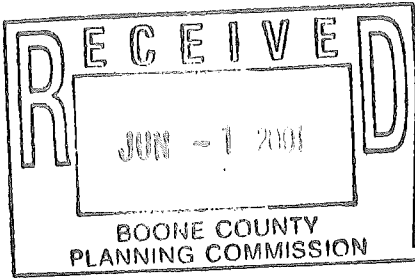


2-21-01

APPLICATION FORM

01. BOBOA. 019-A



BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations SECTION A (To be completed by applicant)

(Check One)

1. Boone Florence Walton Union

(Check One)

2. Conditional Use Permit Variance Appeal Change in Non-Conforming Use

3. Applicant's Name: BURLINGTON OAKS APTS., LLC
Phone Number: (859) 689-2400 Fax No.: (859) 491-1343 AHW: Tonya Burns
Applicant's Address: _____

4. Description of Request: Variance of Article 37 Section 3755 allowing fence to exceed 3 feet. (5'6" max. height)
City: _____ State: _____ Zip: _____

5. Name of Development: BURLINGTON OAKS APTS.

6. Location of Development: TAYLOR ROAD

7. Acreage Under Review: ~ 8 acres

8. Lot Number and Name of Subdivision (if part of a subdivision): COX & TAYLOR COMMERCIAL

9. Owner of Property: BURLINGTON OAKS APTS., LLC

Phone Number of Owner: STAT. AGENT: TONYA S. BURNS, ESQ 491-520010

Address of Property Owner: 3116 CUSTER DR LEXINGTON, KY 40507
City: _____ State: _____ Zip: _____

11. Proposed Use(s) on Site: N/A

12. Total Square Footage of Existing and/or Proposed Buildings: _____

13. Current Zoning on Property: C-2

14. Deed Book: 712 Page No.: 280 Group No.: 2025

15. Is the site subject to a zone change? NO

If yes, give date of approval: N/A

16. Have you submitted a Site Plan with this request? Previously Provided

17. Have you submitted a list of adjoining property owners with this request? YES

18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: [Signature]

Property Owner's Signature: Tonya S Burns, Esq

Statutory Agent for Burlington Oaks Apts, LLC (over)

STAFF REPORT

APPLICANT: Burlington Oaks Apartments, LLC
LOCATION: 6060 Taylor Drive, Boone County, Kentucky
ZONING: Commercial Two (C-2)
DATE: July 11, 2001

Proposal

Burlington Oaks Apartments is requesting a variance to allow the fencing within the front yard of the development to exceed the 3 foot height limitation. The overall fence height being sought by the applicant is 5 feet, 6 inches.

Applicable Regulations

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. A variance is defined as a departure from the dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Article 37, Section 3755 of the Boone County Zoning Regulations states that "fences shall be permitted within the front yard according to the following standards:

- A. No fence can be taller than three (3) feet;
- B. Fences shall be of a decorative design, (chain link, barbed wire, stock wire, chicken wire; and similar type fences are not permitted) and shall be designed to have an opacity of 50 percent or more. Certain design elements, such as posts or masonry with architectural detailing, can be up to four (4) feet tall;
- C. No fence can be located within a public right-of-way nor can it be located in an area which will obstruct the sight triangle for any motorist or pedestrian as defined in Article 32."

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. Before any variance is granted, the Board must find that the granting of the 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 nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.

- A. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- B. The strict application of the provisions contained in the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
- C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

Surrounding Land Uses and Zoning

The property is located within Cox & Taylor Subdivision and is zoned Commercial Two (C-2). The 8 acre parcel contains 6 apartment buildings. The following uses adjoin the subject property:

North: Sky Harbor Apartments (UR-1)

South: Heritage Bank & State Farm Office (C-2)

East: Dentist Office & Braxton's Dry Cleaning (C-2)

West: Florence Baptist Temple (C-2 & UR-2)

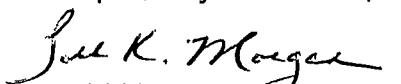
Staff Comments

Staff believes that the request to allow a 5'6" rod iron fence within the front yard of Burlington Oak Apartments will not substantially alter the character of the neighborhood and is not an unreasonable circumvention of the zoning regulations.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's variance from 3 feet to 5-1/2 feet. It is Staff's opinion that granting the 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.

Respectfully submitted,


Todd K. Morgan
Planner, Zoning Services

TKM/pr

Attachments

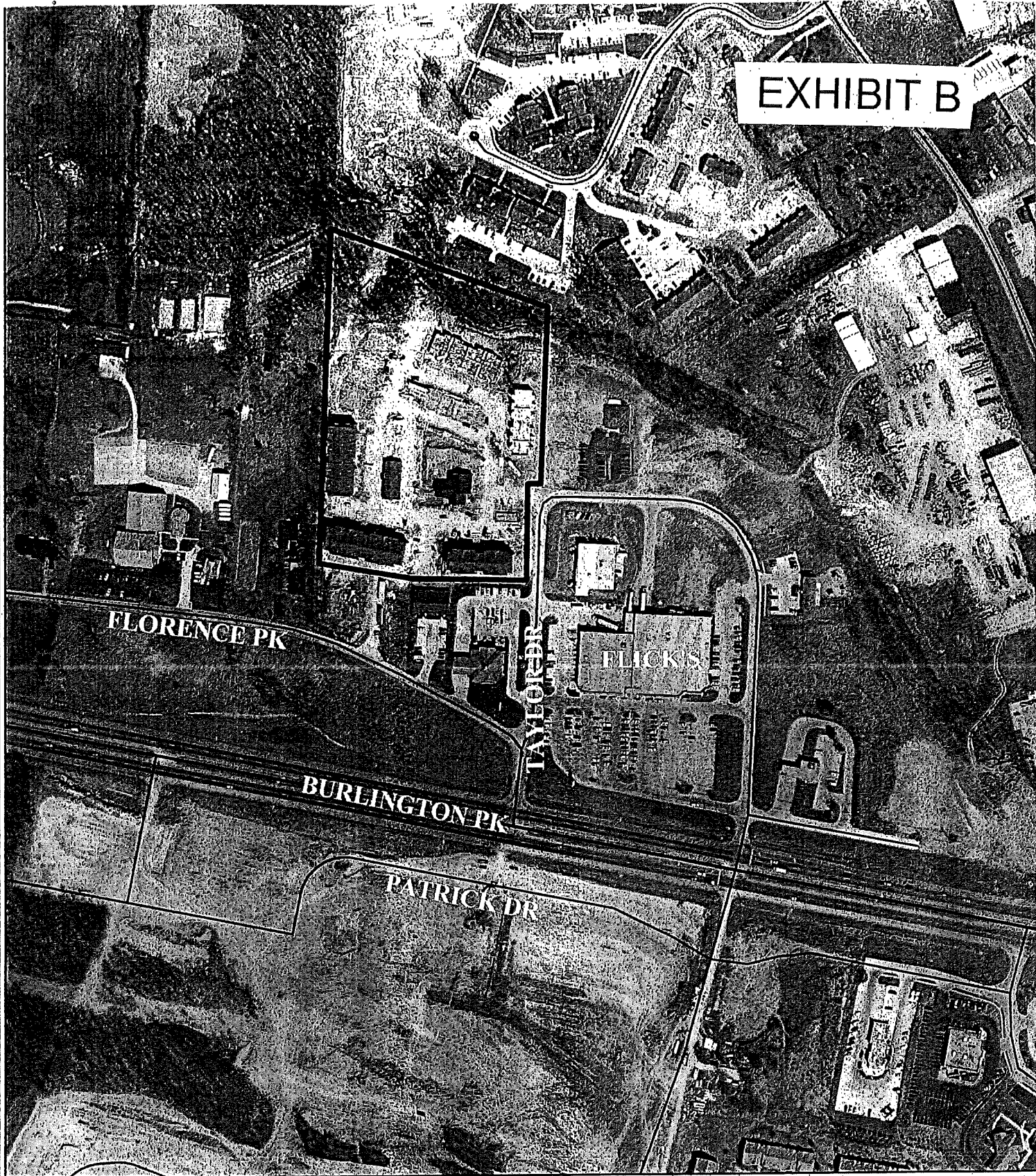
Exhibit A – Burlington Oaks As-Built Survey

Exhibit B – Site Vicinity Map

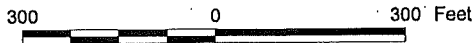
Exhibit C – Zoning Map

Exhibit D – Application

EXHIBIT B



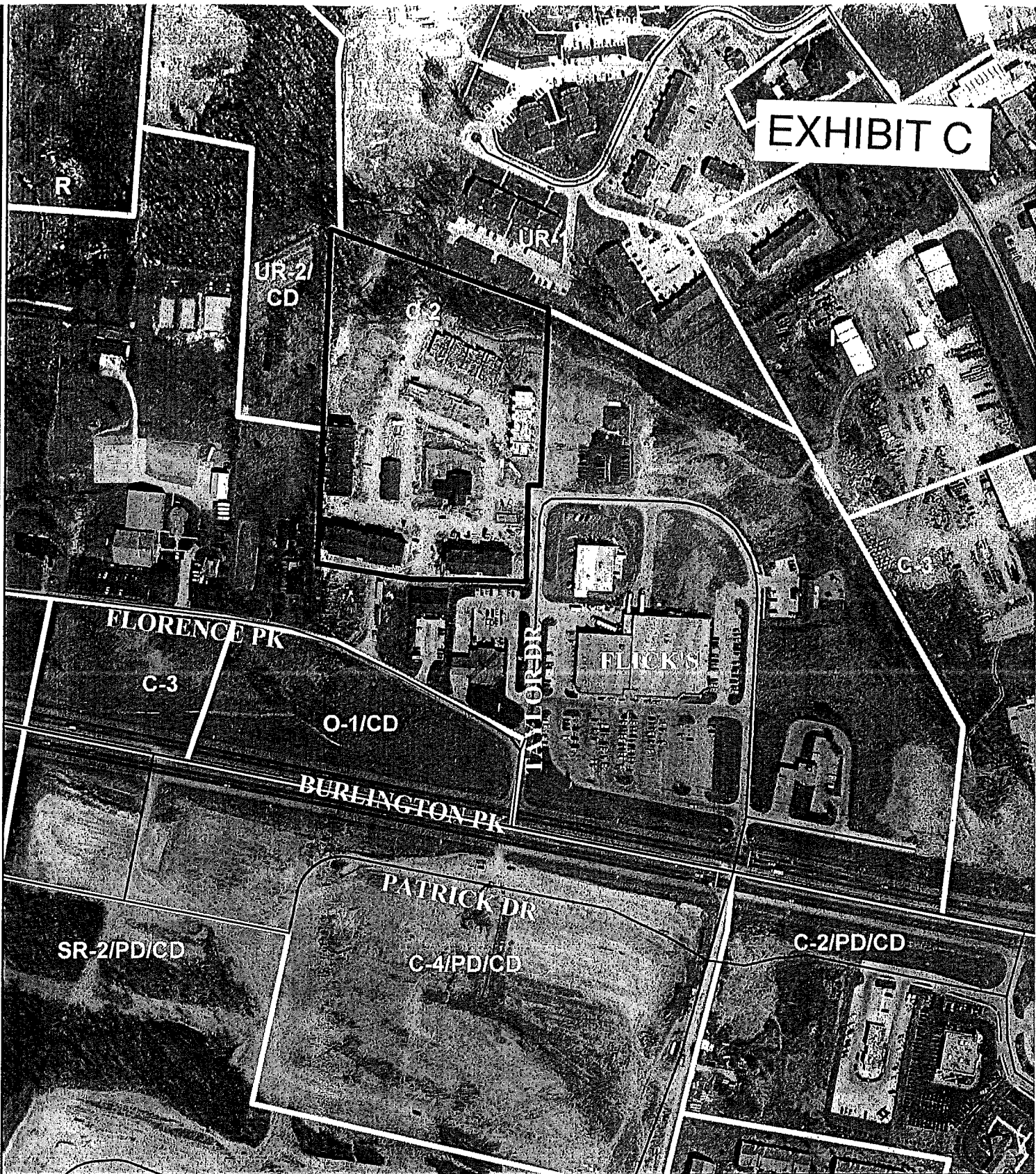
Burlington Oaks Apartments



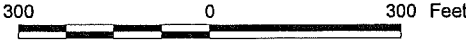
1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
July 5, 2001



EXHIBIT C

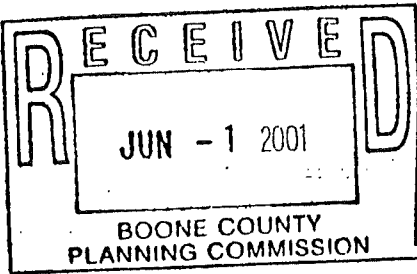


Burlington Oaks Zoning Map



1 inch equals 300 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 July 5, 2001





BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

(Check One)

- 1. [X] Boone [] Florence [] Walton [] Union

(Check One)

- 2. [] Conditional Use Permit [X] Variance [] Appeal

- 3. Applicant's Name: BURLINGTON OAKS APTS., LLC
Phone Number: (859) 689-2400 Fax No.: (859) 491-1343
Applicant's Address: Tonya Burns

- 4. Description of Request: Variance of Article 37 Section 3755 allowing fence to exceed 3 feet. (5'6" max. height)

- 5. Name of Development: BURLINGTON OAKS APTS.

- 6. Location of Development: TAYLOR ROAD

- 7. Acreage Under Review: ~ 8 acres

- 8. Lot Number and Name of Subdivision (if part of a subdivision): COX & TAYLOR COMMERCIAL

- 9. Owner of Property: BURLINGTON OAKS APTS., LLC

Phone Number of Owner: STAT. AGENT: TONYA S. BURNS, ESQ 491-520010

Address of Property Owner: 3166 CUSTER DR LEXINGTON, KY 40517

- 11. Proposed Use(s) on Site: N/A

- 12. Total Square Footage of Existing and/or Proposed Buildings:

- 13. Current Zoning on Property: C-2

- 14. Deed Book: 712 Page No.: 280 Group No.: 2025

- 15. Is the site subject to a zone change? NO

If yes, give date of approval: N/A

- 16. Have you submitted a Site Plan with this request? Previously Provided

- 17. Have you submitted a list of adjoining property owners with this request? YES

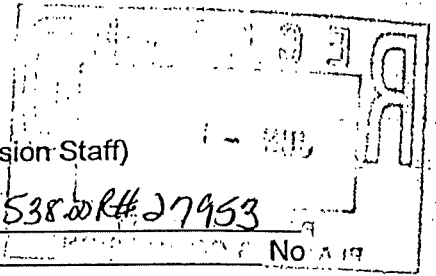
- 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: [Signature]

Property Owner's Signature: Tonya Burns, Esq

Statutory Agent for Burlington Oaks Apts, LLC (over)

**BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2**



SECTION B. (To be completed by the Boone County Planning Commission Staff)

1. Date Received 6-1-01 Fee Received \$538.00 R# 27953
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: _____

7. Reasons for Denial: _____

**Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail**

www.boonecountyky.org

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

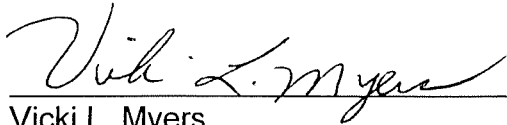
Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf
of the Boone County Planning Commission this 18 day of July, 2001.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of July 11, 2001 Certificate of Land Use Restriction (#01-BCBOA-019-A), for Burlington Oaks Apartments, LLC, Property Owner(s).

The following conditions will apply:

- 1) The approval is for the existing fence only and there is to be no expansion of the fence.

The approved Variance as well as the preceding conditions apply to the property described in:

DEED BOOK 712.....PAGE NO. 280

GROUP NO. 2025