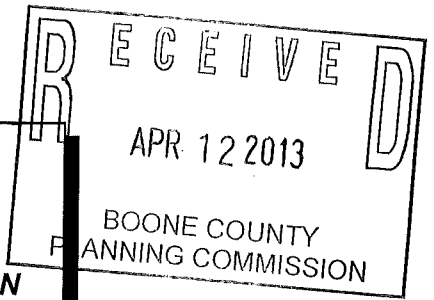


APPLICATION FORM



BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

(Check One)

- 1. Boone [checked] Florence _____ Walton _____ Union _____

(Check One)

- 2. _____ Conditional Use Permit _____ Variance _____ Appeal [checked]

Change in Non-Conforming Use

*

- 3. Applicant's Name SANDI & ROGER MULLINS
Applicant's Address 10830 BIG BONE CHURCH ROAD
UNION KY 41091
City State Zip

Phone Number 859 802 0204 Fax No. _____ E-Mail _____

- 4. Description of Request: APPEAL OF # OF EVENTS LIMITATION OF USE
ZA'S DECISION RE APPLICANT'S PRE-EXISTING NONCONFORMING USE

- 5. Name of Development MEADOWVIEW FARM CONDITION #3

- 6. Location of Development 10830 BIG BONE CHURCH ROAD IS APPEALED.
UNION

- 7. Acreage Under Review 0.21 ACRES ADJACENT TO MANSION 5 AC +/-

- 8. Lot Number and Name of Subdivision (if part of a subdivision)

- 9. Owner of Property SAME

Address of Property Owner SAME

- 10. City State Zip

Phone Number SAME Fax No. _____ E-Mail _____

- 11. Proposed Use(s) on Site PRE-EXISTING USES

ITEMS 1 and 2 PAGE 6 ZA'S DETERMINATION ATTACHED

- 12. Total Square Footage of Existing and/or Proposed Buildings TEMP TENT 10x10' 10x10'

- 13. Current Zoning on Property A-1 and A-2

- 14. Deed Book 398 Page No. 250 Group No. _____

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

If yes, give date of approval _____

- 16. Have you submitted a Site Plan with this request? N/A

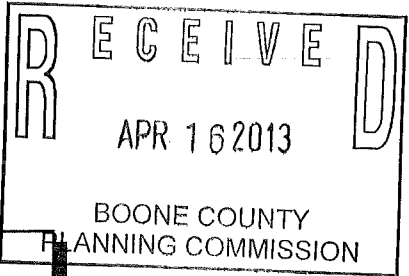
- 17. Have you submitted a list of adjoining property owners with this request? _____

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

ORIGINAL Property Owner's Signature: Roger Mullins, Sandi Mullins

ORIGINAL Applicant's Signature: Roger Mullins, Sandi Mullins

* GERALD F. DUSING (over) ADAM'S STEPHEN WOLTERMAN & Dusing 40 W MIKE ST COVINGTON KY 40122 GDUSING@ASWDLAW.COM



APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [X] Florence ___ Walton ___ Union ___
2. (Check One) Conditional Use Permit ___ Variance [X] Appeal ___
3. Applicant's Name ROGER + KATHY GRIGGS
Applicant's Address 10650 BIG BONE CHURCH ROAD UNION, KY 41091
4. Description of Request: APPEAL GRANDFATHERING OF SITE FOR EVENTS
5. Name of Development MEADOWVIEW FARM
6. Location of Development 10830 BIG BONE CHURCH ROAD UNION, KY 41091
7. Acreage Under Review 163+ AC
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property ROGER + SANDI MULLINS
Address of Property Owner 10830 BIG BONE CHURCH ROAD UNION, KY 41091
10. City Union State KY Zip 41091
Phone Number 859/802-0204 Fax No. E-Mail
11. Proposed Use(s) on Site WEDDINGS + RECEPTIONS, CORPORATE EVENT SITE, ETC.
12. Total Square Footage of Existing and/or Proposed Buildings UNKNOWN - TENT/GAZEBO
13. Current Zoning on Property A-1 AND A-2
14. Deed Book 398 Page No. 250 Group No.
15. Is the site subject to a zone change? NO
16. Have you submitted a Site Plan with this request? NO
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.

