

Cold Spring Planning & Zoning July 10, 2013

The regular meeting of the Cold Spring Planning and Zoning Commission was called to order by Commission Member Donna Schmidt. Pledge to the flag was led by the city clerk. Roll call showed the following present – Peter Glenn, Alan McCullough, Donna Schmidt - excused were Tony Ponting, Tami Trunick and Christopher Vaught. Also present was City Clerk Rita Seger, City Attorney Brandon Voelker, and Campbell County P&Z Member Ryan Hutchinson.

Ms. Schmidt pointed out the exits from the building, per Fire Department regulations.

The December 12, 2012 regular meeting minutes were reviewed by all. Vince Sticklen made a motion to approve these minutes and Alan McCullough seconded motion. All were in favor. Motion carried.

On June 14, 2013 Vice Chairman Tony Ponting signed a final plat for Granite Spring, Building 28. Vince Sticklen made a **motion to approve the signing on this plats**, and Alan McCullough seconded the motion. All were in favor. **Motion carried.**

Per House Bill 55, continuing education credits were completed by P&Z Members Peter Glenn - 1 ¼ hours and Tony Ponting - 1 ¾ hrs, and Board of Adjustment Members Todd Weiner - 4 hours, Dave Thiem - 3 hours, and Brian Rieger - 3 hours. Vince Sticklen made a motion for approval and Peter Glenn seconded the motion. All were in favor. **Motion carried.**

The next item on the agenda was a presentation on wineries. Captain Larry Leap addressed the Board. He stated that he purchased the property at 333 Pooles Creek Road in 2008, and he and his mother have recently purchased additional property next door at 331 Pooles Creek Road, which now gives him eight acres which currently has 2,000 grape vines in full production. Both properties are located in the Cold Spring R-RE zone. He is interested in setting up a small farm winery, manufacture the grapes into wine, set up a tasting area for his wine, and possibly host small parties or wedding events. Our current zoning doesn't allow wineries within the city of Cold Spring. Captain Leap reviewed the steps he has taken to get to this point, including a visit to our City Council, who suggested that he bring his thoughts and ideas to the Cold Spring Planning and Zoning Commission, to see if this Board would be interested in seeing a winery in the City.

Mr. Leap stated that part of his gentleman's agreement with the sellers when he purchased this land was to keep it as agriculture, and in order to do this, he probably needs a zone change. He has been in touch with the Kentucky ABC Licensing Board, and they will grant him a license but he needs city approval. For the city to allow him to open a winery, his first thought is to augment the text in our current R-RE zone to allow small farm wineries and make room for a city plan for agricultural businesses. His second thought would be to create an A1 zone if that is an option, and then change his zone from R-RE to A1. He is willing to work with the city for any consideration and any constraints which the Board feels would be needed to place on this plan. He asks this Board to consider his request and make room for small farm wineries in the city so that he can move forward with this process. He will be happy to provide additional information if needed.

Brandon Voelker stated that this request would be for two potential issues. A zone change could be initiated either by the property owner, the city, or this Board. A text amendment can only be initiated by Planning and Zoning or Council. Typically the property owner comes to this body and asks them to sponsor a text amendment. That doesn't mean it is approved, but that Staff is directed to prepare a report and set up for a public hearing. This request tonight is to determine if this is something that this Board wishes to pursue. He stated that P & Z may want to either have Staff come up with some ideas to present on how a text amendment could be worded or could create a separate type of agriculture zone and outline with some creative text. Even so, Captain Leap's property will still be zoned R-RE, and he would have to come before the Board to become a part of that zone that you have created.

Ryan Hutchinson, Campbell County P&Z, stated that wineries in the County are zoned A1, and in that zone anything produced on the property can be sold, but you can't sell outside products coming in. Larry Leap said that Kentucky allows you to sell or exchange wines with other vendors as long as they are produced from a Kentucky winery. The food part may not have to be produced because that would come from a caterer.

Captain Leap stated that he has received numerous positive comments from many of his neighbors and other property owners, and there is much anticipation and excitement about having a winery in the city. This is in a good location, which will bring in more people to the city. He believes this will be a jewel in the crown for the city of Cold Spring.

Captain Leaps stated that his parents own some land in the city of Alexandria, with about 450 vines being produced on a little over an acre. He reviewed how the city of Alexandria assisted in finding a way that he could produce wines on that

property. He let his licensing in Alexandria lapse because of his deployment, but has spoken the Kentucky ABC Licensing Board and once he gets the city's approval, they will renew it. He has the potential to grow in Cold Spring and he would like grow grapes and make wine here. That way he can stay in his hometown after his retirement in three years. If this Board can tell him what his next steps are, he will work with the City in order to proceed.

Vince Sticklen stated that we looked at this a year ago when Mark Schmidt, acting as Captain Leap's proxy while he was deployed, made a presentation. At that time the Board was presented with some ideas and plans which showed very few parking spaces and trucks coming and going. There was also talk about having a shop to stop in, pick up wine and leave, and this Board felt that this property didn't make a good fit for that type of business at the time.

Larry Leap understands these concerns, but stated that there have been a lot of changes since that time. They have purchased more property which will accommodate more parking, they will widen the bridge and the driveway, and they will not be a huge producer and will not bring large trucks to the site on a daily basis. Also, they would only have twenty to thirty people for a private tasting. Wineries present a very important image, bring in a more sophisticated group of people, and the building and grounds will be aesthetically pleasing. He doesn't see this being a major thoroughfare with people pulling in and out. If it comes to that then he will obviously come back and address those issues.

Alan McCullough stated that he is familiar with wineries. He knows someone who owns a winery far larger than what Captain Leap plans, and they are off a narrow road in the county. In the time he has known him, he has never heard of a traffic issue.

Donna Schmidt stated that the decision tonight is to decide whether or not to pursue this to make a text or a zone change.

Brandon Voelker verified with Ryan Hutchinson that the property is entirely R-RE, and we do not have any A1 zone in the city like they have in the county. Ryan Hutchinson then read the permitted and conditional uses in an R-RE zone. Alan McCullough stated that since we do not have an A1 zone in the city, perhaps we should look into having one. Brandon Voelker stated that the A1 zone is basically for agriculture, and if desired we might want to consider an agri-business zone. If we create this zone it would be entirely text, but that does not automatically put Captain Leap's property in it.

Vince Sticklen stated that before we create a new zone, he would like to see Captain Leap put a plan together to see if it is even functional before we proceed. We don't want to create a zone just for this which may then fall apart. Larry Leap stated that he is positive that his business will work and will not fall apart. For five years he has invested time and money to get it to standards that they need to have. Other residents have stated that if this business works for him, they might consider doing something similar on their property and he asked the Board to please keep an open mind on the potential. His preference would be to have another zone created rather than deal with augmenting wording in the R-RE zone. Constraints could be placed on this zone. He invited all Board members to visit his property and he will show them around, give them a private tasting, and allow them to enjoy the vineyard. If this Board will tell him what material they would like for him to present to them to help make this decision, he will be very happy to do so.

Peter Glenn stated that since he is not entirely sure what he wants to do with his property so he doesn't know what to tell him to present. He stated that his ideas sound great and he loves Larry Leap's enthusiasm, but it sounds like his ideas are growing as he speaks, in view of the fact that this was presented only a year ago and things have changed a lot within one year. He questioned the formal process for a zone change. He stated his concern about what happens if the business grows and changes. It would be short sighted if we do not consider this, and it is something we would like to avoid. We cannot put constraints on the business without understanding the full picture.

Brandon Voelker stated that typically, on a commercial zone change there are submittals required. You can also put on conditional uses such as for the number of cars parking there, and the Board of Adjustment would then have a say in that. In the R-RE zone, you are free to grow grapes, but the issue is when it becomes a commercial application. The size and scope of your business determines what the constraints and controls are and how our zoning regulations come into play, such as required number of parking spaces. If you have a great plan but you don't have enough parking, you can't have the business.

Captain Leap stated if there would be any conditional uses or constraints, and if his business grows more extensively, he would have to come back to the city and then ask for other options. Less than ten percent of wine sold by wineries is in the tasting areas. Most wines are sold through distributors or stores. In order to make a profit he would have to send the wine out.

Brandon Voelker stated that he believes that Mr. Glenn would like for Captain Leap to show what he envisions, his plans, hours of operation, and something definitive to bring to this body so they can decide whether or not they would like to sponsor a text amendment. Staff could then study it and make a recommendation and provide a level of expertise and a framework that this Board can work with. Then this body can decide what they want to do with it.

Captain Leap asked what kind of timeline we are looking at. Brandon Voelker stated that after the Board's request for a study by Staff, then the public hearing would be scheduled at the following meeting. After the public hearing Planning and Zoning would make their recommendation to council, and council could either choose to do nothing, take action to approve, approve with conditions, or deny the request. They could also choose to have their own public hearing. It could take a few months. Larry Leap stated that in the meantime he has grapes that need to be processed. The grapes will be in harvest in September so he may have to sell them to another winery.

Donna Schmidt questioned how this Board would like to proceed. She stated that it is important to understand if this should be a zone change to agriculture versus a text amendment to the current zoning, and questioned what the Board wishes. She stated that she would rather have the Staff look at it and come to up with recommendations so they can consider what it opens up and what the possibilities are. She doesn't want Captain Leap to go through a lot of work and expense, and then have the Board decide it would not be the right fit.

Brandon Voelker stated that you could do something simple like have a conditional use to agriculture business within R-RE, which would be a simple fix. The term conditional use means the final plan would be a vote by the Board of Adjustment, who would have to say that the business doesn't harm the health and welfare of the general area, serves a public service etcetera. Just because you are in that zone doesn't mean you are allowed to do it. You could have the whole area along Pooles Creek be agri-business zone. Ryan Hutchinson stated the comprehensive plan which is a 20 year growth for different areas that are identified in the city, shows this area to be rural residential.

Vince Sticklen stated that if a business came to us we would want to see their plans, what they are going to present to us, how it is going to be, what their layout is going to be, what their future plans are, versus just giving us a verbal comments on what they are planning on doing.

Captain Leap stated that for two months he made numerous calls asking what he should bring to the city and nobody could give him any guidance. He asked the Board to tell him exactly what they want. Peter Glenn questioned if there were any regulations that spell out what they need to provide to have a zone change. While Captain Leap is very intimate with what he is going to do with his property and the buildings where he plans to have the production of the wine, the wine tastings, where the parking is, Mr. Glenn is not familiar with this at all. It is very difficult to visualize. Brandon Voelker stated that most commercial zones do come with a development plan.

Larry Leap stated that he will put together a map overlay on power point presentation that will show the usage of the property, and present a small business plan synopsis as far as how many people he sees coming in. He stated that wineries are seasonal so you tend to have a lot more business in the summer months and hardly any in the winter months at all. He will bring a site plan, hours of operation, signage, lights, bridge repair, entrance site, or anything the Board would like to see.

Vince Sticklen stated that he doesn't want him to walk away thinking they are very negative; it is just that we cannot make a change right now if we don't know what his future plans will be. It is a business and he wants to see what the plans are and how it will be laid out. Alan McCullough stated that he can only show us a business plan on how he intends this to be, and if anything changes, then he will have to come back to us. It is impossible to tell what will happen ten years down the road.

Brandon Voelker stated that typically people come in with an idea which they present with a plan so this body can look at it to see how they can balance it, what happens long term, and decide if we need to create a new zone or operate within a current zone. This Board is not sure what is needed, whether it be a conditional use or a whole new zone developed because they don't have the whole picture on the plans for this winery.

Captain Leap stated that if he had his wish, that whole area would be developed into small wineries and encourage that type of business in Cold Spring. Realistically, at best he was hoping for a augmenting of the R-RE zone with conditional uses or constraints. His preference is an agri-business zone which may open up the door to other property owners who have the acreage and may want to do this same type of business. He hopes P & Z will allow the opportunity for those types of businesses in the city.

Brandon Voelker stated that we don't have an agri-business zone so professional help to develop an agri-type zone would be helpful. Farming and manufacturing is allowed, but what you are describing is not a huge manufacturing business. He needs something that is currently not on our books. With our zones come pretty strong regulations that just don't fit. Mr. Voelker stated that he put together a plan and an idea of what he wants, whether it be zone change or conditional use, and with your this business plan also find out what other cities having small wineries do, and come back to us with different models. This Board's concern is how to tell Staff to study this since they just don't know what is needed.

Larry Leap stated that if he was zoned agriculture he would just go ahead and petition the city for a small farm winery. He stated that earlier Mr. Voelker stated that manufacturing is allowed, and making wine is a form of manufacturing. He questioned if this is manufacturing, can he go ahead and make his wine under the current zoning. He understands that he can't sell it. He stated that grapes must be harvested and crushed almost the same day, and if he is allowed manufacturing, he can pursue his ABC license and at least make his wine. He can crush his grapes and make wines but not sell it. Brandon Voelker said there is a difference on growing products and when it kicks into manufacturing.

Ryan Hutchinson checked definitions in our regulations, and could not find anything specifically relating to manufacturing, but he has some concerns. You can grow a product, but once you start the manufacturing processing and selling from your property, you cannot do this in that zone. Certainly you are allowed to have a home occupation within the R-RE, but home occupations can only occupy so much square footage of a dwelling, so that is something that needs to be looked at. To have a home occupation in any zone, you cannot have people come to your house. You can't sell products off of your property. Larry Leap stated that he has some friends in Campbell County who are CPA's with home offices, many in subdivisions and residential zones and they do have people coming and going, parking on the streets and having their taxes worked on throughout the day. Many cities look the other way on some of these home based businesses, as long as it doesn't create a problem and people complain. His business is not of that nature. Brandon Voelker said Section 9.9 of the ordinance governs home occupations, and there are restrictions which he reviewed. It states that no commodities can be sold. As far as tax preparations, they are not selling a commodity but a service.

Ryan Hutchinson suggested he look through zoning regulation 9.17 for assistance on development plans to make sure that they meet the city's requirements and then look on the internet and find some areas where they already have some of these zones established and bring it back to the Board. He added that in the R-RE zone you aren't allowed to have parking off of the facility so if we have parking on the adjacent lot, that is not permitted. You have to have parking on the premises of the facility that you are providing the service. You can do consolidations on the two properties that you already have, but then you have the issue of having two houses on one lot which is not permitted. These are things that you certainly have to look at. Brandon Voelker stated that the reason that you can grow grapes is accessory uses. With people who own a house with five acres it is not out of the realm that they are engaging in some agriculture.

Donna Schmidt stated that the next step would be for Captain Leap to submit a plan to the city at our next meeting on August 14. Peter Glenn said it would be good to receive it before the meeting so they have time to review it. Larry Leap stated that he appreciates their help to get his business going.

Vince Sticklen questioned if we should also take a look at county's agri-business zone. Brandon Voelker stated that you have a public hearing to take the evidence in. You can't make a decision before the public hearing. That is why you have staff to do an analysis.

Alan McCullough made a motion to adjourn the July 10, 2013 meeting and Vince Sticklen seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk