

**CITY OF UNION, KENTUCKY
ORDINANCE NO. 2021- 18**

AN ORDINANCE OF THE CITY OF UNION, KENTUCKY APPROVING, WITH CONDITIONS, A REQUEST OF VIOX & VIOX, INC. (APPLICANT) FOR 9541 US 42, LLC AND FLORENCE CHRISTIAN CHURCH (OWNERS) FOR A ZONING MAP AMENDMENT FROM RURAL SUBURBAN ESTATES/UNION TOWN OVERLAY (RSE/UTO) AND UNION NEIGHBORHOOD OFFICE (UNO) TO UNION COMMERCIAL/UNION NEIGHBORHOOD OFFICE/URBAN RESIDENTIAL TWO/PLANNED DEVELOPMENT (UC/UNO/UR-2/PD), AND A VARIANCE, FOR A 61.889 ACRE SITE LOCATED AT 9253 AND 9357 OLD UNION ROAD (ON THE EAST SIDE OF OLD UNION ROAD BETWEEN THE VILLAS OF FOWLER'S CREEK DEVELOPMENT AND THE PROPERTY AT 9513 OLD UNION) AND ALONG THE WEST SIDE OF US 42 BETWEEN THE US 42/FOWLERS LANE INTERSECTION AND THE US 42 SWEET HARMONY LANE INTERSECTION UNION, KENTUCKY.

WHEREAS, the City of Union, Kentucky is a member of the county-wide planning unit, having a county-wide planning commission known as the Boone County Planning Commission; *and*

WHEREAS, the Boone County Planning Commission received a request for a Zoning Map Amendment to the Boone County Zoning Map and such Zoning Map Amendment being a zone change Approving, With Conditions, A Request Of Viox & Viox, Inc. (APPLICANT) For 9541 US 42, LLC And Florence Christian Church (OWNERS) For A Zoning Map Amendment From Rural Suburban Estates/Union Town Overlay (RSE/UTO) And Union Neighborhood Office (UNO) To Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD), And a Variance, For A 61.889 Acre Site Located At 9253 And 9357 Old Union Road (ON The East Side Of Old Union Road Between The Villas Of Fowler's Creek Development And The Property At 9513 Old Union) And Along The West Side Of US 42 Between The US 42/Fowlers Lane Intersection And The US 42 Sweet Harmony Lane Intersection Union, Kentucky.

WHEREAS, the Boone County Planning Commission as the planning unit for the City of Union, Kentucky was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval, with conditions, for the Zoning

Map Amendment; and

WHEREAS, the Boone County Planning Commission by Resolution No. R-21-026-A recommended approval of the rezoning described above, with conditions; and

WHEREAS, the recommendation of the Boone County Planning Commission is based upon certain findings and conditions attached to its Resolution, all of which have been reviewed by the City Commission for the City of Union, Kentucky; and

WHEREAS, the Union City Commission desires to affirm and approve the recommendation of the Boone County Planning Commission pursuant to K.R.S. 100.211 within ninety (90) days of the Planning Commission's final action and grant the application of the Zoning Map Amendment, with conditions.

WHEREAS, It has been agreed by the Applicant and the City that the operating hours for United Dairy Farmers and/or its successors and assigns hours of operation will be from 6:00 A.M until 11:00 P.M.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF UNION, KENTUCKY as follows:

SECTION I

That the request for a change in the Zoning Map Amendment being a Zone Change from A Request Of Viox & Viox, Inc. (APPLICANT) For 9541 Us 42, LLC And Florence Christian Church (OWNERS) For A Zoning Map Amendment From Rural Suburban Estates/Union Town Overlay (RSE/UTO) And Union Neighborhood Office (UNO) To Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD), and a Variance, For A 61.889 Acre Site Located At 9253 And 9357 Old Union Road (on The East Side Of Old Union Road Between The Villas Of Fowler's Creek Development and the Property At 9513 Old Union) And Along The West Side Of Us 42 Between The US 42/Fowlers Lane Intersection And The

US 42 Sweet Harmony Lane Intersection Union, Kentucky. The Request For A Zone Change shall be and is hereby approved, with conditions, as set forth in the Boone County Planning Commission's Resolution R-21-026-A, which includes, but is not limited to, their Findings of Fact and Description of the real estate which is the subject of this Ordinance and is attached hereto and marked Exhibit "A" and incorporated herein by reference. In addition, the United Dairy Farmers and/or its successors and assigns' hours of operation shall be from 6:00 A.M. until 11:00 P.M.

SECTION II

If approval for Zoning Map Amendment shall be held invalid, in whole or in part, by any court of proper jurisdiction, such invalidity shall not affect the validity of any of the other zoning regulations, zoning map, or comprehensive plan provisions as they are severable from this Ordinance and they are intended to have effect regardless of any invalidity relating to this particular Ordinance.

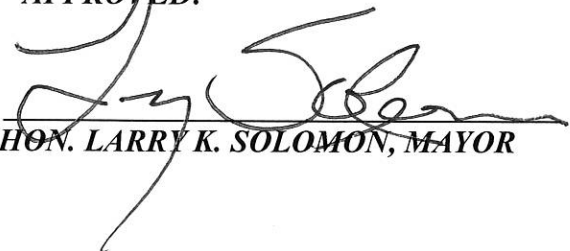
SECTION III

Publication of this Ordinance is hereby authorized to be by summary publication in accordance with Kentucky Law.

FIRST READING this the 1st day of November, 2021.

SECOND READING this the 3 day of November, 2021.

APPROVED:



HON. LARRY K. SOLOMON, MAYOR

ATTEST:


TAMMY WILHOITE
CITY CLERK

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Kim Patton, Chairman

DATE: October 6, 2021

RE: Request of Viox & Viox (applicant) for 9541 US 42 LLC and Florence Christian Church (owners) for a Zoning Map Amendment from Rural Suburban Estates/Union Town Overlay (RSE/UTO) and Union Neighborhood Office (UNO) to Union Commercial/Union Neighborhood Office/Urban Residential Two/Planned Development (UC/UNO/UR-2/PD), and a Variance, for a 61.889 acre site located at 9253 and 9357 Old Union Road (on the east side of Old Union Road between the Villas of Fowler's Creek development and the property at 9513 Old Union Road), and along the west side of US 42 between the US 42/Fowlers Lane intersection and the US 42/Sweet Harmony Lane intersection, Union, Kentucky. The request is for a Zone Change to allow commercial and office uses, residential condominiums, apartments, and green space, and a Variance from Section 2540.1 "Setbacks" of the Boone County Zoning Regulations to allow the 50 foot maximum front yard setback to be exceeded.

REMARKS:

1. We, the Committee, recommend approval of the above referenced Zoning Map Amendment and Variance requests based on the following Findings of Facts and the following Conditions:

FINDINGS OF FACT:

- a. The proposed uses are generally in agreement with the Boone County Comprehensive Plan (Our Boone County – Plan 2040), which recommends High Suburban Density (HSD), Rural Lands (RL) and Commercial (C) for the 61.889 acre site. Further, the proposed uses and the revised Concept Development Plan are also generally in agreement with the Union Town Plan as the entire site offers a mixture of office, residential and commercial uses.
- b. The proposed uses and Concept Development Plan also meet the requirements of Article 15, Planned Development (PD) – mixing uses on the site, creating an overall pedestrian network and open space areas within the site, adding extensive landscaping and buffer areas, utilizing creative building architecture and commercial signage. Further, the site involves 3 different parcels with unique features that requires and offers good design and an overall coherent theme for the project.
- c. The Committee has concluded that the attached Conditions are necessary to achieve consistency with the specific goals, objectives and policies of the Boone County Comprehensive Plan and the Union Town Plan and to mitigate any foreseeable community impacts that may be created by the development. The property owners have signed a letter demonstrating with the Conditions below:

CONDITIONS:

1. The project is subject to the submitted Concept Development Plan and associated revised drawings presented at the August 18, 2021 Public Hearing and the September 1, 2021 and September 15, 2021 and September 29, 2021 Committee Meetings.
2. The developer shall receive an encroachment permit and agree to make all necessary improvements on U.S. 42 including modification/installation of all traffic signals, turning lanes and restriping turning lanes as required by the Kentucky Transportation Cabinet.
3. The developer shall make improvements based on the submitted revised street sections. This includes all new roads and modification of existing road (e.g., Fowler's Lane, etc.). The traffic island on Fowler's Lane will be removed to accommodate lane widening. Fowler's Lane shall be converted from a private street to a public street and meet the necessary standards.
4. The developer shall donate an additional 15 feet of land for a distance of approximately 500 feet along Old Union Road to accommodate future road improvements for the Old Union Road Connector intersection (see Exhibit 1).
5. The proposed public street located between Harmony Place Subdivision and the proposed ranch home area will be moved north per the revised drawing and additional landscaping will be installed between the street right-of-way and Harmony Place Subdivision (see Exhibit 2).
6. All buffer yards will include fencing and landscaping features as noted on the revised drawing labelled Harmony Place Buffer and Old Union Connector (see Exhibit 1).
7. LED light fixtures in the proposed office parking lot will be installed on 12 foot high poles and will be directed downward via shields. Light poles are prohibited along the back row of parking adjacent to Harmony Place Subdivision.
8. The gas canopy serving the convenience store will be constructed with the same architectural style and materials used on the convenience store.
9. Two of the proposed food/beverage uses will be allowed to have a drive-thru facility and two restaurants will be permitted to have a carry out/pick up window but no menu order sign.
10. The permitted uses in the retail and office areas will follow the permitted uses in the UC and UNO zones.
11. The developer shall meet all parking requirements for all uses including provisions for shared parking.

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

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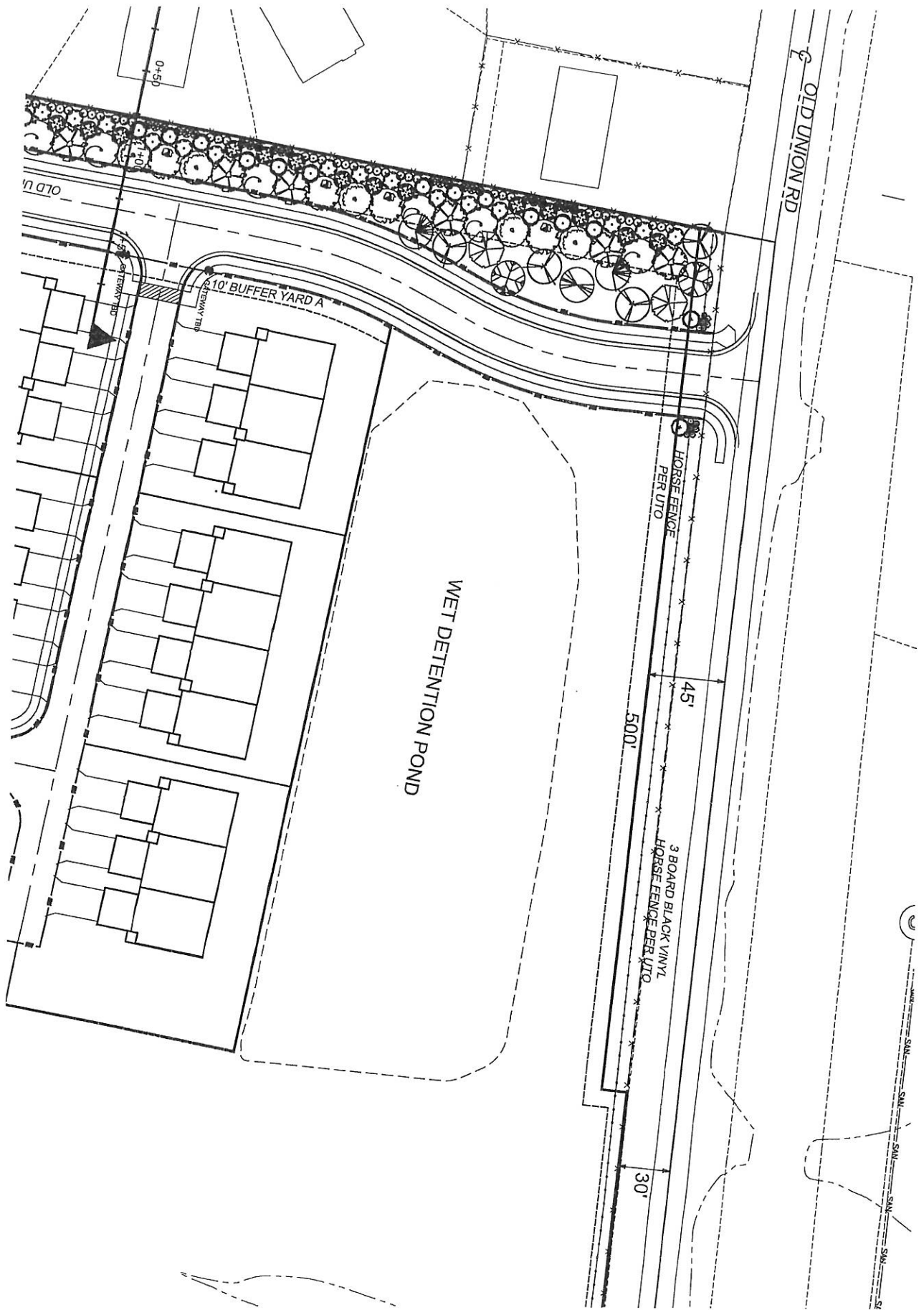
12. Building architecture within the development shall meet the requirements in the Union Town Plan, the submitted narrative and the various architectural style drawings submitted by the applicant and the Union Promenade Architectural Guidelines.
13. Signage shall meet the requirements of the Union Town Plan and the overall signage package presented by the developer in terms of the gateway icons.
14. The existing historic house located at 9537 Old Union Road shall be documented by the Boone County Historic Preservation Board before it is demolished by the developer.
15. The site will have a maximum building setback of 100 feet for the retail portion of the development located along U.S. 42.

VARIANCE FINDINGS OF FACT:

- a. The proposed Variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

In making this Finding, the Committee noted that the existing retail buildings directly across from the site on U.S. 42 have at least a 120 foot building setback. The developer is proposing an approximate 75 foot setback for the proposed retail area, but would like a maximum of 100 feet for flexibility purposes. It is the decision of this Committee that the proposed Variance should only be approved and in effect if the proposed Zoning Map Amendment is approved by the City of Union.

A copy of the Public Hearing minutes accompanies the Findings and recommendations serving as a summary of the evidence and testimony presented by the proponents and opponents of the request. Attached is the signature page for the Zone Change/Concept Plan Committee vote.





MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into this the 1 day of November, 2021 by and between **MEIERJOHAN BUILDING GROUP, LLC (the Developer)** and **the CITY OF UNION, KENTUCKY (the City)**.

RECITALS:

- A. The City has conditionally agreed to change the Zoning on a certain tract of land to be known as The Union Promenade.
- B. That it is necessary that the developer restrict the hours the store is open to the public for the United Dairy Farmers Store from 6:00 A.M until 11:00 P.M. daily.
- C. The parties are entering into this Memorandum of Understanding to confirm their mutual understanding and agreement regarding the hours of operation of the proposed United Dairy Farmers Store.

AGREEMENT:

NOW, THEREFORE the parties agree as follows:

1. That a condition for the approval of the Developer, **MEIERJOHAN BUILDING GROUP, LLC**, the Developer agrees that the United Dairy Farmers store shall be open to the public from 6:00 A.M. until 11:00 P.M. daily. It shall remain closed to the public at all other times, including but not limited to, the gasoline pumps.
2. This condition shall run with the land and any successors and/or assigns to United Dairy Farmers shall be bound by this condition regarding the hours of operation.

IN WITNESS WHEREOF, the parties have entered into this Memorandum of Understanding as of the date first written above.

MEIERJOHAN BUILDING GROUP, LLC

BY: Thomas J. O'Sullivan

TITLE: MEMBER / REPRESENTATIVE

THE CITY OF UNION, KENTUCKY

BY: David Plummer
DAVID PLUMMER