

Cold Spring Planning & Zoning March 11, 2015

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, Robin Hahn, Tony Ponting, Donna Schmidt, and Dave Thiem – excused were Vince Sticklen and Grant Mitchell. Also present were Attorney Cameron Blau, City Clerk Rita Seger and Campbell County Staff Director Cindy Minter.

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

The February 11, 2015 regular meeting minutes were reviewed by all. Donna Schmidt made a motion to approve these minutes and Dave Thiem seconded motion. All were in favor. Motion carried.

Under subdivision items, Peter Glenn stated that he signed a final plat for Granite Spring Building 30. Dave Thiem made a motion for approval and Tony Ponting seconded the motion. All were in favor. Motion carried.

Peter Glenn opened the public hearings as scheduled.

The first public hearing is Case #147-15-ZMA-01 for a zone map amendment from R-RE to R-1DD for Paulena Drive, (applicant The City of Cold Spring). Cindy Minter, Director of Campbell County P&Z requested that the residents of Paulena Drive who were present at this meeting come forward and identify themselves. The following residents were present, Brian Donelan, Tim Fuller, Ruth Daunt, Art Rust, and Eileen Rust.

On a slide presentation, Cindy Minter pointed out the location of Paulena Drive, the lots and the zoning of the lots and surrounding areas, along with the topography. The current zone is R-RE but on the backside of lots 2, 4, 6, & 8 they also have R-1DD zoning. Ms. Minter reviewed the March 11, 2015 Staff report, with the history, the considerations, along with a description of the Paulena lots. She gave a comparison on the R-RE versus the R-1DD zone as listed in Staff report. They had previously received a petition signed by all the property owners which was presented at a previous meeting. They followed up with the residents to make sure that they wanted the zone change, and those documents were notarized and we have received them from all of the Paulena Drive property owners. She passed these along to Board Members to review. Peter Glenn verified that these were for the proposed zone change to R-1DD.

Cindy Minter stated that Staff has recommended approval subject to two conditions: that the Cold Spring City Council adopts the map amendment for the submitted request, and that the property owners comply with all applicable building, subdivision and zoning ordinance regulations for future actions on their respective lots. Also listed in Staff report is the supporting information/bases for Staff recommendation. She invited questions from the Board. There were none.

Peter Glenn asked if any audience members wished to comment. Mark Stoeber, 30 James Court, addressed the Board. He stated that he is not here to discuss the zone change but to talk about procedural issues that he doesn't understand. He stated that his questions will be the same for all of the public hearings tonight. Mr. Stoeber commented that he goes back a ways with the city and he has never seen four public hearings on one planning and zoning agenda. Typically we have it on written rule in fairness to you, the applicants, or the people pushing the debate that we only get two public hearings but you have chosen to have four which can get cumbersome and overwhelming.

Mr. Stoeber first questioned the date of publication for this hearing. Cindy Minter replied that it was published in the February 26th edition of the Campbell County Recorder. Mr. Stoeber questioned if there was not a thirty day publication requirement for a zone change / public hearing. Cindy Minter replied that it will also be published when it goes before City Council. She deferred to our legal counsel on the thirty day publication requirement. Cameron Blau stated that he would have to look into this. Mr. Stoeber commented that you can't conduct a public hearing based on whether you are allowed to conduct it or not. Cameron Blau stated that is the only answer he can lawfully give and he will have to check into this. Mr. Stoeber stated that he would then suggest to the Chair that this topic be postponed until legal advice comes in. Secondly, since this is a map amendment he questioned when the adjoining property owners were notified. Ms. Minter replied that the mailings went out on February 26th when the notice went out in the paper. Mark Stoeber questioned Cameron Blau if there is not a thirty day notification requirement on that as well. Cameron Blau stated that he will again check on this.

Mark Stoeber stated that since this is a map amendment there are certain rules per KRS 100.211 as to who can sponsor a map amendment or text amendment. He questioned the Commissioners if they stepped forward to sponsor this map amendment or text amendment and if there is published documentation that they sponsored this. Peter Glenn stated that they have not sponsored anything at this point in time. The last time that we had discussions on this, CCP&Z was going to go back and research for the Board what zone this should be changed to, and in the meantime the City of Cold Spring stepped

up as the sponsor at the February 11th P&Z meeting. Mark Stoeber asked that the record show that the Cold Spring Planning and Zoning Commission is not sponsoring this map amendment per KRS 100.211. He next questioned if the Board has public documentation that the City of Cold Spring, per KRS 100.211 which is the legislative body sponsored this map amendment. Cameron Blau stated that at the last council meeting they approved a resolution authorizing the mayor to enter into this petition for this zone map amendment. Mr. Stoeber verified that a vote was taken, and questioned if it was normal course that a public hearing be scheduled before the administrative body acts. There is a 30 day requirement. It was published on February 26th and council addressed the topic on February 23rd. He questioned Councilman Lou Gerding who was in the audience and verified that there was a vote and the sponsor is the City of Cold Spring. He stated that he will be asking these same questions for all of the public hearings scheduled tonight.

At Mr. Stoeber's question on the publication time frame per KRS 100.211, Cameron Blau reiterated that he would be looking into this, but it would then be his recommendation to continue this public hearing until the next Planning and Zoning meeting. If these questions / comments are the same for all of the public hearings scheduled for tonight, then those should also be continued just to make sure that all of the laws are lawfully applied. Mr. Stoeber stated that he hasn't gotten to the other public hearings yet, but if you would like he can go through all of those questions, since they will all be the same. Peter Glenn stated if they are all of the same questions we don't need to go through all of them. Mr. Stoeber stated it may be the same questions but he doesn't know if they will be the same answer. He questioned when the three scheduled text amendments hearings were published. Cindy Minter replied that they were all published on the same date, February 26th. Mr. Stoeber stated that we do have the question of the thirty day publication and we did clarify who sponsored the zone change, but under a text amendment only one of two bodies can sponsor a text amendment, the legislative body or this body who he doesn't believe sponsored the three text amendments items tonight. He is also not aware of any formal public document, per KRS 100.211 indicating that the legislative body / city council has formally voted on these and forwarded this for this Board to act on. He knows that as of December 31st and backwards there was no city council action that said to do this.

Cameron Blau responded that to his knowledge or recollection, there was no formal vote to sponsor these. He was not aware that these text amendments were on the agenda. Mr. Stoeber stated that for these three text amendments we not only have a thirty day issue but we also have a sponsorship issue. It appears that these issues can't even be brought forward because there has been no legal request by either this Board or the legislative body. Mr. Blau stated that is correct and he agrees with him regarding the text amendments under agenda Item B, C, and D. He was going to bring this up when we got to that portion of the agenda. Mark Stoeber stated that typically a businessman or resident would step forward and say what they want the City to think about. Then either the Planning and Zoning Commission or the city would do this. He questioned how this came about. Cindy Minter replied that if you go back to the minutes of the last Planning and Zoning meeting, there was a discussion about the text amendments and she is not sure if a motion was taken at that time, it is not in the minutes. Cameron Blau stated that there was discussion at the last P&Z meeting but he doesn't recall any motion being taken.

Mark Stoeber stated that this happens a lot. There is a lot of discussion, for example on outdoor seating. Outdoor seating is discussed about every five years; temporary signs get addressed about every five to seven years. There is a lot of discussion but the law states that there needs to be a formal action in order to move on it, and there was no formal action taken. He is asking the Commissioners and Chair that they consider tabling this until more facts are found.

Councilman Lou Gerding addressed the Board. In the last Planning & Zoning minutes which were approved tonight, he quoted that Mr. Blau said, "After doing an evaluation and review with the mayor and council, they concluded that it was in the best interests of the city that they be a sponsor of this zoning map change." Councilman Gerding stated that it never happened and this is false information. The Planning & Zoning meeting took place on February 11th and the Council did not address this until February 23rd at the council meeting. Councilman Gerding questioned the three text amendments showing the applicant as the City of Cold Spring and who told them that. Cindy Minter stated that was a result of a discussion that she and the mayor had that they would like to come forward and be the applicant. Lou Gerding stated that is false information also because to do a text amendment it has to go through either City Council as the legislative body who will vote, or go through the Cold Spring Planning & Zoning Commission. He questioned if Cindy Minter had notes, e-mails or communications in which the mayor had indicated that council had already discussed this because she said that the mayor had directed her that city council had already said it was okay. Ms. Minter stated that she did not say that. She said that the mayor had indicated that she wanted to move forward on behalf of the city with these text amendments and she did not question her on whether or not city council had given formal approval.

Lou Gerding stated that it is her and the attorney's job to question this. City Council as the legislative body is not the applicant on any of these text amendments. They are the applicant only on the map amendment. These should not be on the agenda tonight, and in the future this may jeopardize anything that might happen. For instance if you approve a text

amendment that has outdoor seating and there is a neighbor who doesn't like that outdoor seating, he may hire an attorney who can sue for how this procedure was done and what happened. Councilman Gerding stated that he has been sitting through depositions in the courtroom and that attorney is going to file a lawsuit not just against you, or the city as a planning body, or as a city council and mayor, but they can also sue you individually. Take your job very seriously here. You need to make sure that if somebody says there is a text amendment, then ask the questions. Cameron Blau stated that when we had gotten to these agenda items, he was going to indicate that City Council hadn't approved it. Lou Gerding stated that he should have addressed it when he got the agenda. Peter Glenn stated that it is fine if Councilman Gerding has an opposition to this and is stating his case. We understand the severity of what we do and take it very serious, but enough has been said.

Cameron Blau stated his recommendation that this Board table the text amendments Items B. C. and D. until the next hearing, since he did not prepare a resolution to propose the text amendments for this evening. As to Item A, which is the zoning map amendment, it should be tabled until he has the opportunity to research the local ordinances and K.R.S. as he indicated before.

Mark Stoeber again addressed the Board. He stated that Cindy Minter is an experienced Planning & Zoning person and he believes he needs to give her the applicable K.R.S. legislation which has been around since 1978. It has been a by-law of Planning and Zoning since that time. The law is very clear that the mayor has nothing to do with zoning, that the mayor cannot be involved in zoning, that the three sources for the map amendment is either the applicants, the fiscal court but in this case it is not in this jurisdiction, or the legislative body. Zoning is the purveyance of the legislative body not the administrative body. It is something that she has possibly just overlooked.

Peter Glenn made a **motion that agenda Item 5 A, zoning map amendment proposing the zone change for Paulena Drive be tabled until the next Planning and Zoning hearing on April 8, 2015.** He questioned if he should include the text amendments, Items B. C. and D. Cindy Minter stated that she would recommend that these be separate from the tabling of the zoning map amendment, since those items should be brought forward from this body or from the city council. She would not automatically put those on the agenda for the next meeting because we will need more time for the text amendments. Donna Schmidt seconded the motion. Roll call showed five yeses and no noes. **Motion carried.**

Peter Glenn made a **motion to table agenda Items 5 B. 5 C. and 5 D. until further notice regarding all three of the proposed text amendments: Section 10.9 Highway Commercial (HC) zone, proposing to add professional office as a permitted use; proposed text change to Section 10.11 Neighborhood Shopping Center (NSC) zone, proposing to add outdoor dining as a conditional use; and proposed text change to Section 10.10 Neighborhood Commercial (NC) Zone and Section 10.11 Neighborhood Shopping Center (NSC) Zone, proposing to add care facilities for small domestic animals as a permitted or conditional use.** Dave Thiem seconded the motion. Roll call showed five yeses and no noes. **Motion carried.**

Cindy Minter questioned Chairman Peter Glenn if this P&Z Board would like to consider sponsoring the text amendments for items 5 B. 5 C. and 5 D. Dave Thiem questioned what the prompt was for these text changes. Cindy Minter replied that we do have prospective businesses that are interested in these text changes in the city. Dave Thiem questioned if these were existing or potential businesses. Cindy Minter replied that it was a combination. The Board agreed to just leave the text amendments as tabled for now.

Cindy Minter then gave an overview of the services provided and qualifications of the Campbell County Planning and Zoning Department. She gave an update on some of the items that the planning Staff provides to the city. She outlined information which was provided to City Council and to the Cold Spring Planning and Zoning Board Members in her letter dated March 4, 2015, and she named and outlined the responsibilities of each of her co-workers at Campbell County Planning and Zoning. She reviewed her own credentials and qualifications also provided in the March 4, 2015 letter. She outlined the work that Campbell County does for the various cities in this area. She pointed out various staff changes that they have had since 2013.

Ms. Minter reviewed the major reference documents which they use every day when applications come to them. They deal with our Comprehensive Plan, our Vision 2000 Initiative, and our Comprehensive Plan Update from 2010. They view our ordinances, zoning and subdivision regulations, our zoning map, and they also review Kentucky Building Codes, Flood Plain Documents, and the International Building Codes as well. When a resident or a business calls in, they have these at their fingertips to respond to their questions.

Very recently they requested a clarification of their contracted city services. In August 2012 the City of Cold Spring and Campbell County entered into mutual contract to provide for planning and zoning services as needed, and also building inspections and plan reviews. There was a resolution adopted by the county authorizing the execution of the contract to

provide planning, zoning administration and public inspection services as needed. The matching resolution for the City of Cold Spring listed zoning and building inspection services, but failed to reference planning services in general. Staff was uncomfortable moving forward with the Comprehensive Plan without getting some kind of clarification that the services were approved, so CCP&Z asks that this Board approves of them doing planning services and forward a recommendation to City Council for concurrence of that approval.

Secondly she wanted to give an update on the comprehensive plan update. On March 17, 2014 she met with Steve Taylor, Administrative Officer, to discuss the update. At that point in time, Mr. Taylor outlined what he felt the city's needs were in regards in terms of the Comprehensive Plan, and she provided an overview of what the County was over taking with their intended update. Mr. Taylor and Ms. Minter concluded that the most economical method was to coincide the two updates, to move forward with the county update and then when the opportunity presented itself (because a lot of the information is shared), to update Cold Spring's Comprehensive Plan shortly behind it. At that point, Mr. Taylor requested the use of the County to assist with their plan update and her understanding is that Mr. Taylor established a budget not to exceed \$25,000 to do that update. Again she would ask a concurrence from this Board that they would like the County to perform that update and to forward that recommendation on to city council for their adoption as well.

The Comprehensive Plan update is basically going through nine chapters. The background information is standard information, the goals and objectives are unique to Cold Spring, the demographics for the city and the county are very similar, the environmental characteristics are similar, the land use information is unique to Cold Spring, the community and facilities overlap on some of those with the regional facilities, the utilities management does need some update particularly in relationship with the storm water issues and they anticipate working with Mr. McKinley to get the storm water update in there, and then transportation is largely some regional information which is similar to what is in the county's report and then the implementation would be unique to Cold Spring. That covers the major sections of the Comprehensive Plan update. She opened this up for discussions on these items.

Lou Gerding addressed the Board. He stated that Ms. Minter was going to try to attend the March City Caucus meeting but she had another engagement. He questioned Ms. Minter on the Comprehensive Plan and if she has ever managed or been in charge of one before or if she has ever done this prior to her move to the county. Cindy Minter replied she spent thirty years as a private consultant. She has been engaged with many comprehensive plans in the past, but she has not been a project manager for a comprehensive plan for a city but she has done comprehensive plans for major projects.

Peter Glenn stated that as we go forward and work with Campbell County on the Comprehensive Plan, as chairman he has a lot of faith in their ability to guide us in this process and he doesn't have any reservations as far as making that recommendation, nor does he have any reservations about making a recommendation to change our contract for the planning services portion of that contract.

Peter Glenn made a **motion to make a recommendation to council to modify the contract with the Campbell County Fiscal Court regarding the use of the Campbell County Planning and Zoning to provide for general planning services as needed.** Tony Ponting seconded the motion. Roll call vote showed five yeses and no noes. **Motion carried.**

Dave Thiem made a **motion to make a recommendation to council for the approval for Campbell County Planning and Zoning to provide planning assistance to the Cold Spring Planning and Zoning Commission on the anticipated update to the Cold Spring Comprehensive Plan.** Donna Schmidt seconded the motion. Roll call vote showed five yeses and no noes. **Motion carried.**

Under commission items, per House Bill 55, Peter Glenn requested **approval of continuing education, 8.5 hours for Donna Schmidt, 16 hours for Peter Glenn, and 6 hours for Dave Thiem.** After making a minor correction on the education worksheet, Dave Thiem made a **motion for approval** and Donna Schmidt seconded the motion. All were in favor. **Motion carried.**

Dave Thiem questioned paperwork left on the dais for Board Members. Cindy Minter stated that she provided some flyers on continuing education opportunities. She also provided a summary of what is going on with Campbell County's Comprehensive Plan. They are updating their Plan now and they are asking for comments on the Goals and Objectives. She is just sharing this with the Board for informational purposes.

Mark Stoeber addressed the Board with some closing comments. The purpose of him coming and talking about all of this is not in any way other than to help and protect this Board. He also wants to help and protect the City. There were common basic problems that you don't want to expose yourself to. He is glad that he did this tonight for the simple fact that some people didn't know the problems and the point was to mainly help them. As the person who originally appointed all of

them, he thanked them for their continued service. He has sat in their chair also and it is not easy. Mr. Stoeber passed along a little advice. You have three text amendments and in your text amendments there are sometimes a casual use of whether it is a permitted or a conditional use. His only caution is to be extremely knowledgeable about language when deciding to have something that is a permitted use. For example you are looking at a permitted use of offices in Highway Commercial, but the city already has a complete zone for professional office for which clinics are thoroughly defined. Less than a year ago we had a very important blurring of an understanding of what is a clinic and what is an office by the Planning Commission. A methadone clinic was viewed as being something that you could do in an office. As you go through permitted and conditional uses, he cautioned to be extremely diligent in the language that you use and make sure if you want to make something a permitted use, because once you make a permitted use, there is no going the other way.

He heard Staff say that there are these businesses out there who would like to have these adjustments. The City's history has been to not have nebulous, or anonymous, or invisible businesses make comments to anyone whether it be Staff, the Mayor, or Planning and Zoning to say why don't you do this. It has always been the City's history to actually have the businesses come forward and introduce and talk about themselves in order to get the flavor of what they are all about. For example with small dog kennels they could be a doggie day care, a vet clinic, or possibly a donations situation. It helps to get a flavor of what you are doing. In closing he thanked the Commission. They work hard. In all of his years of service, his two years on Planning and Zoning were the toughest because of the legalities. Thank you so much.

Brian Donelan verified with the Board that the map amendment for Paulena Drive was simply tabled because of procedural matters regarding the publication time frame and nothing else. Cameron Blau concurred that he will be looking into this matter to make sure it is complied with. Mr. Donelan also thanked the Board for all that they do.

Lou Gerding addressed the Board. He stated that Staff has mentioned that they are doing the County's Comprehensive Plan right now. He questioned Cindy Minter if there is any urgency on the City's part so that we can run parallel with that, or is it good that we would be a couple of months behind what the County is doing. Cindy Minter replied from an efficiency standpoint it would be good that the City would be running a couple of months behind County. From the County's perspective they will be doing some of the heavy work. There is no urgency, but it is just a matter of when the City wants the plan updated. The current Comprehensive Plan is dated 2010. KRS says it should be done every five years but there is a procedure in case it is delayed for some reason.

Donna Schmidt made a motion to adjourn the March 11, 2015 meeting at 8:30 pm, and Dave Thiem seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk