

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
PUBLIC HEARINGS  
FEBRUARY 2, 2022  
7:30 P.M.**

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Chairman Charlie Rolfsen opened the Public Hearing at 7:33 p.m. and welcomed the audience to the Planning Commission's February 2, 2022 Public Hearing. The Boone County Planning Commission, pursuant to KRS 61.826, will conduct its regularly scheduled Public Hearing on Wednesday, February 2, 2022 via live video teleconference. This meeting format has been necessitated due to the threats to public health presented by the novel coronavirus (COVID 19) pandemic.

**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mrs. Pamela Goetting  
Ms. Corrin Gulick  
Mr. Steve Harper  
Mr. David Hincks  
Mrs. Janet Kegley  
Mr. Rick Lunnemann  
Mr. Kim Patton, Vice Chairman  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mrs. Jackie Steele  
Mr. Tom Szurlinski  
Mr. Steve Turner  
Mr. Kenny Vaught

**COMMISSION MEMBERS NOT PRESENT:**

**LEGAL COUNSEL NOT PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Michael D. Schwartz, Director, Zoning Services  
Mr. Todd K. Morgan, AICP, Senior Planner  
Ms. Alaina Hagenseker

Chairman Rolfsen introduced the first item on the Agenda.

**ZONING MAP AMENDMENT, Todd Morgan, Staff**

1. Request of **Tony Berling (applicant)** for **Walton Land Development Company, LLC (owner)** for a Zoning Map Amendment from Commercial Two (C-2) to Commercial Two/Planned Development (C-2/PD) for an approximate 8.4 acre area located along the north, east, and west sides of Towne Center Drive, and being immediately south of the Walton Kroger, located at 635 Chestnut Drive, Walton, Kentucky. The request is for a zone change to allow the development of residential dwellings.

Mr. Todd Morgan, referred to his PowerPoint presentation. The site is approximately 8.4 acres in size and located south of the Walton Kroger across the street from the Walton Firehouse. The proposal involves constructing 125 two bedroom condominium units. There are 7 buildings which contain 5 units each and 9 buildings that contain 10 units. There is a total of 108 garage spaces, 108 driveway spaces and 123 guest/overflow stalls and 4 access points on Town Center Drive. One is located on the east and south sides and 2 are located on the west side for trash pick-up. The applicant is requesting a Planned Development (PD) in order to allow more flexibility – an intensity bonus, a Conditional Use Permit as part of their PD, a reduction of their street frontage buffer along the southern portion of the site. They are proposing a 1-3 foot buffer instead of the required 10 foot. The applicant is also requesting 2 monument signs on the east and south sides even though only one is permitted. With the PD, the maximum density allowed is 189,000 square feet and the applicant is proposing 188,500 square feet. If the project didn't involve the PD request, the maximum allowed would be 126,000 square feet. Mr. Morgan showed elevations of the proposed buildings and building materials. He also showed a proposed landscape plan for the site. The proposed plantings could cause site distance issues. Mr. Morgan described the adjoining land uses and zoning. He also showed photographs of the site and adjoining properties. The existing Kroger access drive is located on the subject property. The site is located close to the Walton Firehouse and UC Health Heliport. He noted some industrial buildings and future senior apartments located southwest of the site. The 2040 Future Land Use Map designates the site for Commercial (C) uses. References to the Comprehensive Plan are mentioned in the Staff Report.

In terms of Staff Comments, Mr. Morgan asked whether sidewalks are going to be built along Town Center Drive? There needs to be a better connection between the proposed buildings and perimeter sidewalks. In terms of compatibility of uses, future residents will probably experience considerable noise impacts from the Kroger store loading docks, Walton Fire Department, UC Health Heliport and tractor trailer traffic. Other uses have been approved or are planned in the subdivision – Towne Creek Apartments (44 units), Haven Crossing Senior Apartments (57 units) and a Walton Library branch. The proposed development seems dense and does not have substantial useable open space. Perhaps a building or two could be eliminated? Staff recommends that more walking trails and a pocket park be added to the development. Mr. Morgan expressed a concern about only a 1-3 foot street frontage buffer and lack of landscaping around the dumpster enclosure. In terms of architecture, is the horizontal siding vinyl or composite? Also,

the dumpster enclosure should have brick veneer and metal gates. Mr. Morgan recommended that the monument signs only be 8 foot tall and 50 square feet in area.

Is there any building mounted signage proposed? The Hayward floor plan shows a possible third bedroom. He asked if the third bedroom could be constructed because it could increase the number of children? Will the residents without garages be assigned 2 parking spaces? Would any recreational vehicle parking be permitted in the parking lot? Mr. Morgan noted that he received comments back from the Building Department, the Fire District, Walton Public Works and the Walton and Boone County Engineer. In addition, a letter from UC Health was received (Exhibit 1). That letter can be reviewed in the Planning Commission's Drop Box.

Chairman Rolfsen asked if the applicant was present and wanted to proceed with their presentation?

Mr. Tony Berling, applicant, stated that the proposed use is on Lot 30 of the Walton Towne Center Subdivision. Originally, he thought all they needed was a Conditional Use Permit but a Zone Change request was needed. The number of units noted are needed to make the project work. They really can't eliminate a building or two. He doesn't see that many kids living in the development and he can find some green space. There may be a handful of kids. This is the second project they have done with Fischer Homes. The other project was in Ft. Wright, Kentucky. All of the units have sold. They are a good builder and are good to work with in developing property. Mr. Berling addressed the Walton Fire Department's concern and would offer to relocate the western curb cut to make it easier. He is open to cluster mailboxes. The project will be completed in 3 phases. The third bedroom will most likely be an office to allow work from home. Stormwater detention for the project is off-site since it is regional.

Mr. John Haas, Fischer Homes, stated that the third bedroom in the Hayward would most likely be used as a studio. The units will be sold to empty nesters – single and divorced individuals. Generally, the most number of kids from the 125 units would be 25 kids. It would have very little impact on the school system. About 25 units would be sold each year. The proposed sign would be a small entry sign. If the 2 signs are not approved, then they will just install landscaping at the other entrance. Mr. Haas referred to the building elevations as examples of materials and architecture. Sidewalks will be installed in front of the buildings and throughout the development. No RVs or commercial trucks will be allowed to park in the development – no boats. There is plenty of parking available. Only address signs will be on the buildings. Mr. Haas described the two types of buildings – Gallery Building (5 & 10 units). He understands there is a lot of noise in the area. Tanner's Cove is located behind a retail center with loading docks. People see them. People see planes in Boone County. They understand there is a heliport located near the development. The community will sell well. They hope to sell the units in the low \$160,000s to \$210,000.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak

in favor or against the Concept Development Plan request? Seeing no one, Chairman Rolfsen asked if any Board members had any questions?

Mrs. Kegley asked what is the developer "giving" in terms of meeting the Planned Development (PD) requirements in order to receive the density bonus? Perhaps more landscaping would be offered?

Mr. Lunnemann agreed with Mrs. Kegley in terms of meeting the Planned Development (PD) requirements. What amenities are being provided to offset the density increase? What about the sides and rear of the building facing the public street? Can a building elevation be provided? Will they all be brick and vinyl?

Mrs. Goetting asked how close is the proposed Walton Library to the site? Mr. Berling replied that it is across the street. She noted that it could be considered an amenity due to its close proximity.

Mr. Turner asked about the definition of multi-family in a C-2 zoning district as a Conditional Use? Is that more for apartment buildings? Is it more residential versus commercial? Mr. Morgan responded that attached multi-family would allow either condominiums or apartments.

Mr. Hincks stated that he was happy to see this type of development going into the area. The area is used by a lot of walkers. The fact that the site is located in the Walton-Verona School District is a good thing. It will draw families. It makes sense to have a pocket park since there are other parks located at a distance from the site.

Mr. Patton asked about why multi-family was introduced in commercial zones? Mr. Costello replied that it is a unique piece of property. The history of the development suggests that there is a little of everything located in the Towne Center. There is a concern about people residing behind a Kroger store if the area is not adequately buffered. It is different than Tanner's Cove as the residential sits much below the retail building. The applicant needs to address the helicopter noise and UC Health's concerns. How will Fischer Homes disclose the noise from the facility to potential buyers? Airport noise is totally different than helicopter noise. There is also industrial traffic in the subdivision.

Chairman Rolfsen asked how many helicopter flights are there each day from the site? Mr. Morgan replied there were 1,000 total take offs and 1,000 landings in 2021. That is about 2.7 a day for each landing and take off. Those numbers are growing. Chairman Rolfsen asked what was the total amount of greenspace offered by the developer? Mr. Morgan replied that he didn't know but will have the developer provide a figure to verify. Chairman Rolfsen stated that it seems logical to eliminate a building to provide more green space for kids and dogs. Mr. Berling noted that the helicopter takes off to the west towards I-75. It rarely goes over the top of Kroger. Chairman Rolfsen stated that it is the noise that may cause a problem, especially ramp up noise.

Ms. Gulick expressed a concern about noise. Is there a way to measure the current noise? Are there noise contours? Mr. Costello replied that Staff could reach out to UC Health to obtain flight patterns and noise information. The applicant can do the same. The helicopter could operate at any time. Mr. Morgan noted that they produce 100 decibels of noise within 100 yards. Mr. Costello stated that aircraft noise is measured differently. Mr. Schwenke noted that helicopters are noisy.

If people want to buy at that location, so be it. It looks like the developer is trying to put six gallons into a five gallon bucket.

**Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on February 16, 2022 at 5:00 P.M. via live video teleconference. This item will be on the Agenda for the Business Meeting on March 2, 2022 at 7:00 p.m. The Chairman Rolfsen closed the Public Hearing at 8:13 p.m.**

**APPROVED:**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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**Kevin P. Costello, AICP**  
**Executive Director**

Exhibit 1 – UC Health Letter

**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mrs. Pamela Goetting  
Ms. Corrin Gulick  
Mr. Steve Harper  
Mr. Davin Hincks  
Mrs. Janet Kegley  
Mr. Rick Lunnemann  
Mr. Kim Patton, Vice Chairman  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mrs. Jackie Steele  
Mr. Tom Szurlinski  
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Mr. Michael D. Schwartz, Director, Zoning Services  
Mr. Todd K. Morgan, AICP, Senior Planner  
Ms. Alaina Hagenseker

Chairman Rolfsen introduced the second item on the Agenda at 8:14 p.m.

**CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN, Michael Schwartz, Staff**

1. Request of **Crossroads Community Church Inc. (applicant and owner)** for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development/Mall Road Overlay (C-2/PD/MR) district for an approximate 11.5 acre area located at 828 Heights Boulevard, Florence, Kentucky. The request is for a Concept Development Plan to permit alternative building colors.

Staff Member, Michael Schwartz, referred to his PowerPoint presentation. The site is 11.5 acres in size and located off Heights Boulevard next to Costco. He showed aerial photographs of the site. It is zoned C-2/PD/MR as part of the Mall Road District Study in 2012. The Future Land Use Map designates the site for Public/Institutional (P) use because the building is presently used as a church. The site is located in the 60 DNL noise contour. Mr. Schwartz showed a photograph of the current building color scheme approved in 2020. It includes dark gray, naval orange, light gray and medium gray colors. This color scheme was approved by the Zoning Administrator after reviewing the request of the applicant to have all dark colors. The applicant would like to paint the entire building one color – Gale Force Gray with Naval Orange trim. Basically, the applicant would like to go with the color scheme proposed in the past. Mr. Schwartz showed photographs of the existing and proposed colors side by side. The applicant is requesting this change as a result of the Zoning Administrator's 2021 decision again not to allow the change as originally proposed in 2020. It is not consistent with the requirements of the Mall Road District Study. That is why they are requesting a Change in an Approved Concept Development Plan. The requirements of the Mall Road District Study are provided on pages 4 and 5 of the Staff Report. Page 4 of the Staff Report outlines the objectives of the Study. Requirements support the objectives. The primary requirement indicates that the exterior wall colors shall primarily use wall colors with natural tones such as those in the red, red-brown/terra cotta, brown clay, beige/tan/blonde, mustard, and/or warm gray ranges. White or exceptionally dark colors are not permitted. Other colors may be used for trim and detailing. Mr. Schwartz showed photographs of the existing buildings in the commercial subdivision – Menard's, Chik-fil-A, Costco, Planet Fitness, Pep Boys and Dave & Busters. They all follow the color pattern of the Mall Road District Study. Essentially, the applicant is asking for a change in color scheme different than what is allowed in the Mall Road District Study color scheme.

Chairman Rolfsen asked if the applicant was present and wanted to proceed with their presentation?

Mr. Tom Fisher, attorney representing Crossroads, stated that the current color scheme was put into place because the building needed to be painted from a maintenance standpoint before the winter. The church did not have the time to go through the process. The proposed color scheme is reflective of all Crossroads buildings in the region. Second, many of the Crossroads members don't like the current color scheme. It doesn't look good. The church sat down with Staff to look at options. Crossroads doesn't want to look like other retailers in the area. The building is not visible from Mall Road. The color scheme reflects the use of the building as a church.

Mr. Terry Phillips, Campus Minister, stated that there is a cost to painting the building. He feels that painting the building makes the building more attractive and appealing. The two-tone approach did not make this building that attractive.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request? Seeing none, Chairman Rolfsen stated that he didn't like the colors. He explained that if the Planning Commission allowed the building to have the dark color, then anyone could request it and it would be hard to say no the next time. It would open a Pandora's Box.

Mr. Schwartz replied that it is a possibility if the Planning Commission doesn't have strong findings to approve the request then other building owners could come in and latch onto the same argument.

Mr. Fisher remarked that the reason for the request is that the use is a church. Other uses are retail or commercial based on the Land Use Map. It is a use that needs to stand out as it is important to their mission.

Mr. Patton noted that the Board approved the regulations in 2012. He assumed Crossroads saw the regulations a while ago? The Planning Commission just held Menard's foot to the fire in terms of the regulations for signs. If another mission based non-profit comes in with a color, how do we say no?

Mr. Fisher noted that Crossroads bought the property as the Plan was being discussed but not before it was passed.

Chairman Rolfsen understood the need to have the "trademark" color of gray to the other sites. Can it be calmed down so it is not that dark and blends in with the other buildings in the area?

Mr. Lunnemann stated that the color palette in the Mall Road District Study provides for a number of options. To allow a deviation to this extent would be detrimental to the District Study and area.

Mrs. Steele stated that a lot of thought was given to the Mall Road District Study and Crossroads was denied twice. And now they want to double down. That is not a way to get an approval. If they wanted these colors, perhaps they should have looked at other areas where these types of regulations are not in place. The applicant wants approval simply because they are a church.

Mrs. Kegley explained that she likes the color the applicant picked but the building is located in the Mall Road District Study. The Study doesn't pin the applicant to a two-tone color scheme but it won't let them use a dark color exclusively.

Mr. Phillips responded that they will mock up some colors that are not as dark and more agreeable to the Planning Commission. The current color scheme may be less appealing than what is proposed in terms of fitting in with other buildings in the area.

Mr. Patton noted that the proposed color can be used as an accent color but not be used as the predominant color. It could be tempered down and still be used for branding purposes.

Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on February 16, 2022 at 5:00 P.M. via live video teleconference. This item will be on the Agenda for the Business Meeting on March 2, 2022 at 7:00 p.m. The Chairman Rolfsen closed the Public Hearing at 8:36 p.m.

**APPROVED:**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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**Kevin P. Costello, AICP**  
**Executive Director**