thru but would like a modicum to outdoor dining. If they had a drive thru it would be on the wall of the one acre site at the corner and the new office building would screen that more. They tend to use the parking areas like sidewalks. There is not much traffic there. Most of the traffic heading north turns right on the access. It just wouldn't make sense for them to turn onto Ripple Creek since that is a much longer route. In their office building there are no more than fifty employees during the day. The real culprit is that the average traffic count on US27 is 25,000 cars a day. This stretch of road is a pass through on the way to the AA Highway or funneling off the AA Highway to the city center. Peter Glenn stated that one of the problems is that the access road is very black and you can't see it at night so you pass it up and have to turn down Ripple Creek and spin around. Mr. Flohn stated there is an opportunity to put a sign there and then with planning and approval put some lighting in that area. Peter Glenn stated interior sidewalks would be very helpful.

Cindy Minter stated that these are great discussions, but the case tonight is if we want to undertake a zone change. These type discussions will be for future site plans. We have learned more since the office building and LaRosa's were built and future developments come forward and we will have traffic studies done and if P&Z requires, they would ask for pedestrian analysis as well.

Mr. Cawdrey stated that the current office building is a little under 13,000 square feet, and the new office building will be 15,000 to 20,000 square feet. Peter Glenn stated the approved plan shows three office buildings for that site, so two more office buildings can be developed. Resident Al Brickler stated that this will at least double the traffic onto Ripple Creek. They will not go directly onto US27. Mr. Cawdrey stated that new access drive will connect with the office buildings site. Sam Conner verified that the two office buildings have been approved, regardless of whether we have a zone change or not. Peter Glenn stated that is correct, no matter what we do tonight. Mr. Conner questioned, with the zoning could Larosa's put in a drive thru. Peter Glenn stated that they would have to come back to us with improvement plans. Cindy Minter stated that over the course of time you will have different tenants in the office buildings. When you look at a zone change all of these different types of uses could go onto these uses. The property is approved for development and is a commercial site in terms of the SDA zone and they are proposing to change from SDA to NC zone. Peter Glenn addressed the current landscaping which was referred to earlier, and stated that the SDA zones have more buffer required than the NC zone. Cindy Minter stated we do have regulations, and given that it is flagged as an area of concern, as we go forward with future developments they will pay special attention to the landscaping, buffering, and the lighting. The developers here tonight want to be good neighbors. Ms. Minter addressed the requirements of the landscaping and buffering. In the past, this Board has allowed shared buffers between developments on property lines. The city has some hefty landscaping regulations in separate areas of our zoning regulations, and has been very aggressive in viewing landscaping plans for well-designed sites. She would expect this to be the same on this parcel. This site is already partially developed and we will have to have some consistency.

Robin Hahn questioned that, considering all of this, what is the advantage of changing this site from a Special Development Area to Neighborhood Commercial besides the ability of having a drive thru. We already have five areas, and with Council's approval, to have outdoor seating and now we will add another area for a drive thru. Cindy Minter stated that it is this Board's decision on what you want to make and feel is in the best interest of the community. The application is by a private property owner and they have a right to bring an application forward. They are giving up some types of permitted uses in terms of marketability for what they can do on this property, but they recognize that their goal is to be able to have outdoor dining and have drive thru facilities. Robin Hahn asked the applicant what the advantage is to the citizens of Cold Spring. Mr. Cawdrey stated that with office buildings and employees, we need to be able to provide service. We have an average daily traffic count of 25,000 cars per day on US27, and the applicant Mark Flohn feels that having another restaurant with those kinds of services would add synergistically to his business. Mr. Cawdrey stated that under the SDA zoning one of the permitted uses would be a funeral home. You can imagine that on days with a funeral service there could be 300 cars attending for service. That would create a bigger headache than they are asking for today. Mike Mangeot and his partners have done a great job trying to create a commercial development in an area that has little commercial demand. Although the SDA could give them an opportunity to make the neighborhood a lot more congested, what they are asking for makes it a lot more restrictive as staff has pointed out.

Brandon Voelker stated that whether we like it or not times have changed, and restaurants will not build without a drive thru. Soccer moms have taken over and they don't want to get out of the car to pick up food. We have become a very car-reliant community and that is what you have to decide. Cindy Minter responded that they have had numerous restaurants as well as automotive stores look at the site, and they have had a number of calls on this site. Developers look to see what is compatible with that zoning. Most ask if a drive thru is permitted and it is a very quick conversation then they hang up the phone. Mr. Mangeot stated that before when they were approached by LaRosa's they were also approached by a liquor store and it would have been a very nice sale but they decided it would deteriorate from their site. It was not what they wanted to achieve here. They have been asked by three different clients about having a drive thru, but as soon as they find out that can't have a drive thru they leave.

Mr. Cawdrey added that when they first started planning the 1.2 acre site at the corner they had hoped for a bank. The first layout was for a 4,500 square foot bank with drive thru and that would have been a permitted use in the SDA zone. If you could imagine a bank with four drive thru lanes, what they are asking for here is definitely less here with less traffic and less noise.

Mike Foulks made a **motion to make a recommendation to the City of Cold Spring Council to adopt the zone map amendment for the entire parcel to change the zoning from Special Development Area (SDA) to Neighborhood Commercial (NC) zone on the bases of Staff recommendation as listed in Staff report.** Cindy Minter clarified that the **entire parcel consists of two addresses, 6189 Ripple Creek Road and 4757 Alexandria Pike** as submitted on the application. Sam Conner seconded the motion. Roll call vote showed four yeses and one no – Robin Hahn. **Motion carried.**

Peter Glenn stated that per House Bill 55, Planning & Zoning Commission Members Mike Foulks received three hours of continuing education, and Ron Schumacher received six hours of continuing education. Robin Hahn made a motion for approval and Sam Conner seconded the motion. All were in favor. Motion carried.

Peter Glenn announced that there will be a special Planning and Zoning meeting scheduled for November 16th.

Ron Schumacher made motion to adjourn the November 9, 2016 Planning & Zoning Commission meeting at 10.00 pm and Mike Foulks seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk

Cold Spring Planning & Zoning Special Meeting November 16, 2016

The special meeting of the Cold Spring Planning and Zoning Commission was called to order by Chairman Peter Glenn, for the purpose of holding a public hearing. Pledge to the flag was led by the city clerk. Roll call showed the following present –Peter Glenn, Sam Conner, Mike Foulks, Robin Hahn, Steve Popovich, Ron Schumacher, and Mark Stoeber. Also present were City Clerk Rita Seger, Attorney Jack Gatlin representing Brandon Voelker, and Campbell County P&Z Staff Members Cynthia Minter and Kirk Hunter.

Peter Glenn pointed out the exits from the building, per Fire Department regulations.

Chair Glenn opened **public hearing #171-16-SDP-01, on a proposed site development plan for a Cracker Barrel Old Country Store located at 4210 Alexandria Pike, Cold Spring.**

Planning & Zoning Member Mark Stoeber addressed the Chair requesting a process motion. He stated that this is an important meeting and he has found that there are quite a number of legal complexities in this public hearing that have not only complex legal but complex city history issues. Mr. Stoeber feels the public and this body would be better served that this meeting is tabled to another time when Attorney Brandon Voelker could be the representative since he has been with the city for twenty years and knows where our zoning applies. Mr. Stoeber made **a motion to table this meeting until a future time when our City Attorney can be present. There are legal issues in regards to the division of the property, and some things in this that we may not be able to vote on based on the information that was provided.** Peter Glenn asked if there was a second motion. There was none. **Motion to table died for lack of a second.**

Kirk Hunter with Campbell County Planning & Zoning addressed the Board. With a power point presentation Mr. Hunter showed different aerial views of the site, along with topography and utility drawings. The future land use in the Comprehensive Plan is consistent with the SDA zone. Mr. Hunter reviewed the Cold Spring Zoning Ordinance Article X, Section 10.13, SDA Zone as listed in the staff report. He then covered the SDA zone permitted uses. He discussed survey and site plans that the applicant provided, a utility plan, grading plan, erosion control plan, and landscaping plan that meets all requirements. The new building will be closer to the street than the existing building. With pictures, he showed the property from ground level and also showed pictures of the lake behind the building. The lake will be preserved as is. He then covered the access entrance and exit to US 27 from the current site plan. The new site plan is proposing another entrance and exit to Buning Lane, which is a key element to their site plan. Mr. Hunter then reviewed the staff recommendation as noted in the staff report: 1. The stormwater plan be approved by the City of Cold Spring, 2. Minor adjustments be permitted reflecting the final negotiations with the City of Cold Spring regarding transfer of the lake parcel. He also reviewed the bases for recommendation from the staff report.

Cindy Minter than added that the submittal received from Cracker Barrel consisted of the Stage 1 and Stage 2 plans. She explained the zones of the surrounding areas. She pointed out that on October 21, 2016 the City Council authorized the mayor and legal counsel to enter into negotiation with Cracker Barrel regarding the transfer of the lake property to the city. It is anticipated that there will be some minor adjustments. The Stage II plans may be further refined. The site plan we have today is strictly for the development of the Cracker Barrel site. They do not include improvements that the city would be considering for the lake property. The City is also realigning the Matinee Boulevard and the access drive is being separated from the residential parcels and transferred to the city. This road will be closed to traffic but will be used as a buffer area and access area for the utilities along that corridor. The proposed building is a little over 10,000 square feet and includes a 17-foot concrete loading pad, transformer pad and a dumpster enclosure. It shows a 20 foot-wide curb cut off of Buning Lane and a 30-foot curb cut off of Alexandria Pike. It shows the location of all of the existing and proposed water and sanitary sewer and storm drainage lines. Landscaping and lighting plans are also provided on the site layout plan. Mrs. Minter stated the applicant did an excellent job of submitting very detailed plans and drawings along with Stage 1 and Stage 2 plans at the same time. The applicant has submitted construction drawings to their office in anticipation of moving forward. The applicant has been cooperative when asked for changes and considerations, and they have been extremely responsive to these items.

Peter Glenn invited questions from the Board. Mark Stoeber stated that in item #20, the developer is providing 137 parking spaces. The Cold Spring zoning ordinance only requires a minimum of 75 parking spaces. This is very positive and shows they are expecting a lot of business. In item #23 the city typically asks for 20' long parking spaces, and staff report has a few 18' parking spaces listed. Cindy Minter responded that they are providing for a 2-foot overhang on those spaces, which does comply with city ordinance. Ms. Minter stated that with the newer plan they did reduce the parking spaces by one,

which is a total of 136 parking spaces. Mark Stoeber states that even with a reduction of one spot, that is still almost double that is required by the city; therefor they must anticipate a lot of business.

Mr. Stoeber's next concern is item #28, for Erosion Control Sediment Plan. He refers to the site grading plan on map C-4 and says that all of the catch basins and drain pipes are going to be outlets that drain into the lake. The stormwater piping is on the property within the parking lot and surrounds the lot and all of the water drains will funnel into the lake. Ms. Minter states that the stormwater plan has been referred to the city's stormwater engineer for their review and comment. Mark Stoeber states that this is not a stormwater question but an obvious statement. Whether or not it meets the stormwater requirements is irrelevant for this question. The site plan grading is funneling all of the water on that property into the lake.

William Craig with Design & Engineering, engineer for Cracker Barrel approached the podium. Mark Stoeber stated that on the site grading detail, there appears to be an existing drain line in the middle of the lot and on the right side will be a catch basin into that line, which is exiting into the lake. Mr. Craig verified that the entire site drains into the lake. That is the existing condition and that is also the proposed condition. The difference with the proposed condition is that it will exit into the lake from pipes, rather than sheet flow, and is significantly less destructive to the site. Mr. Stoeber stated that City Council voted for the lake to be turned over to the city. All of the water from the Cracker Barrel will drain into the lake that does not belong to the developer, but will be city property. Our subdivision requirements state that the developer control and maintain water on their property, but that will not happen here. Attorney Gatlin stated that the lake which will eventually be city property is the servient property so the issue would be if there is any kind of exposure or liability to Cracker Barrel, and that they don't unduly accelerate that water. This lake has always absorbed water off of this property just by being that servient property. Mr. Stoeber stated that servient property was always under the ownership of the dominant property. Mr. Gatlin stated that it is no different than buying a house downhill from a house that is uphill. You know that you are going to be absorbing some water. Mr. Stoeber stated that the ownership of that property has changed and it is technically very different. The previous owner used to contain all of that water on their property, but they will no longer be containing all of that water on their property because it is being turned over to the city.

He questioned where the city accepts subservient water from a major business. Ms. Minter stated that when property sells or divides, we have conditions of water that has always flowed over an area and will continue to flow over the area. It is a known situation and is consistent with what Mr. Gatlin has said. If it were new water that was being generated it would be an area of concern and we could flag it for the stormwater engineer. Peter Glenn stated that since the city is entertaining this possibility of taking on the lake, and it is a known fact that the stormwater is coming to the lake. Mr. Gatlin questioned what he sees as the legal significance of water flowing into a lake. Mark Stoeber stated that the control of that water has always been a business owner's responsibility, whether it be contaminated or for containment or detention or retention. The detention / retention of a business is being transferred to the city.

Peter Glenn questioned where stormwater drains to the lake from the adjoining streets. Mr. Craig stated that water from Buning Lane sheet flows downhill, but the stormwater on Alexandria is collected and goes through a stormwater pipe that runs to the lake. He wouldn't be surprised if half of the stormwater from Matinee also goes to the lake, but that is beyond the scope of Cracker Barrel drainage. Steve Popovich questioned if Mr. Stoeber's main concern is a pollution issue or just a future city maintenance issue. Mr. Stoeber replied that the city maintenance is under the city to take care of, but his issue is that in this area it is proposed that the city accept a responsibility and a liability of the developer for which there is no other location in the city where that has ever been one before. Steve Popovich verified that is an increased potential cost. Mark Stoeber stated that it is not only that but for possible liability as well as a legal precedence.

Mike Foulks questioned what the potential liabilities would be. Mark Stoeber stated that the lake is extremely shallow and sediment filled, and if any form of that lake impinges on Cracker Barrel's ownership of those parking spots, the city would be responsible for that. If any form of polluted water fall runs into that lake the city becomes responsible. The city has not taken retention or detention from a developer in the past, and that is what is being proposed here.

Peter Glenn questioned if the lake issue is for this body to discuss or is it between the City and Cracker Barrel. Attorney Gatlin stated that this is a unique situation and Mr. Stoeber brings up a very good point that the city serves as detention or Cracker Barrel. That is the way the geography of the land sets it up. He would contest that it is not unique to Northern Kentucky. He takes Mr. Stoeber at his word that this is unique to the City of Cold Spring. If there became a pollution issue such as gas, oil, and runoff from the pavement into this lake, obviously, you have the opportunity to go back on the landowner that is causing that pollution condition on your property. This may open the City up for potential litigation in the future, but you always have that remedy in that situation. If this condition would all of the sudden create an accelerant of that water, the law is crystal clear. If you have been receiving that water and you know there is a flat surface, and if somehow Cracker Barrel changes that contour or the grade that does something that is accelerating the flow of discharge into

the lake and they would be negligent. The last thing that they would want to do is file suit against the city for taking their parking spots knowing that we would respond with a counter claim that they caused the issue. Mark Stoeber stated that he knows up front that you don't accept something based upon what the possibility of winning or losing in court would be.

Peter Glenn stated that this lake obviously has overflow, and he questioned if that elevation were at a level lower than the lowest part of the parking lot. Engineer Craig responded that he doesn't have that information on hand but the lowest portion of their parking lot is about 14 ½ feet above the existing portion of the lake. That would be a lot of flooding that would have to happen. Mr. Stoeber questioned from a legal standpoint, if this body can change Planning & Zoning regulations. If the developer is required to keep the water on property that they currently have, are we allowed to accept something when they no longer do.

Cindy Minter referenced several developments within the city where the properties are in multiple ownerships and there are combined or jointly used detention or retention facilities. There are sections around the AA Highway, two developments with crossings on both sides and they both have combined detention/retention facilities even though the property outparcels are different ownerships. The recent SRM development on Ripple Creek shares a common detention facility. Properties are under different ownerships, but designed to accommodate developments on those parcels. If future developments come along on those parcels they do need to compare it to the existing facility to make sure that development can handle that capacity. We also have this same situation with Combined Communications that has a joint facility behind their property. At that particular facility we had to have the retention/detention increase in size because of all of the water from the neighboring property. Mark Stoeber verified that none of these retention/detention ponds are owned by the city.

Attorney Gatlin stated that it was his understanding in speaking to City Attorney Voelker and also reading staff report, that he is still negotiating the details of the contract of the acquisition of this lake, and these are the kind of details that could be worked out in that negotiation. Council approved the acquisition with the language that minor adjustments be permitted reflecting the final negotiation of the City of Cold Spring regarding the transfer of the lake parcel. Mark Stoeber stated that basically says that all of the water is still going to go into the lake – you are not going to put in a retention tank on your property. Peter Glenn questioned Cindy Minter if what we are looking for tonight as far as the boundaries of our discussions, include the lake. Cindy Minter responded that it is the applicant's intent to separate the lake parcel from the parcel that they are going to develop. The city has entered into negotiations with them and it was authorized at a City Council to enter into those negotiations. Staff is not privy to those negotiations and would expect some modifications to the final site plan. These are expected to be minor modifications and if there are major modifications it is expected that they come back to this Planning and Zoning Commission.

Steve Popovich questioned Mr. Gatlin if Cracker Barrel would be open to negotiating retaining of that water or to make minor adjustments. Mr. Gatlin responded that he does not know if they are open or not. That is not the plan that is brought before you tonight. There are ways that you can make minor adjustments that would mitigate the risks. The Phase I that is in front of this Board doesn't include the land that we are speaking of, however, the Phase I requires that the city property become the detention. Mr. Craig commented on the existing historical flow of water from the site to the lake. Cracker Barrel's design is increasing almost three-fold the amount of landscape area on the development site and it will decrease the amount of water flow from Cracker Barrel to the lake. Peter Glenn verified that there will be a decrease of impervious surface. Mark Stoeber stated what is before this Board is if we can approve and accept this plan knowing that the developer will not meet the retention/detention requirements. Mr. Gatlin states that he will disagree with that premise because Staff's recommendation and what this engineer is saying is that they have met that subdivision regulation. That is the distinction. You are making a premise that they have not. There is nothing in the subdivision regulations that say that you cannot have a servient property become the detention for some other adjoining property owner.

Mark Stoeber commented on the Buning Lane access. We have no traffic data as to what is going in and out of this property. The only thing that we do know is that the parking lot size is twice the required size and means there will be a lot of traffic. They are calling for a right in and right out at US27. Roughly 80 percent of the county's population is north of the City of Cold Spring. A vast majority of the traffic coming to the Cracker Barrel will be coming southbound on US27 going right in and right out off of US27. Once they are inside of the Cracker Barrel lot they now have to leave the lot and in order to go north on US27 back home, that traffic will come out of Buning Lane and hit the stop light at Buning & US27. That stop light is very long because of the extreme amount of traffic going north and south. The distance from that exit is 120 feet to the traffic light, about six car lengths. That light at Buning Lane and US27 serves 1/3 of the city's population, with the communities along Buning, Granite Spring, Springhouse, and Founders Court. It is also going to serve a very high volume restaurant. All of that traffic will be going out at Buning Lane at peak hours during the week and weekends. Also that exit onto Buning Lane is approximately ten feet diagonally different from the exit from Ameristop across that street. You would have right turn and left turn motions only ten feet from each other. The likelihood is that those six cars will sit there

for a very long time. The state keeps those lights long to keep the flow of the traffic along that arterial road. You will have 100 cars coming out of that parking lot with the vast majority of them coming out at six cars away from a stop light that are going to be crossing at opposing traffic at the same time as about one half of one third of the city's population. They will be trying to get out at rush hour, and he cannot see how that exit can service this business.

Ron Schumacher stated that there are only about two or three people leaving the restaurant at the same time. Mark Stoeber stated that they probably try to turn tables every 30 minutes. Because we do not have traffic data from either the developer or from our staff, during peak periods of time there will be more than two or three cars trying to get out of that restaurant at the same time, particularly when you have 130 cars at that restaurant. Peter Glenn stated there is a potential for high congestion and he questioned if a traffic study was done for traffic flows, for right in and right out, and entrance space at Buning, according to good engineer practices. Cindy Minter stated that the current use of that property is an event facility. With an event type of facility you do tend to get people leaving at the same time. With the type of facility that is being proposed, it is very rare that you get a large number of cars trying to leave at the same time. They will come and go over the course of time. She believes that Cracker Barrel oversized the parking lot because they have buses that come in and they do get some large vehicles that they need to accommodate. A significant portion of their lot is for landscaping. Matinee Boulevard is being reconfigured and the new alignment is under construction. The timing of the signals is going to be re-evaluated by the Kentucky Transportation Cabinet as part of it, and she suspects that they will be looking at the timing for Buning Lane with this ongoing development. It would be more concerning if we had a full interchange of both left and right turns going into Cracker Barrel at US27.

On the aerial site plan, Mark Stoeber pointed out that there is a long section of parking lot that goes all the way down to the lake next to Matinee Boulevard. He questioned if there ever was a discussion to move the Cracker Barrel exit from Buning Lane across to the other side of the property, and come out on Matinee and then go right out to the exit roadway and onto US27. The Buning Lane exit could be completely eliminated and it would relieve the possibility of tremendous pressure of six cars away from a traffic light. He understands that legally you cannot commit a developer to create off-property improvements, however, Matinee Boulevard will be shut down and the city will take possession of that roadway. He questioned if staff looked at that as an alternative. Cindy Minter stated that the developer did not look forward to an exit plan off of Matinee. Peter Glenn questioned the signalization. Mark Stoeber stated that the new roadway will be signalized.

Tammy Rennard who is with the real estate firm selling Guys and Dolls, addressed the Board. She said that Matinee Boulevard is owned by the city now, and it would have cost too much for Cracker Barrel to go ahead and try to buy it. The city had already approved plans to have an entrance off of Buning. They didn't consider Matinee because it would have cost them a lot more money to buy it. Mark Stoeber stated it wouldn't have cost them anything. The city would have given it to him. Cindy Minter responded that Matinee Boulevard is a private drive and for a developer to come forward and say he is going to use someone else's private drive would not have been permitted. Mark Stoeber stated that it was fully anticipated that the city would own that drive. Cindy Minter stated that although she was not part of the negotiations, to the best of her knowledge she doesn't know that the city offered Matinee Boulevard to this development.

Ron Schumacher stated that whether they come out of Buning Lane or Matinee Boulevard there is still going to be the same amount of backup. People will be coming out of the Silverwood Apartments and Granite Spring and there will still be a backup. Mark Stoeber replied that Buning Lane is 120 feet, where coming out of Matinee is a quarter mile of roadway. Mike Foulks verified that they could turn both left or right out of Cracker Barrel onto Buning Lane. He stated that sometimes he uses the Buning Lane exit and as you come off US27 and make that turn onto Buning, and if you have a car that immediately turns on his left turn signal to turn into Cracker Barrel that could cause a backup also.

Steve Popovich questioned if the future traffic light coming off of Matinee would be triggered by a vehicle or if it will be a timing signalization. Mark Stoeber stated that usually the state puts in smart lights all the way up and down US27 and they usually just change the cycling of the smart light and the light at Buning and US27 is going to be signalized based on the pre-post light before and after. It will probably be a smart light that will not trip it immediately but would put it in a 30 second cycle. Peter Glenn stated that the state wouldn't allow Buning Lane to ever be signalized to jam up US27. That would be their primary concern. Ron Schumacher stated that you would think the people going south from Cracker Barrel would use the other exit and not Buning. Mark Stoeber concurred but he believes that those wanting to go south would be a small portion of all of the traffic that is going to go into Cracker Barrel.

Peter Glenn invited the engineer on behalf of the developer to step forward. William Craig of Design addressed the Board. He doesn't have much additional information to add from what has already been discussed. Campbell County Planning & Zoning had a fantastic presentation of this project and we have already gone over a good portion of it, but he invited any questions regarding the engineering projects. Steve Popovich questioned if there might be an artist rendering of

how this project will look, to make it easier to conceptualize. Mr. Craig responded that at this time we are at the engineering stage and he doesn't have an artist rendering. They typically don't start the architectural stage until they are farther along in the process. Cindy Minter stated that staff has looked at the landscaping plans and they do meet the city's regulations. They also have construction drawings. The landscaping consists of a combination of trees and shrubbery and the store frontage is very consistent and similar with what you see in the traditional Cracker Barrel stores. It has significantly more landscaping than what you see at that site now.

Ron Schumacher questioned if this was a smaller store than what we see by the expressways. He asked if it compares to the Cracker Barrel in Florence. Mr. Craig stated that Cracker Barrel has gone through multiple prototypes over the last thirty years. This is their main prototype and as far as he knows it is not generally bigger or smaller than any store. The site and the amount of parking is about 15 parking spaces less than what they would have if it were right next to an interstate. Mr. Craig stated that store is the 150th Cracker Barrel. This will be approximately the 700th. The actual square footage may be different in size but the look of the Cracker Barrel will be the same. The size differences may be only 100 square feet from each other.

Robin Hahn asked if the parking spaces are based on an expected volume during the week or weekend and questioned if Mr. Craig knew those numbers. Mr. Craig stated that the Cracker Barrel Real Estate Department does these figures before they have engineered drawings of the site. Their first drawing had 120 parking spaces, but then they decided that they wanted more. When they put 136 parking spaces in the drawings, Cracker Barrel was happy with that. He stated that this Cracker Barrel is not by any means a cut down version of it.

Peter Glenn invited questions from the audience. Tammy Rennard, real estate agent, addressed the Board. The current owner has 200 parking spaces now. If someone would come in and take over the restaurant that is there now, it has a lot more parking spaces now than what Cracker Barrel is proposing. They are lowering the number of parking spaces plus they are reducing the size of the proposed building. Not only that, but it will look much better in the front and the landscaping will be better and 60 less parking spaces there.

Earl Woeste addressed the Board. He owns the building to the north of this property at 4200 Alexandria Pike. The rear exit to his building is not aligned with the Cracker Barrel exit onto Buning Lane. It could create some traffic issues. His building is inhabited by the Farm Bureau and Miracle Ear on top and at the bottom is a chiropractor, and a prosthetic store. It is congested at the light, but he thinks that if the two exits were aligned at the curb it would help with the traffic.

Clay Gudgeon addressed the Board. He questioned the future of the lake and if we would be putting a walking path around it and if it would be a city park. The residents were concerned that the lake would be filled in. Peter Glenn replied that this is not a discussion about is going on with the lake. Cindy Minter stated that this will be a decision of city council, but it is her understanding that the city will not be filling in the lake but will be doing some sort of recreation around it. The full details of what the city plans to do is not known at this point of the development.

Jill Leising addressed the Board. She agrees that Buning Lane does back up, especially at rush hour when all of the backed up cars on Buning cannot get out. Also, if all of the traffic coming from the south that wants to go into Cracker Barrel via Buning Lane, you will have a problem on US27 because there is no turn light there and even if there are just a few cars you sometimes have to wait through multiple lights just to get into Buning Lane. You will potentially run into issues on US27.

Michael Brown addressed the Board. He questioned if there ever has been any incident or a problem of drainage with the lake filling up. Mark Stoeber stated that years ago, the city in partnership with the building owner who also owned the lake, was going to use it for a fishing derby. It was mainly sponsored by the Fire Department. At that time there were no fish in there so they wanted to stock it. The issue is that it is a blue stream and the water flows through that lake. In order to fill that lake a dam was built at the back. The blue stream flow breeds sediment and it wasn't deep enough to hold fish. They had to dredge it out in order to have enough oxygen in the water. That was roughly twelve to fifteen years ago. Mr. Brown responded that this is just about the fish. What he is talking about is actual flooding. Mayor Stoeber replied that his point is that the lake had filled up from its original point to where the water was not deep enough because of the sediment.

Cindy Minter responded that we are talking about two different kinds of fill here. Mr. Stoeber is talking about fill in terms of sedimentation, and Mr. Brown in terms of overflow, or water. It is a shallow lake. Peter Glenn stated that as far as this whole process, stormwater calculations will have to be presented as far as the amount of run-off this site is going to provide and if and how that lake is going to handle it. It will all be engineered with the submittal thru the city's stormwater engineer.

Linda Bricking addressed the Board. She stated that many years ago she was on the city's Planning & Zoning Board. She knows what this Board goes through. She stated that Mr. Stoeber has asked some excellent questions. It seems to her that the cart is before the horse if a traffic study wasn't done. She researched this and the only study that she could find was in 2004 from OKI. They did a projected study into 2030, and traffic and population increased exponentially. Obviously they are behind the mark here. There should have been a more recent study done. She has always said that she didn't want Cold Spring to become Florence. She loves Cracker Barrel, but she is very concerned about this site. The ingress / egress on Buning Lane will be a traffic nightmare for Buning Lane and US27. She thinks the ingress / egress should be out on the new drive if there is going to be any traffic manageability at all. That traffic study should have been done in conjunction with, or beforehand on this development plan. She hopes this Board takes that into consideration because of the traffic nightmares this could potentially present.

Bo McCord addressed the Board. He stated that one thing about restaurants is that people do not come out at the same time. The only time that he has seen a group leaving together is when they are on a bus trip. Other than that he only sees a few people at a time and he doesn't see that much more traffic coming out of 136 parking spaces at once. When he goes to church on Sundays, maybe 300 people leave all at once and they work together to get out of that parking lot and can clear it, without any division of right turn and left turn, without any problems. Also, there will soon be two exits and entrances for the Buning / Granite Spring area, and many of the cars will be coming out at the new road by the chiropractor. This will be a dramatic help in getting people out of that subdivision. Mr. McCord questioned the audience if they had any suggestions. One of the residents stated that she would build up the sidewalk in that area before they allow more traffic to go down Buning Lane. That sidewalk curb goes right down to the street, and if a car just swerved a little bit, it could be right up onto that sidewalk and into a pedestrian. Also people come around the corner fast and if someone is trying to turn left, that would be an issue. Bo McCord stated that the Cracker Barrel Restaurant would be a great asset to the community and the issues are solvable.

Kim Edwards addressed the Board. She has been here a long time and when Buckskin Bev's was here people would be waiting on the porch for a table. It was great having something on that site for such a long time. But as we fast forward we have more homes, we have a lot of development on US27 and they have only one in and out. It is a struggle that you have to deal with traffic. This would be a problem solver to enter and exit in a safe way. She has also seen what happened to that site between Buckskin Bev's and now, and businesses have struggled there. She thinks about what Cracker Barrel will bring into the city as far as revenue. We have to figure out what is best to make the entrances safe, but she believes that it is worth it.

Clay Gudgeon stated that perhaps you could just put in two lanes turning left off of Buning Lane and onto US27. That way instead of having six cars you would now have twelve cars making the turn. He lives on the lake itself, and they enjoy all the nature and plants around it. It is not just a drainage pond. It does have fish in it and is a good place to get together and fish. There are turtles, ducks, geese, and a lot of character. It is a beautiful spot that we should embrace.

Dave Guidugli addressed the Board. People have mentioned buses coming and going and he questioned if Buning could handle a bus with only a 20 foot wide curb cut. If a bus wants to go north, and can't make that turn at Buning they will have to turn south at the US27 curb cut and then turn around to head back north. Cindy Minter responded that right now they have a 20 foot wide curb cut at Buning and a 35 foot curb cut off of Alexandria Pike. She knows that they have large vehicles to bring in materials and supplies, and they have designed the driveways and circulation patterns to serve those large vehicles. The engineer Mr. Craig responded that Cracker Barrel's deliveries come in a full size semi trailer / truck and they engineered their design so that truck can get to the back of their building and it pulls in with the passenger size facing the building so that they can get directly unload. They designed the exit onto Buning with turning radius's so that the biggest truck that you are going to see on the highway can make that right turn and get up to the intersection, and then turn left, or right, as required. Any vehicle that is reasonably on the road without a wide load sign and get out at the Cracker Barrel site. Dave Guidugli commented that when a bus does turn out there, instead of a queue of six cars with will be a queue of one bus and maybe one car.

Robin Hahn asked Mr. Craig if he could make it clear as far as the boundaries. Mr. Craig responded that they are here tonight to review a the site plan that is in front of you. The issue as it relates to the lake /detention / pond are really not before this body, but this body could make sure that there are no unreasonable amounts of discharge of water into that lake, and this body could accept the conditions as proposed by staff or add additional conditions as might be deemed appropriate. Cindy Minter stated that she does have the proposed staff recommendation, and at this point they could very easily make any edits to this as desired.

At this point Peter Glenn closed public comments. Ron Schumacher made **a motion to approve the site plan for the Cracker Barrel at 4210 Alexandria Pike subject to the two conditions to: 1) that the stormwater plan be approved by the City of Cold Spring and 2.) that minor adjustments be permitted reflecting the final negotiations with the City of Cold Spring regarding transfer of the lake parcel.** Sam Conner seconded the motion. Discussion regarding adjustments to the conditions followed. Robin Hahn questioned if it would be appropriate to add language that the plan would not adversely affecting the lake. Steve Popovich questioned if there is still concern for further study about the traffic issue and if that should be part of the amended conditions. Mark Stoeber stated that there is no sense in having the developer do a traffic study unless there is some form of condition applied so that some sort of action be taken depending on what the traffic plan shows. There should be a meaningful result of the traffic study.

Cindy Minter stated that the review of the stormwater plan should be approved by the City of Cold Spring and the review of a proposed traffic study be reviewed by the City of Cold Spring engineer. That is where the expertize lies. The applicant could submit a traffic study of the proposed development but this is not a traffic study of the entire area. It is basically the impact their proposed development would have in the peak hours of that area. Steve Popovich verified that the burden of the cost of that traffic study would fall upon the applicant. Ms. Minter stated she would also recommend that the applicant come back up and the Board ask about their thoughts on the proposed conditions. These are reasonable items to ask for.

Mr. Craig stepped forward. His only concern is the ambiguity of the language as far as the detraction from the lake part and review by the City of Cold Spring but at the same time he is trying to get the plans approved tonight based on a certain set of conditions that they can meet. Since Cracker Barrel does not have a specific representative available tonight, he can't really speak for them, but he wouldn't be surprised if they did not have a problem getting the traffic study. He doesn't know how that will bear out and he doesn't know what the review time and process will be. He would like to avoid having the review process and then city council approval pushed back farther because of a traffic issue that already exists. That being said, the language being put in the motion is reasonable.

Mike Foulks asked Robin Hahn to expound on the language where the plan would not detract from the lake. Mr. Hahn stated that right now they have a current amount of stormwater that goes into that lake. He thinks they need to prove that they are not increasing that. It is a norm that has been accepted for the last twenty years. Peter Glenn clarified that right now they will submit those calculations as part of their plan which will be reviewed by the city stormwater engineer to make sure that the stormwater does not negatively affect it. He verified that is what we mean by detract from the lake. Mark Stoeber stated the concern is that it just might make the lake look bad. Mr. Craig stated that the city stormwater regulations are not small. If they submit plans that the city engineer approves, they do not have a problem with that. He is just concerned about an extra requirement. Peter Glenn verified that his point is that it meets the requirements. Mark Stoeber stated we should just leave the condition as it was in the beginning without changes. Peter Glenn agreed because the City of Cold Spring is their representative and their Staff is the City of Cold Spring.

Ron Schumacher **amended his motion to approve the site plan for Cracker Barrel at 4210 Alexandria Pike, Cold Spring subject to the conditions that: 1.) the stormwater plan be approved by the City of Cold Spring; 2.) that minor adjustments be permitted reflecting the final negotiations with the City of Cold Spring regarding the transfer of the lake parcel; and 3.) that the applicant prepare a traffic study of the proposed development for review by the City of Cold Spring. This is on the bases of staff recommendation as listed in staff report.** Sam Connor seconded the amended motion. Roll call vote showed six yeses and one no – Mark Stoeber. **Motion carried.**

Mike Foulks made a motion to adjourn the November 16, 2016 special Planning & Zoning Commission meeting at 9:16 pm. Steve Popovich seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk