

Cold Spring Planning & Zoning May 13, 2015

The regular meeting of the Cold Spring Planning and Zoning Commission was called to order by Vice Chairman Anthony Ponting. Pledge to the flag was led by the city clerk. Roll call showed the following present –Robin Hahn, Grant Mitchell, Tony Ponting, Donna Schmidt– excused were Peter Glenn, Vince Sticklen and Dave Thiem. Also present were Attorney Brandon Voelker, City Clerk Rita Seger and Campbell County Staff Member Ryan Hutchinson

Vice-Chair Ponting pointed out the exits from the building, per Fire Department regulations.

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

There were no subdivision items or public facilities.

Tony Ponting opened the public hearings as scheduled.

The first public hearing was 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). Ryan Hutchinson, Campbell County Planning & Zoning explained the April 30, 2015 Staff Report with a slide presentation which showed the location, surrounding vicinity, current zoning, adjacent zoning, aerial views, photos, and topography. Mr. Hutchinson reviewed the history of the property, which includes six developed lots and one vacant lot. At the time this property was developed in the county it did not have central sewer, and because of that the county placed that property in a R-RE. In 1988 they petitioned and were annexed into the City of Cold Spring so that they could tie in with the central sewer system. At that time zoning was never looked at or changed. Due to some recent property improvement requests on Paulena Drive, the residents found out that in order to get the improvements they met with some challenges to that R-RE zone and had to petition the Board of Adjustment for a variance request. They petitioned the city and requested the map amendment, because they felt that the R-RE zone was not appropriate.

Ryan Hutchinson gave a comparison of the R-RE versus the R-1DD zone as listed in Staff report. He explained that under the current zoning a lot of these homes sit entirely within front yard depth of 75 feet meaning that front yard setback would be behind the existing properties. The R-1DD zone would encompass the minimum lot size and would match adjacent developments. Public notice was given, per our regulations and a sign was posted in the yard. Staff has recommended approval subject to two conditions as listed in staff report. Mr. Hutchinson reviewed the supporting information/bases for Staff recommendation and invited questions from the Board.

Robin Hahn questioned if all of the houses will meet all of the requirements of the R-1DD zone, and if they don't meet the requirements would they be grandfathered in. Ryan Hutchinson stated that neither the city nor the residents had surveys done of each individual lot to see where they are with setbacks. This zone is more appropriate to meet the lot size minimums. Surveys would be the responsibility of the residents when they look to do improvements on their property. They would not be grandfathered in. They would still need to go before the Board of Adjustment if there are issues and request a variance. Brandon Voelker stated that it would be a non-conforming use if they want to do something else. If the house is 2,000 square feet and it caught fire and it is not conforming, because the insurance company is going to pay the replacement cost and you want to make it 2,500 square feet you cannot do that. That is a significant aspect that property owners of Paulena Drive should know. Different rules will apply for non-conforming use and the property owners may be zoning themselves into a non-conforming use position. Robin Hahn questioned if something did happen to the property, could they put back what was there previously. Ryan Hutchinson stated that they would have to meet the setbacks of the new zone of R-1DD and not the R-RE. They could petition the Board of Adjustment but there is no guarantee that they would get that. Brandon Voelker stated there are some restrictions and it is primarily the setbacks that are different. Ryan Hutchinson stated that all of their lots were 70 feet wide and the minimum setbacks for the side yards were five and ten feet.

Grant Mitchell made a **motion to approve the zone change for Paulena Drive on the bases of staff recommendation, with two conditions: that the Cold Spring City 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 the respective lots.** Donna Schmidt seconded the motion. Roll call vote showed four yeses and no noes. **Motion carried.**

Public hearing Case #155-15-SPD-01 was called to order, for a Site Development / Stage 1 Plan for property located at 6189 Ripple Creek Road for a proposed LaRosa's Restaurant, applicant FLN Properties, Mark Flohn. Ryan Hutchinson, Campbell County Planning & Zoning explained the May 4, 2015 Staff Report with a slide presentation which showed the location, surrounding vicinity, current zoning which is SDA Special Development Area, adjacent zoning, aerial views,

photos, and topography. There will be access from the current drive off of Ripple Creek and a new access from a proposed drive from US27. Mr. Hutchinson gave the description of the SDA Zone, which is compatible with the adjacent area. He reviewed the lot areas and gave a history of this site. He reviewed the site plan issues as listed in staff report.

The applicant has applied for and received an encroachment permit from the Kentucky Transportation Cabinet for an additional access point to US27 but that doesn't mean that they are not subject to local municipality regulations. A traffic analysis was submitted. The proposed access point is 450 feet which doesn't meet the Cold Spring subdivision regulation minimum driveway spacing requirements along arterial roads which is 600 feet for safety and sight distance purposes. The regulations also state that for arterial roadways the direct access onto a roadway from abutting properties shall be discouraged and when they have frontage on local or sub-collector roads the lesser access should always come from there. One of the reasons why they placed the access point where they did is because they were trying to line it up with the church across the street. The landscape plans were not submitted to Staff with the original submittal, however they stated that the landscape plans would meet our minimum standards. Today the applicant submitted requests to vary some of these minimum standards for screening and landscaping. Staff has not had time to go through that and do not have a formal submittal. Staff has recommended approval of the site plan, with conditions as listed in staff report and he reviewed the bases for staff recommendation. Ryan Hutchinson invited questions from the Board.

Grant Mitchell questioned what the entrance off of US27 would look like if they used the required 600 foot spacing. He commented that this area of US27 slopes upward, so visibility coming south would be eaten up. There are power lines on the property and the access drive lines up with them which gives space for other development on that property. He questioned if that access could be changed. Ryan Hutchinson stated that they are proposing an access point somewhere in the middle but could potentially bring it down farther and over. Theoretically it would be in the same area. The regulations say that we should limit the access points along major roadways and have access points on lesser impact roads. There are alternatives such as right in / right out. There could also be deceleration lanes installed so drivers could get over in the right lane and slow down, and the same for pulling out. There could be a turn lane similar to the car wash that eases safety concerns for the traffic.

Donna Schmidt verified that the lighting plan will be submitted, and questioned the signage. Ryan Hutchinson stated that the signage could be submitted and approved with this site plan, or they are allowed to submit it later, with their building permit for staff review. If they can't meet the signage requirement they would have to come before the Board for a variance request. Donna Schmidt stated that given the fact that there are no sidewalks on US27 near there, would we still require them to be put in because it is in the SDA zone. Ryan Hutchinson stated that there are sidewalks further south near Crossroads, and at the other end of Ripple Creek. Sidewalks are per the city's requirements. It is at this Board's pleasure but it is something that is encouraged. While sidewalks are not there now, at some point they could be there and if we stop requiring them then will they never be there.

Grant Mitchell stated that there is difficulty pulling out of that area because drivers are going fast and it is pretty busy and hard to make a left hand turn. He questioned the distance from the proposed US27 access to Blossom Lane. Ryan Hutchinson stated the measurement was made from Ripple Creek and not from Blossom Lane. Tony Ponting stated that distance should be considered as much as Ripple Creek, and he questioned the definition of an arterial roadway, which Ryan Hutchinson provided. The arterial roadways are the main thoroughfare, and then the next level of street is less traffic with slower speeds, and then local streets would be the least amount. Anthony Ponting verified that by moving the access / entrance further south to meet the 600 foot requirement it would affect the Blossom Drive. Ryan Hutchinson stated if they can't meet the 600 feet from either direction it is in conflict with the ordinance.

Rick Carr, the project engineer addressed the Board. With him was Mike Mangeot representing the owners of SRM properties, along with the builder Mark Flohn. Mr. Carr stated that they started the projects with this property ten years ago, and when they annexed into the city they had a development plan that was approved as part of that process. Brandon Voelker stated that plan did include a roadway. The roadway has been a long bone of contention between Staff and Council that the city did agree to, on both this south site and the north Ripple Creek site. This was a negotiated deal. This property was not in the city and the city worked with the developer for annexation because of concerns with how the county was going to zone it. There is a drawing that has a road access in the vicinity of where it is with this site plan.

Rick Carr agreed that there was an entrance coming out onto US27 when the development plan was brought into the city as an annexation. Brandon Voelker stated that there was a two-step agreement for the property next to Campbell County Auto Body which was in the city had the same owner as this property. They came into the city in exchange for certain considerations. Typically the only way that you can get annexations done is to get property owners who are willing to come in and pay taxes on the property. There is a development agreement which includes both the north and south properties. Originally the property called for five buildings along with a drive, and now there are only three office buildings along with

this one. Mike Mangeot stated that they have been struggling to make this an office park for ten years and there is just not a demand for office space. This past week, they have just filled the last space in the existing building which was erected in 2008. There is a pad to the right of this building that would allow for a future office building. The thought all along was to try to develop the frontage to help support this property. Rick Carr stated that we have had some hard economic times in the last decade, but they have stuck it out with the city and kept the property mowed and looking nice. They finally got this office building going, and now have this plum of LaRosa's and he hopes everyone will appreciate that.

Rick Carr referred to the two waiver requests, and stated that they are only asking for a waiver on 1.4 percent on the interior basal area. If they can't have that waiver, they would have to take out two parking spaces, and they need every bit of parking that they can get. They actually need thirty parking spaces just for employees and they hope to have a lot of customers. It would be hard to give up two parking spaces. The other waiver is our requirement for one tree every forty feet along the interior access, and they are asking a waiver so they can do one tree every sixty feet instead of forty on the landscape plan.

Staff recommendation #6 includes sidewalks along US27. Mr. Carr suggests that recommendation be totally deleted because sidewalks along that stretch of US27 would be dangerous and inappropriate. This section is a more rural area. When you have sidewalks along other SDA zones there are curbs separating the sidewalks from the travel-way, but in this area there are no curbs. There is just a paved shoulder which you wouldn't want a lot of people walking on. Also, that requirement wasn't included on the original development plan. Recommendation #7 which is coordination with Duke Energy, has been submitted. It doesn't address driveways, just about buildings and other obstructions. Typically you are allowed to put driveways in those overhead easements. They request that #7 is deleted also.

On recommendation #8 regarding the minimum spacing requirement of 600 foot driveway, Rick Carr said that the wording of the ordinance reads "wherever practical" and in this case it is not practical to have the driveway at 600 feet. They followed all of the rules and looked at the line of site when they received their encroachment permit from the Kentucky Highway Department. It is 443 feet from the center line of this encroachment to the center line of Ripple Creek, but it is only 550 feet from the center line of this encroachment to the center line of Blossom Lane. It is impractical to put the driveway access at 600 feet because if you move it to be that distance from Ripple Creek then you would only be approximately 400 feet from Blossom Lane, which is a more residential setting. They decided that as the developers of this property and with sound engineering judgment, it made good sense to put the driveway across from the existing church lot. That driveway on the original development plan was further south but it has been redesigned and the uses and the buildings are different. It makes good, sound engineering principles that they line it up with the existing church driveway which would keep it a little further away from Blossom. It also puts it in the center of the property underneath the unusable easement area. It is an appropriate place and it opens up that other track to the south for future development. He would suggest that recommendation #8 be deleted completely. Mr. Carr invited questions.

Brandon Voelker referred to the landscaping and stated there was a little confusion. No application has been made yet about landscaping, but to come up with a solution and to allow for time constraints, they are requesting that this body consider the two waivers tonight and if inclined to do so, he would recommend a condition that they submit the landscape plan for review of everything, but also consider these two waivers granted. If other components are needed Staff would review and make sure that happens. Ryan Hutchinson said that Staff needs to have the actual application submitted and then they could write up the approval of those waivers. Staff has only seen bits and pieces and they communicated with the landscaper a month ago. They know what they are asking for and they don't think it is unnecessarily unreasonable but they don't have the submittals yet. Rick Carr stated that they don't want to have to go through all of the public hearing process again but suggest that it be approved on the Stage II plan subject to these two waivers.

Brandon Voelker stated that this Board could grant the two waivers, subject to application and approval of everything with the exception of these two waivers. Obviously Staff would not grant any other waivers and they would make sure that everything else complies. That would be handled administratively by Staff.

Ryan Hutchinson pointed out that the previous development plan is not what they are looking at tonight. They are looking at this new development plan with the new access point, the zoning, and some of the issues such as the sidewalk and if it is appropriate to put in now or somewhere in the future and we don't want to miss out on this opportunity to get sidewalks. Another issue is the access location, to allow access because they can't meet the 600 foot spacing in either direction. He stated that if the access is granted the Board should consider if should be limited to a deceleration lane, or a right in / right out, or full access as they propose. He understands that plans change after eight years ago and different economic times, but Staff is looking at it with today's eyes, today's considerations.

Mike Mangeot stated that they have placed the US27 access point in this area because first, the transmission line easement takes two acres out of the nine acres that they have and runs right up the middle of the property. They saw it as not only lining up with the church driveway and keeping some kind of happy medium between Blossom Lane and Ripple Creek, but that it was the obvious point. It lets them use those two acres under the transmission lines as a drive into the site. If they don't do that, those transmission lines will just be dividing the site since they can't build underneath them, and they will not be able to use that area whatsoever. It also allows them to have a small site on the right for another type of use. If you put a right in / right out there, it will kill the deal with their tenant because they won't go there unless they have access. There is a no man's lane on US27 so there is an easy way to turn left. Brandon Voelker verified that they did have a traffic study done. They also took into consideration the office building traffic, not just the LaRosa's traffic.

Grant Mitchell questioned what the theory was for proposing the tree plantings at 60 feet versus 40 feet at the interior street. Mr. Carr stated that what we are calling a street is just another access that runs off of Ripple Creek. They are trying to keep the visibility of that office building off of US27. They don't want to block the view of them. These will be oak trees and the landscape architect said that 40 feet is too close for those large trees. The second waiver request is just for the interior requirement. City regulations have a 5 percent requirement for the interior of any parking area, and they have 3.6 percent. They are asking for a 1.4 percent waiver of that requirement.

Brandon Voelker verified that there is approximately forty feet of grass space between their property and the right of way at US27. He stated that, similar to the McDonalds site, sometimes you get a lot of basal area as part of the state right of way. Something this Board might consider is to give them a waiver on the interior basal in exchange for keeping that right of way grass cut which will help keep the site looking nice. It takes the State awhile to maintain areas such as this, so put the burden on the property owner to take care of this. Mr. Carr stated they also have plenty of landscaping along the back side of their property.

Grant Mitchell questioned if their current parking is above the minimum requirement. Rick Carr stated that it is. Our code requires 63 spaces and they want 90 spaces. Anthony Ponting commented that with projects in the past, even at a minimum they seem to create seas of unused parking spaces such as found at Furniture Fair. Mark Flohn stated the reason that they need this many parking spots is that many times when people are building restaurants they don't take into consideration where their employees are going to park, On a typical Friday night they could have thirty cars there for employees only. This will be a nice store and expected to be extremely busy. They have a large party room, and many times single people come in separate cars to meet for a large party. If parking is an issue, then people won't come. He has seen this in several LaRosa's with smaller parking lots to cut down on the costs, and people can't get in. Rick Carr stated that if you look at the plan it is not a large vast parking area but it is cut up into different areas because of the dimensions of the lot. They do have the perimeter landscaping.

Councilman Lou Gerding was in the audience and he questioned if there was a drive-thru planned for the building. Mr. Carr stated that they have a pickup window, but it is not a drive thru where people will pull up to a squawk box and order. This window is to the north side of the building where people will be able to pull up and get their pre-ordered food. They will not place orders there. Owner Mark Flohn stated that LaRosa's has been trying to do this as they move into other markets. Seeing that there is so much traffic along US27, it is a convenience that they can call in the order, pull up to the window, and their order is handed to them. There will be no speakers, just a pickup window. LaRosa's has entrusted him with that task to see how it would work. Lou Gerding stated the SDA zone does not allow drive thru's. It comes down to what is the definition of pickup window versus drive-thru. Brandon Voelker stated the regulations for SDA excludes those with drive thru's or drive in facilities. This will depend on how you distinguish the definition of this. Ryan Hutchinson stated that one of the reasons they were allowing it to come thru with this design is because of just that. The pickup area was not a full drive thru area where you order the food and pick up.

Brandon Voelker stated that one of the reasons drive thru's are not allowed in this zone is because of this being in a neighborhood area and people pulling in to order food would cause a traffic buildup, whereas he believes that since you have already placed your order and are just picking it up, it is similar to call ahead eating. Mr. Carr stated that they cater to families so they don't want people leaving their children in the car to get pizza, but to be able to pick it up at the window. Grant Mitchell questioned if this would be for prepaid orders. Mr. Flohn stated that some of them will pay at the window while others may pay online. He stated that they designed this building and parking with that in mind. That was the utmost concern on where the pickup window and traffic pattern would be if there were two or three cars.

Jane and Mark Hasenstab, residents of Sturbridge, addressed the Board. They have been residents for twenty-six years and she asked where the sewerage was going from that restaurant, and if it would in any way be connected to their subdivision. Mrs. Hasenstab stated that her \$240,000 home is now valued at nothing because of sewerage issues. The last thing that Cold Spring needs is another restaurant. Everywhere you look that is all you see and it has taken down the value of

the whole city. Sturbridge is one of the nicest subdivision in Cold Spring, but it has been demoralized between all of the restaurants and the traffic on US27. It is a congested mess, but the worst is the sewer issue, especially for her family because they have had to live with six inches of sewerage in their basement when they have invested their lives in their homes. They now can't get homeowners insurance and are fighting to get back all of the money that she has put in her basement. Everything in the Crossroads developments pumps through Sturbridge. Ms. Hasenstab said year after year they have invested in their home and within an hour and a half her life changed, and as of now SD1 still doesn't know why this happened to her home. At any time it could happen again. If SD1 cannot handle the restaurants that are in now, how will they handle more restaurants. Mr. Hastenstab stated that with the traffic congestion, people who come into the no man's lane to turn left will just be dead. It is already a mess now and will only get worse. The Hastenstabs stated they need to know that their sewerage will not end up in her basement again. It has taken a lot out of her family, mentally emotionally and physically. Brandon Voelker stated that there is an issue in Sturbridge, where it smells because of the feed into the forced main.

Mr. Carr replied that their sewerage will go across the street and get into the new gravity sewer that runs north in front of Summit. Their sewerage is a whole different pipe system than what the Hastenstabs are talking about. This sewerage comes across the street and drops in the upper end of the gravity line right across from LaRosa's and that line flows to the north, past the Diamond Exchange. It is a whole different system and it won't be a problem in Sturbridge.

Tony Ponting stated we need more review about the sidewalks and we don't want to miss this opportunity, however, he doesn't want them to cause any hazard, with there being no curbs in the area and with US27 being ridiculously busy. Rick Carr stated that section of highway is designed for the water to drain away from the center line. The water goes off the pavement across the paved shoulders and typically in that section there is a ditch and in this case where would you put the sidewalk, on the edge of the ditch or the dropped pavement. Then the water would have to go across the sidewalk which is again a safety hazard. You would have drainage problems. Right now it is draining just to the big pipe to the north of their proposed driveway. Mr. Carr stated that a contingency could be added that when sidewalks are developed through there, the property owners could be required to add sidewalks. We don't need a sidewalk going nowhere.

Ryan Hutchinson stated that you could escrow it. Grant Mitchell verified that a bond would be the same as an escrow. Ryan Hutchinson stated they would put the money into an escrow account or bond or surety and it would sit until the city felt it was appropriate to put it in. The bond may cost \$2.00 per square foot. That would be about 800 linear feet. It would just be fronting the 1.9 acres. Rick Carr stated it would be very expensive and a maintenance headache because of the way the water runs off the road. He suggests in the future when they change that roadway section and put in curbs and sidewalks it will be a major project someday. Tony Ponting stated that if we say don't require sidewalks how do we get them in the future. He doesn't know where future developments will go and none of us know where it will be 50 to 100 years from now. Rick Carr stated there may be curbs and gutters going down US27, and if they improve that section of highway, maybe that urban section will go out that way.

Tony Ponting questioned what the other options may be. They have asked us to expedite this but he thinks there hasn't been a lot of research and ideas. We need more thought of the different possibilities on some of these items. He asked for clarification on recommendation 7 regarding the Duke Energy submittal. Mr. Carr stated that they did submit the evidence and it is a matter of Staff recognizing it as part of the Stage II plan. Mr. Ponting referred to Item 8 with the 600 feet access versus 450 Feet, and verified that if the site is redesigned the access is even closer to the other subdivision. Ryan Hutchinson stated that if they were going to have a drive on US27 it would make sense to have it under the electric lines because they cannot build anything under those transmission lines. There is justification and it makes sense, but it is a safety concern for sight distances.

Grant Mitchell questioned Mr. Carr on the possibility of a deceleration lane and verified that a right in / right out would kill the project. Mr. Carr stated that the line of sight was addressed on the encroachment permit profile and it isn't an argument. The traffic study doesn't indicate that a deceleration lane was necessary and not required as part of that permit. If they had a deceleration lane, traffic would be turning right at the shoulder.

Ryan Hutchinson reiterated that access should be on a lesser road which they do have off of Ripple Creek which is 400 feet down. Mr. Carr stated that is pulled from the subdivision regulations instead of the zoning regulations. Ryan Hutchinson stated that they are proposing infrastructure as a new access point and it could be a safety issue. It is access along an arterial roadway and it is subdivision material. Brandon Voelker stated that if they subdivide the property they would have to give everyone access and you would then have a larger number of curb cuts. Ryan Hutchinson stated that there is already an existing access off of Ripple Creek so if he approves it with a new plan it would be to provide access easement off of Ripple Creek through the existing driveway point there. Brandon Voelker stated that there is an approved agreement /

contract. He went through this same debate many years ago and council had to override this body because we had contractual obligations, and the agreement included a curb cut at the time.

Grant Mitchell referred to the landscape and that they are only 1.4 percent off, which is actually 28% reduction in landscape for the 5% total. He questioned about the property with landscaping-wise. Mr. Carr stated he has a landscaping plan, and he wants it to look aesthetically pleasing. Mr. Mitchell suggested that we could agree to half of the reduction that they are asking for and just split the difference.

The Planning and Commission Board members reviewed each of the recommendations, and possible alternatives and possible wording for the motion. They discussed the two waivers, and Ryan Hutchinson suggested that the waivers be separate motions. Staff would have broken them down into separate findings. Brandon Voelker reviewed various possibilities on how to word the motion. He agreed that the landscaping plan be a separate motion since that is a separate submittal from them.

Grant Mitchell made a **motion to approve the Site Development Plan/ Stage I for LaRosa's at 6189 Ripple Creek Road for conditions 1 thru 4 that: 1.) the project complies with all applicable building, subdivision and zoning ordinance regulations, 2.) notations of SD1 on the site plan be revised reflecting coordination with Cold Spring regarding construction, drainage and BMP's, 3.) a plan be submitted and approved by the City of Cold Spring which complies with all the BMP and storm water requirements, 4.) a lighting plan be submitted and approved that shows all lighting will be contained on the site so that passing motorist and neighbors won't be negatively impacted; and that condition 5 regarding a landscaping plan be removed and approved separately; that condition 6 regarding the requirement along US27 for sidewalks be deleted; that condition 7 remain as is on evidence of coordination with Duke Energy being submitted regarding the driveway encroachment with the electric transmission easement remain, and that condition 8 regarding the minimum spacing requirements of an intersection along US27 of 600 feet be deleted altogether.** Robin Hahn seconded the motion but wished to **amend the motion to state that the conditions 1, 2, 3, 4 and 7 are approved on the bases of staff recommendations and that condition 8 is deleted on the bases of the traffic study that was submitted by the applicant, as well as the proximity to Blossom Lane being significantly less than 600 feet.** Grant Mitchell accepted the amended motion. Roll call vote showed four yeses and no noes. **Motion carried.**

Condition 5 for the request of two waivers on the landscaping plan was reviewed. Grant Mitchell made a **motion to approve landscape plan for LaRosa's with the waivers for the tree plantings to be every 60 feet instead of every 40 feet, and for a reduction of the interior basal area from the required 5 percent to 4.3 percent on the condition that the property owner maintain the green space from their property to US27. This is also under the condition that they submit a formal landscaping plan to Staff for their review and acceptance with the exception of the two waivers which are being granted.** Donna Schmidt seconded the motion. Roll call vote showed four yeses and no noes. **Motion carried.**

The next item on the agenda was **approval of 8.5 hours of continuing education credits for Board of Adjustment members David Penque, Bob Freppon, and Stuart Oehrle, per House Bill 55.** Donna Schmidt made a motion for approval and Grant Mitchell seconded the motion. All were in favor. **Motion carried.**

Connie Coots of Allstate Insurance addressed the Board. She owns a building at 5700 Alexandria Pike next to Speedway. It is a house and is residential zoning. In the future she would like to rezone her property to a Highway Commercial so that she can renovate the building and move her employees there. She doesn't have the space in her current office right now. She wants to keep her business in Cold Spring, and as she is moving through the process, she wants to re-zone her property to Highway Commercial, but in order to do that there would need to be a text amendment to that zone and she is requesting a text amendment to allow for a commercial office, so that she can re-zone her property.

Brandon Voelker explained the requirements of text versus map amendments. A map amendment is a change of a zone, and it can be initiated by a property owner, this body, or council. There are some rules on that. You have to have at least five acres or be adjacent to the zone which you seek to be become. If this Body votes in the affirmative on the map amendment and if council doesn't act, as a matter of law your recommendation passes after ninety days. It would also take a super majority of council to override this Board's decision. A text amendment is entirely different. It is not site specific. A text amendment can legally only be initiated by either the Planning & Zoning Commission or City Council. When you sponsor a text amendment you elect Staff to complete a report and conduct a public hearing to consider the adding of text or even to just clarify a definition in our text. This Board acts through the minutes. Someone must make a motion and it must be seconded, and it has to be reflected in the minutes to properly sponsor it before Staff can review. If you wish to sponsor a text amendment you would have to vote to consider making it a part of a highway commercial zone, but that in and of itself will not change the zoning. If you add office to the text, it will be added to every highway commercial zone in the city. It is not about a single site. He verified that her property is zoned residential.

Ryan Hutchinson stated that the property is adjacent to the NSC zone on the North and to the south is HC and she is adjacent to HC to the south. If she would go into the NSC zone she couldn't meet specific requirements of the NSC. Connie Coots stated that she would need more acreage for individual site development, but she could meet the requirements of the HC zone. Ryan Hutchinson read the permitted uses and accessory uses of that zone and stated that offices could be made as conditional uses. Tonight Ms. Coots is bringing this before you to decide if it you would sponsor it and direct Staff to evaluate and to see if this text amendment is appropriate for this zone.

Brandon Voelker stated that there would be a notice of a public hearing, not site specific, and if you pass this, any highway commercial zone could have office since we cannot spot zone. The term "office" is a term of grave concern right now in the city. There is a difference of opinion of the term "office" versus "clinic". It may one day have to be determined in a court of law. Your Highway Commercial zones are larger areas, and the concern about office is what could be in that kind of space. An office could be a dentist, or a clinic could be an office, and obviously space would be important. There was a concern in the city regarding a methadone clinic, and the issue was if any type of rehab facility was considered an office or a clinic. Obviously there was concern because of proximity to schools and he received numerous calls.

Robin Hahn questioned if there was an alternative and if there is something available that makes her present residential an office space. She questioned if there is a better way to address this issue rather than a zoning document. Ryan Hutchinson stated that the only other zoning is NSC zone directly to the north. Brandon Voelker suggested that she change her zoning to Neighborhood Shopping Center if she is adjacent to at least five acres. Ryan Hutchinson stated that she can't meet the minimum lot requirements. It takes one acre to be a developable site, and Ms. Coots' lot is only .6 acres. The Board of Adjustment cannot grant a reduction in the building size area because we would be changing the zoning at that point. Brandon Voelker stated that Connie Coots is in the middle of this, but the concern is that offices tend not to be mom and pop offices. The concern would be if office is a clinic, and if so you are giving it a gigantic footprint. If she changed her property to the NSC zone office it is allowed, but it is the size issue that she is presented with.

Connie Coots questioned if she could be granted a conditional office use. She stated that this location is a good place for an insurance office. She wants to stay in Cold Spring. She has to make a decision. Brandon Voelker stated that this Board could look at this for a conditional use, and she could pursue that. Grant Mitchell stated he appreciates her being in Cold Spring long term, but he is hesitant on taking this action. Brandon Voelker stated that if you take no action, that speaks for itself. If this Commission takes no action, she can go before City Council with the request for sponsorship.

At this point the Planning and Zoning Commission agreed that they would take no action.

Lou Gerding addressed the Board. He first apologized for having this Board cancel the meeting last month, but his second apology was for some of his comments made during the March Planning and Zoning meeting. His comments came off as being strong and harsh, but the problems at that time were false information provided by the former mayor to this Board and Council as related in the February meeting. Campbell County Staff Director Cindy Minter also received false information trying to promote three issues on the agenda. Councilman Gerding stated that he was involved in Planning and Zoning for a number of years and knows a lot about it, and that night he came up to say that the actions that were being taken were legally wrong. You can't give opinions on matters until the public hearings. He apologized that his comments came out a little too strong.

Robin Hahn made a motion to adjourn the public hearing at 10:00 pm and Grant Mitchell seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk