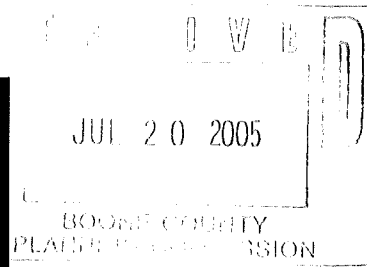


APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) \_\_\_\_\_ Conditional Use Permit [checked] Variance \_\_\_\_\_ Appeal \_\_\_\_\_
Change in Non-Conforming Use \_\_\_\_\_
3. Applicant's Name BAYER BECKER ATTN: JAY BAVER
Phone Number (859) 261-1113 Fax No. (859) 261-1710
Applicant's Address 14 EAST EIGHTH STREET
Covington Kentucky 41011
City State Zip
4. Description of Request: BLANKET VARIANCE FOR DIMENSIONS SHOWN ON ATTACHED EXHIBIT DRAWING TO ALLOW CONSTRUCTION OF CONDOMINIUMS FRONTING INTERNAL PUBLIC STREETS & SUBDIVIDED LOTS
5. Name of Development TANNER'S COVE
6. Location of Development TANNER'S LANE
7. Acreage Under Review 12.19
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property DSS T-COVE, LLC ATTN: SCOTT SCHILLING
Phone Number of Owner (859) 486-6010 334 BEECHWOOD RD.
Address of Property Owner FORT MITCHELL KENTUCKY 41017
City State Zip
11. Proposed Use(s) on Site SINGLE-FAMILY ATTACHED & DETACHED HOUSING
12. Total Square Footage of Existing and/or Proposed Buildings 119,198
13. Current Zoning on Property SR-3
14. Deed Book 891 Page No. 897 Group No. 2002
15. Is the site subject to a zone change? YES
If yes, give date of approval 11/19/03
16. Have you submitted a Site Plan with this request? YES
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: [Signature]

**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 7-20-05 Fee Received \$350.00 \$551.00 R#43198 (16/ps)  
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No  
3. Staff Reviewer \_\_\_\_\_  
4. Scheduled Board Action Date \_\_\_\_\_  
5. Board Action:  
8/10/05 Approved  
\_\_\_\_\_ Approved with Conditions (See #6)  
\_\_\_\_\_ Denial (See #7)  
6. Conditions of Approval: NONE  
\_\_\_\_\_  
\_\_\_\_\_  
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](http://www.boonecountyky.org) - Web Page**

**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.**

## STAFF REPORT

APPLICANT: Bayer Becker

LOCATION: Future lot 9 and lots 12-24 of Tanner's Cove Subdivision. The future subdivision will be located on the north side of Tanner Road between 1950 North Bend Road and 1891 Tanner Road, Boone County, Kentucky

ZONING: Suburban Residential Three (SR-3)

DATE: August 10, 2005

### Proposal

The applicant has requested variances to reduce the 30 foot front and rear yard setbacks on fourteen (14) future lots in Tanner's Cove Subdivision. The future 12.19 acre subdivision will be located on the north side of Tanner Road between 1950 North Bend Road (Remke's Market) and 1891 Tanner Road, Boone County, Kentucky. The submitted Concept Development Plan (see attachments) indicates that the following variances are being proposed:

FUTURE LOT	TYPE OF STRUCTURE	FRONT YARD SETBACK VARIANCE PROPOSED	REAR YARD SETBACK VARIANCE PROPOSED
9	DUPLEX	YES – 30' TO 17.48'	NO
12	DUPLEX	YES – 30' TO 20.42'	NO
13	DUPLEX	YES – 30' TO 20.88'	YES – 30' TO 13.09'
14	DUPLEX	YES – 30' TO 20.43'	NO
15	TOWNHOUSES	YES – 30' TO 23.04'	NO
16	TOWNHOUSES	YES – 30' TO 22.06'	NO
17	8 UNIT CONDO	YES – 30' TO 12.37'	NO
18	8 UNIT CONDO	YES – 30' TO 12.85'	NO
19	8 UNIT CONDO	YES – 30' TO 20.07'	NO
20	TOWNHOUSES	YES – 30' TO 20.07'	YES – 30' TO 22.28'
21	8 UNIT CONDO	YES – 30' TO 10.83'	NO
22	8 UNIT CONDO	YES – 30' TO 15.83'	NO
23	8 UNIT CONDO	YES – 30' TO 15.83'	NO
24	8 UNIT CONDO	YES – 30' TO 15.12'	NO

The applicant has provided a letter (see attachments) which indicates that the variances are being requested for the following reasons:

1. In May, 2005 changes were made to the Boone County Subdivision Regulations which allow condominium streets to be publically dedicated with 26' right-of-way and 24' of pavement. The developer has decided that he would like to dedicate the subdivision streets so the future property owners will not have to pay additional Home Owners Association fees to maintain private streets.
2. The creation of building lots is necessary to allow the transfer of the lots from the developer (DSS T-Cove LLC) to the home builder (Atlantic Homes). After construction of the building is complete the area contained in each lot will be brought into the condominium association.

#### Site History

01/27/04 – The Boone County Fiscal Court approves a Zoning Map Amendment from Agricultural Estate (A-2) and Rural Suburban Estates (RSE) to Commercial Two (C-2) and Suburban Residential Three (SR-3) for a 20.7 acre parcel. The approval allows: (1) commercial buildings which are 45,000, 21,600 and 5,000 square feet in area to be constructed on an 8.1 acre lot (North Bend Square) and (2) 23 townhouses, 56 carriage homes, and 9 patio homes to be constructed on the 12.5 acre parcel (Tanner's Cove).

#### 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.

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.
2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

Article 40, Section 4000 of the Boone County Zoning Regulations defines a duplex dwelling unit as "a single residential structure that contains two dwelling units for use by two separate families living independent of each other. The two dwelling units within a duplex dwelling unit structure are separated by a common wall, floor, and/or ceiling."

Article 40, Section 4000 of the Boone County Zoning Regulations defines a condominium as a "single-family attached dwelling unit separately owned and valued for tax purposes, with common areas under group ownership and property taxes paid by a homeowners association."

Article 40, Section 4000 of the Boone County Zoning Regulations defines a patio home as "single-family dwelling unit, situated on typically reduced lot width, with reduced or no side yard setback on one side of the lot to facilitate better overall use of the lot, and to incorporate some aspects of cluster development within conventional subdivisions."

Article 40, Section 4000 of the Boone County Zoning Regulations defines townhouse dwelling units as "a single-family attached dwelling unit consisting of one dwelling from ground to roof, a separate entrance and having more than one floor or story, but sharing walls with another dwelling unit or accessory structure of another dwelling unit, where three or more dwelling units are so combined."

#### Surrounding Land Uses & Zoning

North: Cardinal Cove Subdivision (SR-1).

South: Tanner Road, Single-Family Dwellings (RSE) & Flick's (C-2).

East: Single-Family Dwellings (RSE & A-2)

West: Remke's (C-2)

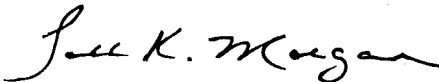
Staff Comments

1. The November 19, 2003 Concept Development Plan showed that the condominium townhouse, and duplex sections of Tanner's Cove were all going to be on one lot and that the streets would be publically dedicated. While the Concept Plan showed that these structures didn't meet the 30' front yard setback from the public right-of-way, no variances were pursued through the Zoning Map Amendment process.
2. The applicant has explained that the creation of lots has become necessary to allow the developer to transfer the lots to the home builder. The creation of the lots has caused the applicant to apply for two rear yard setback variances.
3. The Zoning Administrator has determined that the creation of lots around the approved condominiums, townhouses, and duplexes is a minor change to the November 19, 2003 Concept Development Plan. However, the Zoning Administrator is not empowered to alter setback requirements.
4. In Staff's view, the variance requests are somewhat of an academic exercise because the proposed setback reductions are within the interior of the Tanner's Cove and not along the perimeter of any adjoining property or development.
5. The Board needs to consider if the strict application of the regulations will deprive the applicant of reasonable use of the land.

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 requests.

Respectfully submitted,

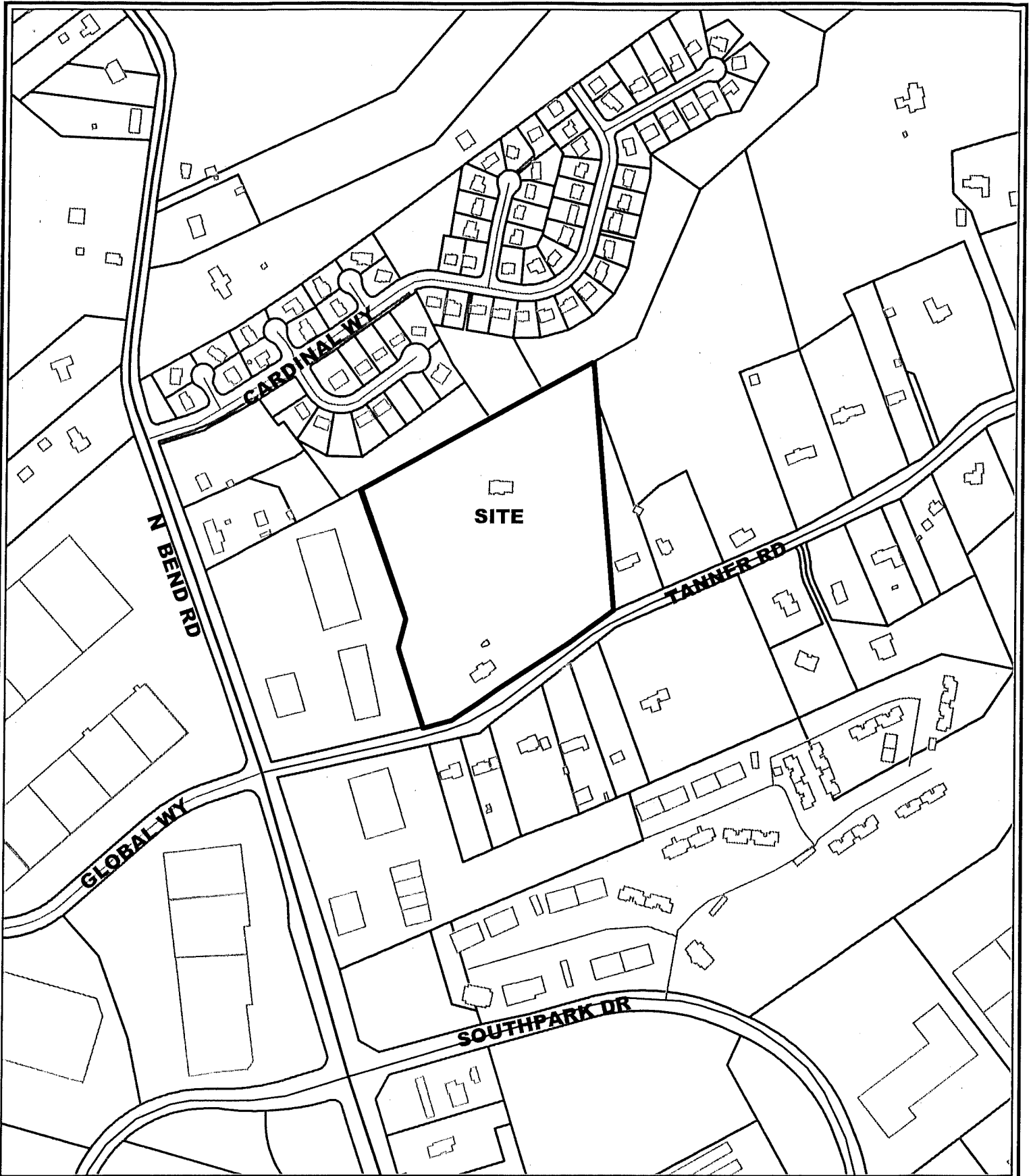


Todd K. Morgan, AICP  
Planner, Zoning Services

TKM/pr

Attachments

- \*Site Vicinity Map
- \*Letter From Applicant
- \*Concept Development Plan
- \*Aerial Map
- \*Zoning Map
- \*11/19/03 Approved Concept Plan
- \*Application



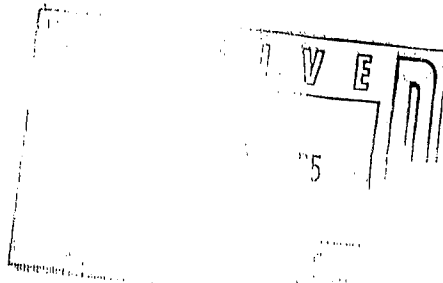
# Tanner's Cove Site Vicinity Map

400 0 400 Feet

1 inch equals 400 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
July 30, 2005





14 East Eighth Street  
Covington, KY 41011  
phone: 859.261.1113  
fax: 859.261.1710  
www.bayerbecker.com

July 20, 2005

Mr. Todd Morgan  
Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

**RE: Variance Request -  
Tanner's Cove**

Dear Todd,

DSS T-Cove LLC is preparing to develop Tanner's Cove, a mix of carriage, single family, and multi family homes situated off Tanners Road in Hebron. Atlantic Homes will purchase building lots from the LLC and construct the condominium homes.

The purpose for this submittal is to request review and approval of a variance from the 30' SR-3 front and rear yard setbacks as indicated by the enclosed exhibit. A variance from these setbacks would allow for the dedication of public streets within the development as well as facilitate lot subdivisions needed for construction purposes.

Recently the Boone County Subdivision Regulations have been amended to allow for dedication of public streets within a condominium complex. Approval of the proposed variance from the 30' SR-3 front yard set backs, as indicated by the enclosed exhibit, will permit dedication of public streets within the Tanner's Cove Community. Such public streets prove to be a benefit to the future homeowners who do not have to pay additional HOA fees for street maintenance.

Because the developer is different than the builder, the creation of building lots is necessary to allow the transfer of building lots from the developer (DSS T-Cove LLC) to the builder (Atlantic Homes). These lots can be thought of as temporary since once a building is constructed, the area contained within its lot is brought into the condominium association. Approval of the proposed variance from the 30' SR-3 rear yard set backs, as indicated by the enclosed exhibit, will allow for the temporary lot subdivision required during the construction process.

Enclosed please find the legal description of the property, ten (10) exhibit drawings, a listing of the names and addresses of adjoining property owners, an application, and review fees required for this variance request. Please review and contact us with approval as soon as possible.

Please call if you have any questions or if you need any additional information.

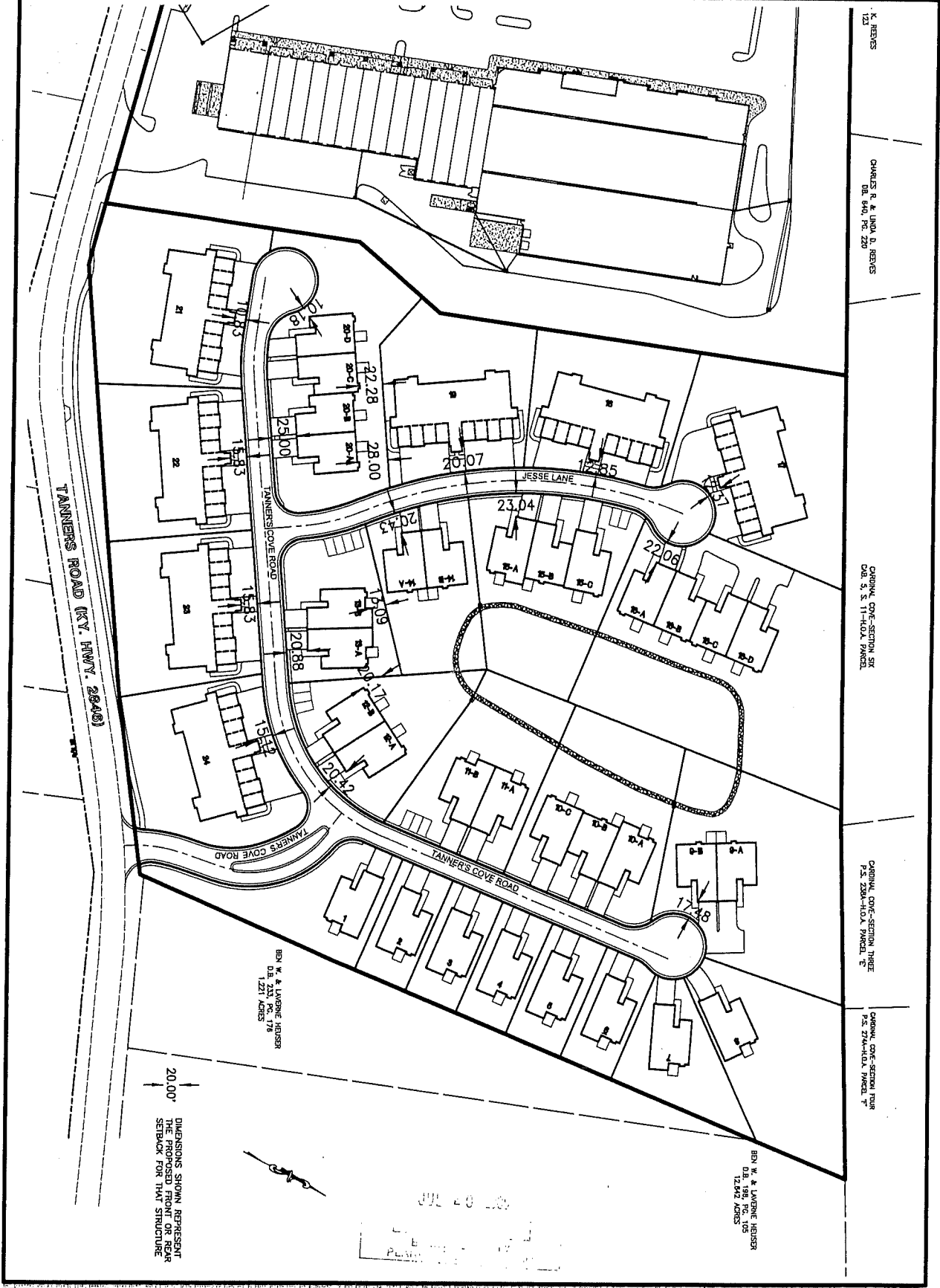
Sincerely,



Gil Whitacre, EIT, PLS

enclosure

cc: Scott Schilling; DSS T-Cove, LLC



K. HENNES

CHARLES R. & JUDIA L. HENNES  
 DEL. 041, PG. 220

CARDINAL COVE-SECTION SIX  
 DEL. 3, 1-1-KOOL PARCEL 6

CARDINAL COVE-SECTION THREE  
 P.L. 284-KOOL PARCEL 3

CARDINAL COVE-SECTION FOUR  
 P.L. 284-KOOL PARCEL 4

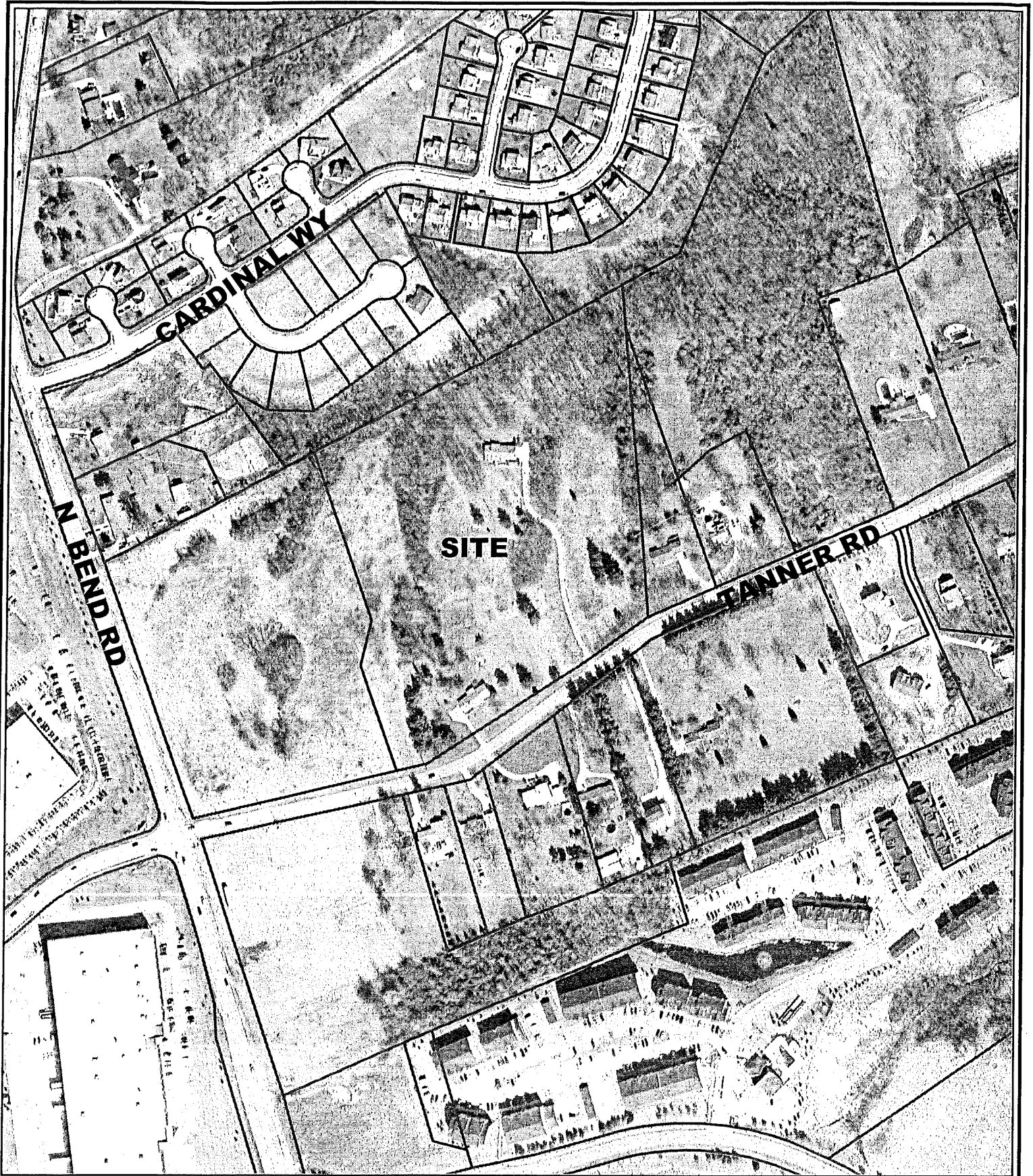
20.00'  
 DIMENSIONS SHOWN REPRESENT  
 THE PROPOSED FRONT OR REAR  
 SETBACK FOR THAT STRUCTURE

BEN W. & LAVENNE HENNES  
 DEL. 1, 221 ACRES

BEN W. & LAVENNE HENNES  
 DEL. 1, 221 ACRES

<p>engineers • architects • planners                  landscape architects • surveyors                  www.bayerbecker.com                  14 East Eppes Street                  Covington, KY 41011 • 502.261.1113</p>	<b>TANNER'S COVE</b> KY. HWY. 2846 BOONE COUNTY KENTUCKY		Revision Description Date Drawn Ck'd	
	<b>VARIANCE EXHIBIT DRAWING</b>		Date: _____ Drawn: _____ Ck'd: _____	

C10



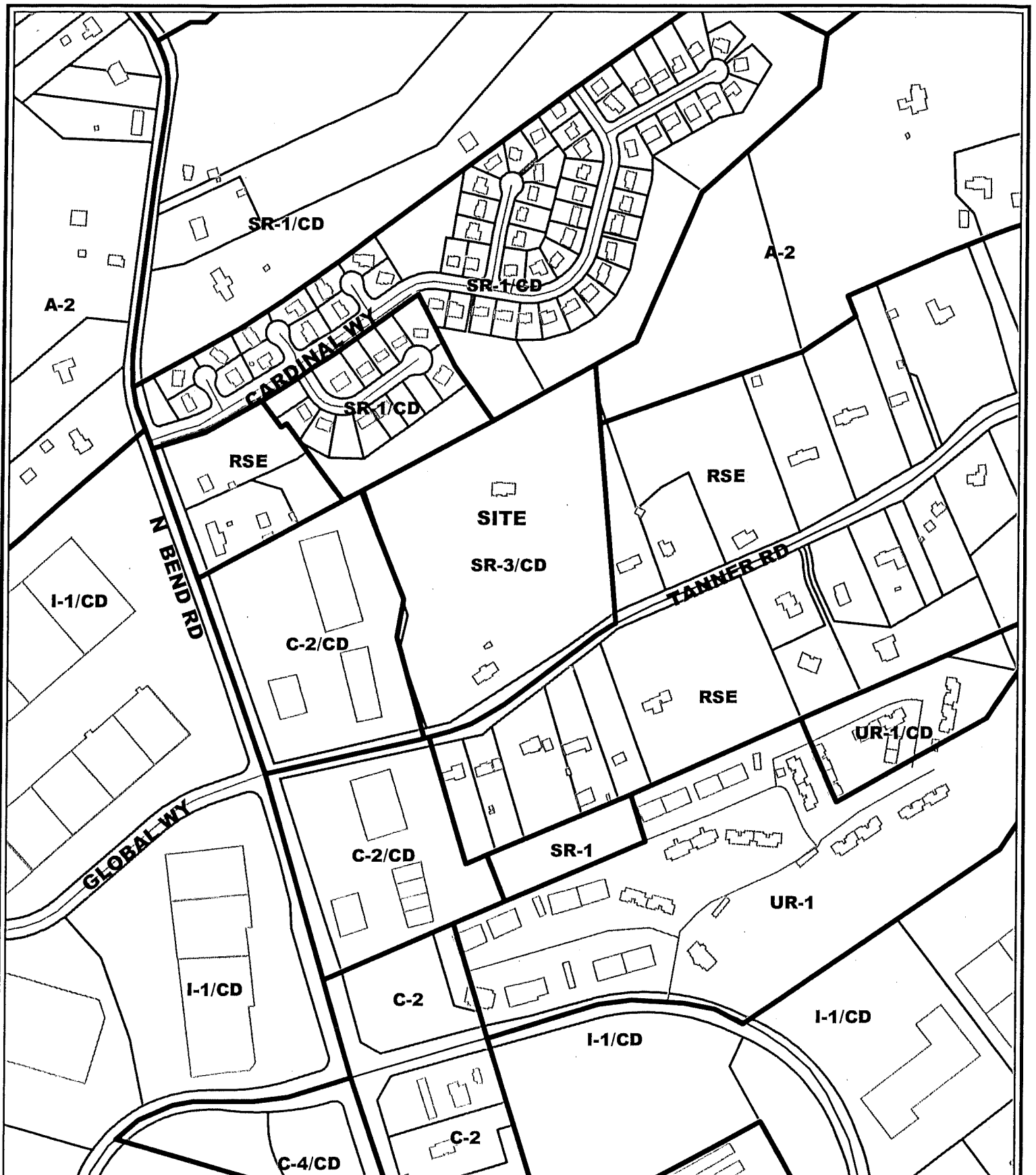
# Tanner's Cove Aerial Map

300 0 300 Feet

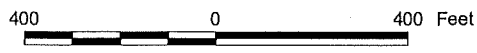
1 inch equals 300 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
July 30, 2005





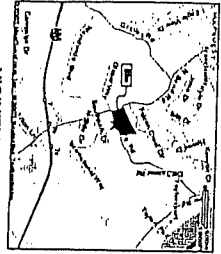
# Tanner's Cove Zoning Map



1 inch equals 400 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
July 30, 2005

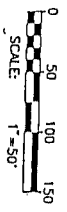




VICINITY MAP

CONCEPT PLAN DATA

- PROPOSED SP-3 RESIDENTIAL:**
- 1) Total site area: 133.64 ac
  - 2) Subdivided: 100 ac
  - 3) Total number of lots: 23
  - 4) Single-family lots: 23
  - 5) Street length: 1718.11 ft
- PROPOSED C-3 COMMERCIAL:**
- 1) Total site area: 41.64 ac
  - 2) Subdivided: 30 ac
  - 3) Total number of lots: 1 (100%/100%)
  - 4) Single-family lots: 0
  - 5) Street length: 0 ft



NORTH BEND ROAD  
(BY S.A. 233)

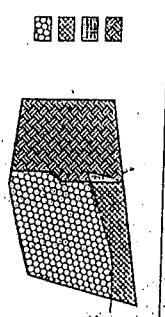
TANNER ROAD  
(BY S.A. 234)

**NOTES:**

- 1) All boundaries shall be as shown on the attached plat.
- 2) The proposed subdivision is subject to the approval of the Boone County Planning Commission.
- 3) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 4) Existing utility lines are shown as indicated.
- 5) All lots are shown as being of equal area.
- 6) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 7) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 8) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 9) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 10) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 11) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 12) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 13) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 14) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
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- 17) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 18) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 19) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 20) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 21) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 22) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.
- 23) The proposed subdivision is subject to the approval of the Boone County Board of Commissioners.



- 1) 23 lots are to be C-3
- 2) 27 lots are to be C-3
- 3) 20 lots are to be C-3
- 4) 23 lots are to be SP-3



APPLICATION FORM

BOARD OF ADJUSTMENT  
AND  
ZONING APPEALS ACTION  
BOONE COUNTY PLANNING COMMISSION

RECEIVED  
JUL 20 2005  
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 BAYER BECKER ATTN: JAY BAVER  
Phone Number (859) 261-1113 Fax No. (859) 261-1710  
Applicant's Address 14 EAST EIGHTH STREET  
COWINGTON KENTUCKY 41011  
City State Zip
4. Description of Request: BLANKET VARIANCE FOR DIMENSIONS SHOWN ON  
ATTACHED EXHIBIT DRAWING TO ALLOW CONSTRUCTION OF CONDOMINIUMS  
5. Name of Development TANNER'S COVE FRONTING INTERNAL  
6. Location of Development TANNER'S LANE PUBLIC STREETS &  
SUBDIVIDED LOTS
7. Acreage Under Review 12.19
8. Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_
9. Owner of Property DSS T-COVE, LLC ATTN: SCOTT SCHILLING  
Phone Number of Owner (859) 486-6010
10. Address of Property Owner FORT MITCHELL KENTUCKY 41017  
City State Zip
11. Proposed Use(s) on Site SINGLE-FAMILY ATTACHED & DETACHED HOUSING
12. Total Square Footage of Existing and/or Proposed Buildings 119,198
13. Current Zoning on Property SR-3
14. Deed Book 891 Page No. 897 Group No. 2002
15. Is the site subject to a zone change? YES  
If yes, give date of approval 11/19/03
16. Have you submitted a Site Plan with this request? YES
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: *Phil Whitman*

\* Property Owner's Signature: *[Signature]*

(over)

COPY

CLUR #05-BCBOA-012-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

DSS T-Cove, LLC  
334 Beechwood Rd.  
Ft. Mitchell, KY 41017

2. ADDRESS OF PROPERTY

Tanner's Lane  
Hebron, KY 41048

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Tanner's Cove

4. DEED BOOK 891

PAGE NO. 897

GROUP NO. 2002

5. TYPE OF RESTRICTION(S) (Check all that apply)

Zoning Map Amendment:  
From  To

Conditional Use Permit

Development Plan

Conditional Zoning

Subdivision Plat  
(Not Recorded)

Other:

Variances

6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION  
2995 WASHINGTON STREET  
BURLINGTON, KENTUCKY 41005

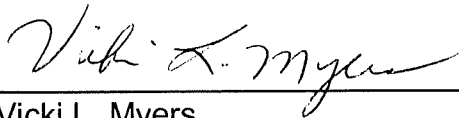
*Todd K. Morgan*  
SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Planner, Zoning Services  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

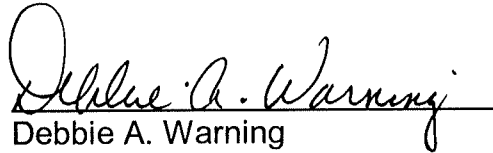
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 11 day of August, 2005.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2007

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 Variances approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of August 10, 2005 Certificate of Land Use Restriction (#05-BCBOA-012-A), for DSS T-Cove, LLC, Property Owner(s).

The following conditions will apply:

No conditions.

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

DEED BOOK 891

PAGE NO. 897

GROUP NO. 2002