ORIGINAL Property Owner's Signature: [Signature]
ORIGINAL Applicant'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 4-16-13 Fee Received \$600⁰⁰ Receipt # 66672
2. Is application complete? Yes No
3. Staff Reviewer KEVIN WALL
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 Approved with Conditions (See #6) SEE 5/8/13 BCBOA
 Denial (See #7)
6. Conditions of Approval: MINUTES

7. Reasons for Denial: _____

**Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
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

APPELLANT 1: Sandi C. Mullins and Roger Mullins
APPELLANT 2: Roger Griggs and Kathy Griggs
LOCATION: 10830 Big Bone Church Road, Boone County, Kentucky
ZONING: Agriculture (A-1) and Agricultural Estate (A-2)
DATE: May 8, 2013

REQUEST AND HISTORY OF THE ISSUE

In accordance with sections 201, 220, 230, 240, 245, 253, and 254 of the Boone County Zoning Regulations, two appeals of a single Zoning Administrator's interpretation of the zoning regulations have been filed before the Boone County Board of Adjustment. This determination is outlined in the letter dated 4/10/13 from Kevin Wall, Zoning Administrator for the Boone County Fiscal Court, to Gerald Dusing of the law firm of Adams, Stepner, Woltermann & Dusing, PLLC (attached as Exhibit A). The application forms for both Appeals are attached as Exhibit B.

The first appeal was filed by Sandi C. Mullins and Roger Mullins, who are the owners of the real estate in question. The Mullins, through their attorney Gerald Dusing, asked for a Zoning Administrator determination that legal pre-existing, nonconforming status had been established for the use of the property at 10830 Big Bone Church Road as an outdoor event venue. This step was taken to avoid a potential zoning enforcement action as the result of complaints. The types of events that were claimed to have been held on the property included wedding receptions, anniversary parties, corporate type training and banquet gatherings, church bonfires and hay rides, and horse shows. These events were alleged to have commonly included the service of alcoholic beverages. The Appellants attorney claimed in the letter dated 1/30/13 (attached as Exhibit C) that the use had legal pre-existing, nonconforming status based on KRS 100.253(3) which states:

Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

This same language is also outlined in Section 272 of the Boone County Zoning Regulations.

To support their claim, a number of documents such as invoices, receipts, time lines, and testimonial letters from neighbors and clients were provided. At the Zoning Administrator's request, additional, more detailed documentation was provided on two later occasions (letters dated 2/20/13 and 3/1/13 are attached as Exhibit D and Exhibit E; all of the documentation materials are attached as Exhibit K). Upon review of this documentation, the Zoning Administrator sent a letter dated 3/22/13 outlining four questions which were related to a potential pre-existing, nonconforming status for this property (attached as Exhibit F). The Mullins attorney sent a letter dated 3/28/13 in response to these four questions (attached as Exhibit G).

Additionally, a letter dated 4/5/13 from attorney Tim Theissen of the law firm Strauss & Troy, representing the adjoining property owners to the east who are now the second group of appellants (Roger Griggs and Kathy Griggs), was sent to the Zoning Administrator (attached as Exhibit H). This letter outlined the basic position that the outdoor event venue use was a zoning violation and it requested that the Planning Commission initiate enforcement action. A letter dated 4/8/13 from Gerald Dusing representing the Mullins was sent to the Zoning Administrator in response to the 4/5/13 Theissen letter (attached as Exhibit I). The Zoning Administrator had also received several phone calls, e-mails, and letters from area residents (documents received before 4/10/13 are attached as Exhibit J).

In the letter dated 4/10/13 (Exhibit A), the Zoning Administrator determined that a legal pre-existing, nonconforming use had been established on the real estate at 10830 Big Bone Church Road. This determination did not leave the use of the property for these events open ended, but rather included the following three limitations that were based on an analysis of the information provided by the Mullins attorney. These are as follows.

1. The types of events which may occur under this status include wedding receptions, anniversary parties, corporate type training/awards ceremony/banquet events, church bonfire/hay rides, and comparable functions. These events are typically characterized by the use of a temporary tent, service of food and beverages including alcoholic beverages, and a sound system with an emcee or DJ and the playing of recorded music.
2. Any single event shall be limited to a maximum of 250 guests or patrons.
3. The outdoor event venue function is limited to seven (7) event days per calendar year. Horse shows are not included in the seven event day limitation. As explained above (*explained "above" in the 4/10/13 letter*), horse shows with seventy (70) or less participants are exempt from local zoning.

On 4/12/13, Sandi C. Mullins and Roger Mullins filed an Appeal of paragraph 3 regarding the limitation of seven (7) event days per calendar year. The term "event days" is explained in the 4/10/13 letter.

The second appeal was filed by Roger Griggs and Kathy Griggs, the adjoining property owners to the east, on 4/16/13. This Appeal is for the Zoning Administrator's overall determination that legal pre-existing, nonconforming status had been established on the property for an outdoor event venue versus any one aspect of the decision.

No grounds or basis for either Appeal has been provided to date, and will presumably be presented at the 5/8/13 Public Hearing before the Board of Adjustment. The full basis for the Zoning Administrator's determination and additional supporting facts are outlined in the 4/10/13 letter from Kevin Wall to Gerald Dusing.

APPLICABLE REGULATIONS

Article 2, Section 201 of the Boone County Zoning Regulations states that one of the duties of the Zoning Administrator is to determine the classification of a use of land, buildings or structures as a permitted, accessory or conditional use in a specific zoning district, as well as determine the applicability and substance of development performance standards, based on interpretation of the stated and implied requirements of the zoning regulations. This includes the determination of classification of new uses or uses not specifically identified in these regulations.

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to hear and decide appeals where it is alleged there is an error in any order, requirements, decision, interpretation, grant, or refusal made by the Zoning Administrator.

Article 2, Section 245 of the Boone County Zoning Regulations states that appeal to the Board of Adjustment and Zoning Appeals may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision by filing, with the Board of Adjustment and Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken, and by giving notice of such appeal to any and all parties of record. The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The appellant may also submit any materials appropriate for review in consideration of the appeal.

Article 6, Sections 613 and 623 of the Boone County Zoning Regulations both list "eating establishments, excluding alcoholic beverages" as a Conditional Use in the A-1 and A-2 zones (#20.b and 18.b respectively).

ADJACENT LAND USES

- A. A combination of detached single family residences on acreage lots, agriculture, and wooded areas is located to the north and east, and to the west of the northern corner of the subject tract (A-1 and A-2).
- B. A subdivision of detached single family residences on acreage lots is located to the west along Kirby Lane and Forest View Drive (A-1 and A-2).
- C. The Adair Wildlife Management Area is located to the south (A-1).

DESCRIPTION OF SITE

The site at 10830 Big Bone Church Road contains approximately 164 acres and has approximately 750 feet of frontage along Big Bone Church Road. The property is largely open pasture. It contains a two story residence that is used for a bed and breakfast, and several agricultural buildings including a stable. The buildings are located in the central part of the tract. Site features include several lakes/ponds, a riding arena, and wooded areas which are mostly in the south and southwest parts of the tract. Access on the site is provided by a one lane driveway. A circular driveway loop connects the buildings in the central part of the site.

DECISION AND BASIS FOR DECISION

The decision in question, and the basis for this decision, are described in the previously mentioned letter dated 4/10/13 from Kevin Wall to Gerald Dusing (Exhibit A).

CONCLUSION

KRS 100.257 and Section 220 of the Boone County Zoning Regulations give the Boone County Board of Adjustment and Zoning Appeals the authority to act on these two requests. In order for an appeal to be granted, the Board must determine that the administrative decision in question is in error.

Respectfully submitted,



Kevin T. Wall, AICP
Zoning Administrator
Boone County Fiscal Court

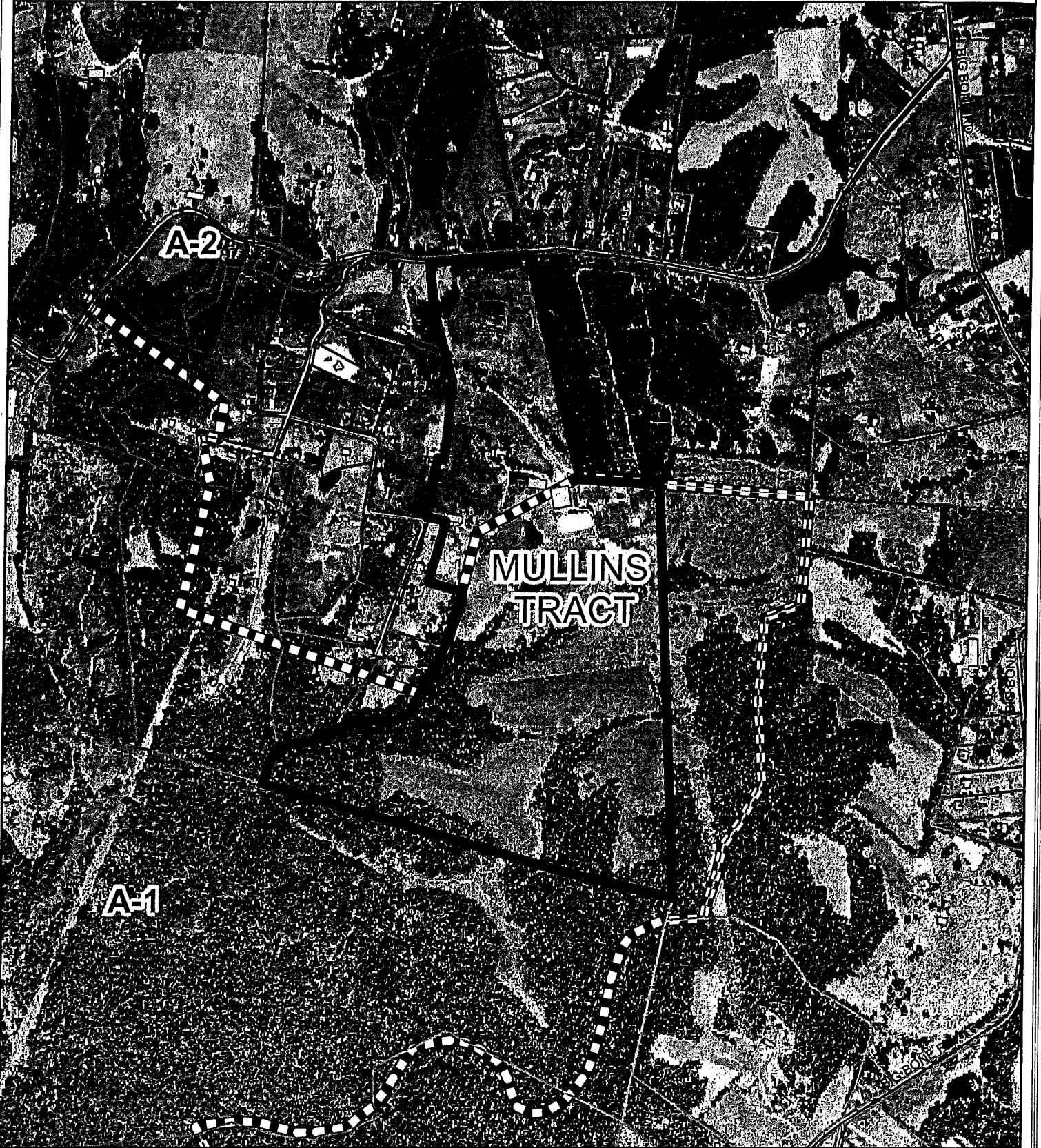
KTW/dw

EXHIBITS

- Mullins Tract air photo w/ zoning information
- Exhibit A - 4/10/13 letter from Kevin Wall to Gerald Dusing
- Exhibit B - applications for both Appeal requests
- Exhibit C - 1/30/13 letter from Gerald Dusing to Kevin Wall
- Exhibit D - 2/20/13 letter from Gerald Dusing to Kevin Wall
- Exhibit E - 3/1/13 letter from Gerald Dusing to Kevin Wall
- Exhibit F - 3/22/13 letter from Kevin Wall to Gerald Dusing
- Exhibit G - 3/28/13 letter from Gerald Dusing to Kevin Wall
- Exhibit H - 4/5/13 letter from Tim Theissen to Kevin Wall
- Exhibit I - 4/8/13 letter from Gerald Dusing to Kevin Wall
- Exhibit J - e-mails and letters from area residents received before 4/10/13 decision
- Exhibit K - pre-existing, nonconforming use documentation including invoices, receipts, time lines, and testimonial letters from neighbors and clients

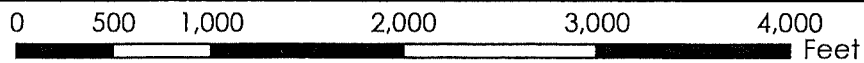
Mullins Tract

www.boonecountygis.com



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1 inch = 989 feet



Boone County GIS - Putting Northern Kentucky on the Map

EXHIBIT A

BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org



April 10, 2013

Mr. Gerald Dusing
Adams, Stepner, Woltermann & Dusing, PLLC
40 W. Pike Street
P.O. Box 861
Covington, KY 41012-0861

FAX: 392-7206

RE: Mullins Event Venue at 10830 Big Bone Church Road, Boone County, Kentucky
(Meadowview Manor/Farm); Agriculture (A-1) and Agricultural Estate (A-2) Zones

Dear Mr. Dusing:

The purpose of this letter is to inform you of my determination as Zoning Administrator for the Boone County Fiscal Court regarding the alleged pre-existing, nonconforming status of a venue for outdoor events at the Meadowview Farm at 10830 Big Bone Church Road. It outlines the decision of the Zoning Administrator for the Boone County Fiscal Court and not any type of action by the Boone County Planning Commission. Representative types of events that have occurred on this property include wedding receptions, anniversary parties, corporate type training and banquet gatherings, church bonfires and hayrides, and horse shows. You claimed in a letter dated 1/30/13 that legal pre-existing, nonconforming status has been vested for this use on the property under KRS 100.253(3) which states:

Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

This same language is also outlined in Section 272 of the Boone County Zoning Regulations.

The subject property is within Agriculture (A-1) and Agricultural Estate (A-2) zones. I have customarily categorized "for hire" style rental/assembly halls used for events such as wedding reception, banquets, and the like under the "eating and drinking establishments" use category that is used throughout the Boone County Zoning Regulations. This category commonly has the phrase "including alcoholic beverages" attached to it. The regulations by and large do not have a specific, separate category for rental or banquet halls. The A-1 and A-2 zones do have Conditional Use categories (#20.b and 18.b respectively) described as "eating establishments, excluding alcoholic beverages," which has been consistently interpreted in the past to include the rental or banquet hall

type activities, but clearly prohibits the service of alcoholic beverages in these two zones. You indicated that the service of alcoholic beverages is integral to the business, and that it has customarily occurred on the premises in conjunction with the "for hire" events.

As you are aware, the Planning Commission had received complaints regarding the activities at Meadowview Farm, and the request for a determination for legal pre-existing, nonconforming status was sought to avoid potential enforcement action. To support your claim, a number of documents such as invoices, receipts, time lines, and testimonial letters from neighbors and clients were provided. At my request, additional, more detailed documentation was provided on two later occasions (included with 2/20/13 and 3/1/13 letters). Upon review of this documentation, I sent a letter on 3/22/13 outlining four questions which relate to potential pre-existing, nonconforming status for this property. You provided a letter dated 3/28/13 in response to these four questions.

Additionally, I have received a letter dated 4/5/13 from Tim Theissen of Strauss & Troy who represents neighboring property owners. This letter alleges that the event venue is an illegal use on this property, and asks the Planning Commission to initiate enforcement action for a zoning violation. You provided a letter dated 4/8/13 in response to the Theissen letter. I have also received a number of phone calls, letters, and e-mails from other neighbors. I did not solicit these communications, and none of them provided conclusive information of whether or not a legal pre-existing, nonconforming use had been established on the property. However, whether pro, con, or neutral, they have consistently confirmed that outdoor events have been occurring on the property at some level.

A number of the neighbor communications expressed concern or displeasure regarding impacts that either have, or are believed to have, been generated by this operation. These include noise (both music and clearly audible and sometimes vulgar commentaries over the PA system), traffic, disruptive evening events, an increase in the overall frequency of events in recent times, and issues with the service of alcohol. While I have great concern for these types of disruptive effects and sympathize with the affected neighbors, my task as Zoning Administrator is limited to determining whether or not a legal pre-existing, nonconforming use has vested under the "ten year rule" in KRS 100.253(3). My role at this juncture is not to treat the request as an administrative version of a Conditional Use Permit or Zoning Map Amendment in which conditions can be applied to mitigate impacts. However, I do believe that it is appropriate to define the types and levels of activity which constitute any pre-existing, nonconforming use based on the facts at hand, and that keeping within these limits could potentially curtail some of the negative impacts.

I have identified the following general facts that do not appear to be in dispute by the various parties.

- A. Some sort of assembly style "events" in which groups of outside people were invited onto the property have occurred since at least 2000 - 2001. Some of the neighbors mentioned that they believed a lot of outdoor parties, presumably private, were being held on the property. Some neighbors were also surprised when I mentioned the range of documents that were provided in an effort to support the pre-existing, nonconforming use claim.
- B. Occasional events such as wedding receptions or graduation parties for family and friends constitute a legitimate, customary accessory use at a farm or residence and are not appropriately considered in the pre-existing, nonconforming use evaluation. Only "for hire" type events should be considered in this context.

- C. The frequency or number of outdoor events has significantly increased since 2010.
- D. A Conditional Use Permit was granted by the Boone County Board of Adjustment in 1994 at the request of Roger and Sandi Mullins to operate a bed and breakfast on the same property. The Mullins have been the property owners since at least that time, and have been the operators of the "for hire" event venue. No application for any type of zoning approval (Conditional Use Permit, Zoning Map Amendment, etc.) has ever been submitted to the Planning Commission for the event venue function.
- E. You indicated in your 3/28/13 letter that no capital expenditures in buildings, structures, site improvements and the like have been made to support the use.

Other facts surrounding this matter are not so clear. These include the following.

- A. Whether or not the horse shows which have been conducted on the property over the years can be legitimately considered as part of a pre-existing, nonconforming use. The materials that you provided consistently refers to numbers of "attendees" at the various horse shows. This presumably includes everyone on the premises for the purposes of the horse shows including spectators and perhaps even employees or vendors. The definition of "agricultural use" in KRS 100.111 exempts certain horse related activities from local zoning, including horse shows involving seventy (70) or less participants. The inference in the term "participants" is that they are people actively engaged in the show and that it does not include spectators. In short, if these events are in fact exempt from local zoning, they can not be used to justify a pre-existing, nonconforming use.
- B. The size of many of the events. An attendance estimate was given for a number of the events (such as "100 in attendance" for the 5/27/06 Tupperware event), others were described by a range (such as "200+ coming and going" for the 7/15/06 Sweco event or "attendance around 100 to 150" for the 10/22/05 Gloria Dei Lutheran Church hay ride). No attendance figures were provided for a smaller number of the events. The largest attendance figure I saw in the materials since 2001 was 275 and several others had 250. The usual size seemed to be in the 100 to 200 range.
- C. How significant are the differences between the types and numbers of events relative to a pre-existing, nonconforming use determination. This includes:
 - I. The nature of the events (wedding reception, corporate event, etc.) and how many of a certain type have occurred and at what frequency.
 - II. The times of day that the events have occurred.
 - III. Whether the Tupperware events should be given the same weight as others as Mrs. Mullins was reportedly an executive with this company. You indicated that the Tupperware events were all paid affairs like a wedding reception for outside people.
 - IV. The noticeable increase in the frequency or number of events that has admittedly occurred since 2010.

The detailed differences, and combinations thereof, on an event by event basis are realistically too numerous to count or consider.

- D. How to appropriately evaluate a potential pre-existing, nonconforming use that is seasonal, yet by nature of the business is also intermittent within the individual seasons. As a "for hire" event venue, it apparently does not have regular, routine business hours such as Monday through Friday, 10:00 AM to 6:00 PM, with a paid staff on the premises like a retail store. We did not locate applicable case law which directly applied to a use which was both seasonal and inherently intermittent.

Based on the various documents that you provided, I agree that the basic types of functions which have occurred on the premises to define a pre-existing, nonconforming use include wedding receptions, anniversary parties, corporate type training/awards ceremony/banquet events, and church bonfire/hay rides. The functions are generally defined as paid functions which involve the gathering or assembly of outside people, typically within a large tent which is erected for the sole purpose of these events. These events commonly included serving food and beverages, including alcoholic beverages at a significant number of them. A sound system which was manned by an emcee or DJ who played recorded music has also been used.

Because the Tupperware events were paid functions with characteristics comparable to the others, I believe that they are legitimately included for consideration in a pre-existing, nonconforming use determination. Also, I do not believe that for any practical purpose I could break down or quantify the types of events on a percentage basis, such as by stating for example that "weddings were 53 percent of the events, corporate events were 17 percent of the events," etc. (these figures are for illustrative purposes and were not actually calculated). Again, all of these events were paid functions with comparable characteristics to one another.

I do not have sufficient information to determine whether the horse shows should be considered to be part of a pre-existing, nonconforming use. As outlined above, the determining factor is seventy (70) or less "participants," whereas the figures supplied are for "attendees," which presumably includes participants, spectators, and perhaps others. Future horse shows which have seventy (70) or less participants can be held on the property regardless of any determination I would make as Zoning Administrator, as they are exempt from local zoning per the "agricultural use" definition in KRS 100.111.

As mentioned above, some of the complaints that I heard from neighbors in the area pertained to hours of operation, particularly noisy events in the evening. I have no basis for treating these events differently than those that were held during the daytime, as no tangible information has been provided from any source which would give a reasonable idea as to which and how many functions occurred in the evening versus the daytime. Additionally, the Boone County Zoning Regulations on their face do not have business hour restrictions for eating establishments. Such restrictions could however be established through the Board of Adjustment through a Conditional Use Permit approval, if that process were to apply and such conditions were warranted by the record.

Figures were given for the number of guests or attendees for most functions. As noted above, the largest attendance figure I saw in the materials since 2001 was 275 with several others having 250. The usual size seemed to be in the 100 to 200 range. When considering the pattern established by these figures, I can not conclude that the size of the events based on the number of guests should be left open ended. That said, the 275 figure was an exception rather than the rule, however, up to 250 occurred on several occasions. Thus, 250 guests is the maximum size of an event which I can reasonably conclude would be legitimately covered by any pre-existing, nonconforming status.

Perhaps the key factor in this analysis is the number or frequency of events. There is nothing in the history of this use as outlined in the materials provided to suggest that the number of events per year or season is, was, or should be, open ended. As noted above, it is agreed that this number noticeably increased since 2010. I did notice that my figures for events on a year by year basis were consistent with those provided in Mr. Theissen's letter (they are based on the event-by-event outline included with both your 3/1/13 and 3/28/13 letters). Additionally, the case law review conducted for this determination included *Smith v. Howard* and *Hofesgang v. McMakin*, both of which include a basic finding that intermittent use is inadequate to preserve a pre-existing, nonconforming use. Granted, your clients' case deals with the establishment of a pre-existing, nonconforming use versus the preservation of one, but I believe that these cases are at least relevant to consider based on the matter in question.

In this context, the nature of your clients use itself is intermittent. As stated above, it does not operate like a retail store in terms of regular hours in which it is open to the public with staff waiting for potential customers. Rather, the standard routine is for custom events, with the arrangements made when an agreement has been reached. I would imagine that with set-up and tear-down, a day long event could actually take two to three days to complete from start to finish. In brief, based on the use presented, I did not identify an issue with it being intermittent, as that is an inherent trait. Additionally, I did not identify any fact which leads me to believe that there was an attempt at any time since 2000 - 2001 to discontinue or abandon the event venue activities.

The history of the number of events per year can be broken down into three periods. It was basically insignificant in 2000, there was a somewhat variable, yet consistent pattern from 2001 through 2009, and then the figures significantly increased from 2010 through 2012. Several of the events over the years had a duration of two or three days. From a land use impact or effect standpoint, I consider these to be the equivalent of two or three one day events. In determining the average number of events for certain periods, I will refer to "event days," which acknowledges these two and three day events at face value. For illustrative purposes, the "event day" concept treats ten (10) one day events in a given year as the equivalent of five (5) two day events (i.e., the total number of days with events is still 10). These figures do not include the horse shows as explained above.

From 2001 through 2009, there were approximately seven (7) event days per year ($60 \text{ total event days} / 9 \text{ years} = 6.66$). From 2010 through 2012, there were approximately fifteen (15) event days per year ($44 \text{ total event days} / 3 \text{ years} = 14.66$). For the overall period of 2001 through 2012, there were approximately nine (9) event days per calendar year ($104 \text{ total event days} / 12 \text{ years} = 8.67$). Of particular relevance for the 2001 to 2009 period, I have not identified any factors which leads me to believe that the quantitative difference of a few events from year to year is materially different from a land use perspective.

These figures bear out the fact that the number or frequency of events has dramatically increased in the last three years. Because the higher frequency of events has only occurred in the last three years (over twice the average for the preceding nine years), it is not proper to apply them to any pre-existing, nonconforming status, as that frequency, intensity, or scope of use has not occurred for the requisite ten (10) years. In my estimation, this notable increase has changed both the character and quality of any pre-existing, nonconforming use and its relationship to the surrounding area, and would constitute an enlargement or extension of a nonconforming use beyond its established scope. This is evidenced by the comments I received from a number of neighbors in the area who thought, based on the apparent activity at Meadowview Farm, that the business was started in 2010.

I do not see this difference as being in conflict with the Bourbon County BOA v. Brown decision regarding changes to a pre-existing, nonconforming auction house which operated a few days a week. The court found that a change in holding auctions from two to three days a week did not constitute an expansion of a pre-existing, nonconforming use because the changes did not affect the character or quality of the use as contemplated by the statute (i.e., as-applied decision). It did not find that limiting or defining the frequency of events or number of business days for pre-existing, nonconforming uses was universally improper. Again, the test is whether the character and quality is affected, which is the case in this instance since 2010 is when neighbors in the area largely took notice of the activities on the property.

Paragraph 2 in your 3/28/13 states that the number of events has grown from approximately seven (7) in 2001 to twenty four (24) "in recent years," but I did not find where the submitted documentation supports the seven to twenty four range noted. Your 3/28/13 letter states that the outline from which my figures are now based is a representative versus complete listing of events. However, it is the one comprehensive, organized document which presents the events in a understandable manner.

Given the information outlined above, I have concluded that a legal pre-existing, nonconforming use has been established at 10830 Big Bone Church Road for a seasonal outdoor event venue. This use is subject to the following limitations or defining traits which are based on the information that you provided.

1. The types of events which may occur under this status include wedding receptions, anniversary parties, corporate type training/awards ceremony/banquet events, church bonfire/hay rides, and comparable functions. These events are typically characterized by the use of a temporary tent, service of food and beverages including alcoholic beverages, and a sound system with an emcee or DJ and the playing of recorded music.
2. Any single event shall be limited to a maximum of 250 guests or patrons.
3. The outdoor event venue function is limited to seven (7) event days per calendar year. Horse shows are not included in the seven event day limitation. As explained above, horse shows with seventy (70) or less participants are exempt from local zoning.


My basic finding is that based on the evidence provided, the event venue use as qualified or defined by paragraphs 1 through 3 immediately above has operated for ten (10) continuous years without adverse orders per KRS 100.253(3).

Please keep in mind that all proper licenses, permits, and approvals such as an Occupational License, ABC License, approval from the Health Department, etc., need to be obtained from the applicable agencies. Also, I strongly urge your clients to establish procedures for mitigating the impacts which have become very apparent to some of their neighbors. Noise from the PA system and problems with the service of alcoholic beverages seem to top the list from the neighbors who have contacted me. Some mentioned that they did not complain at the time an issue arose because they didn't want to be problematic or intrusive into your clients' affairs. I suggest that your clients track future events relative to paragraphs 1 through 3 above so that any complaints can be readily handled.

Mr. Gerald Dusing
April 10, 2013
Page 7

Because this letter outlines a decision of the Zoning Administrator, it may be appealed by any aggrieved party to the Boone County Board of Adjustment (BOA) within thirty (30) days of today's date. In order for an appeal to be granted, it must be demonstrated that the decision is in error. The submittal deadline for the May BOA meeting is 5:00 pm on Tuesday, April 16, 2013.

Sincerely,



Kevin T. Wall, AICP
Zoning Administrator
Boone County Fiscal Court

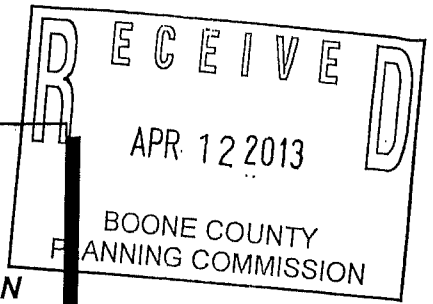
KTW/vlm

cc: Kevin Costello, AICP, Executive Director
Jeff Earlywine, Boone County Administrator
Robert Neace, Boone County Attorney
Tim Theissen, Strauss & Troy; FAX: 513-629-9444
Dale Wilson, BCPC Legal Counsel

EXHIBIT B

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION



FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

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 SANDI & ROGER MULLINS
 Applicant's Address 10930 BIG BONE CHURCH ROAD
UNION KY 41091
 City State Zip
 Phone Number 859 802 0204 Fax No. _____ E-Mail _____
4. Description of Request: APPEAL OF # OF EVENTS LIMITATION OF ZIA'S DECISION RE APPLICANT'S PRE-EXISTING NONCONFORMING USE
5. Name of Development MEADOWVIEW FARM CONDITION #3
6. Location of Development 10930 BIG BONE CHURCH ROAD IS APPEALED.
UNION
7. Acreage Under Review CURTILEGE ADJACENT TO MANSION 5 AC +/-
8. Lot Number and Name of Subdivision (if part of a subdivision) _____
9. Owner of Property SAME
 Address of Property Owner SAME
10. _____
 City State Zip
 Phone Number SAME Fax No. _____ E-Mail _____
11. Proposed Use(s) on Site PRE-EXISTING USES
ITEMS 1 and 2 PAGE 6 ZIA'S DETERMINATION ATTACHED
12. Total Square Footage of Existing and/or Proposed Buildings TEMP TENT 16'x50'x10' 10x10' 6x5
13. Current Zoning on Property A-1 and A-2
14. Deed Book 398 Page No. 250 Group No. _____
15. Is the site subject to a zone change? NO
 If yes, give date of approval _____
16. Have you submitted a Site Plan with this request? N/A
17. Have you submitted a list of adjoining property owners with this request? _____
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: [Signature]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature]
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

* GERALD F. DUSING (over)
ADAMS STEPHEN WOLTERMAN & Dusing
1100 N. 1st St. (over) 1100 N. 1st St. (over) G.DUSING@BSWDLAW.COM

**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 4-12-13 Fee Received \$ 682⁰⁰ Receipt # 466647
2. Is application complete? Yes No
3. Staff Reviewer KEVIN WALL
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: _____

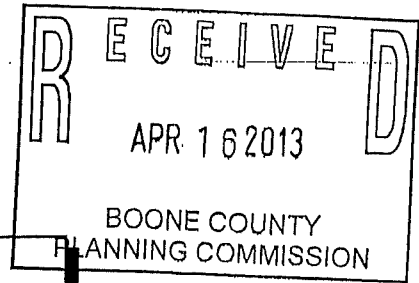
7. Reasons for Denial: _____

**Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
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.



APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [X] Florence _____ Walton _____ Union _____
2. (Check One) Conditional Use Permit _____ Variance [X] Appeal _____
3. Applicant's Name ROGER & KATHY GRIGGS
Applicant's Address 10650 BIG BONE CHURCH ROAD UNION, KY 41091
4. Description of Request: APPEAL GRANDFATHERING OF SITE FOR EVENTS
5. Name of Development MEADOWVIEW FARM
6. Location of Development 10830 BIG BONE CHURCH ROAD UNION, KY 41091
7. Acreage Under Review 163+ AC
8. Lot Number and Name of Subdivision (if part of a subdivision)
9. Owner of Property ROGER & SANDI MULLINS
Address of Property Owner 10830 BIG BONE CHURCH ROAD UNION, KY 41091
10. Proposed Use(s) on Site WEDDINGS & RECEPTIONS, CORPORATE EVENT SITE, ETC.
11. Total Square Footage of Existing and/or Proposed Buildings UNKNOWN - TENT/GAZEBO
12. Current Zoning on Property A-1 AND A-2
13. Deed Book 398 Page No. 250 Group No.
14. Is the site subject to a zone change? NO
15. Have you submitted a Site Plan with this request? NO
16. Have you submitted a list of adjoining property owners with this request? YES
17. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: [Signature]

ORIGINAL Applicant'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 4-16-13 Fee Received \$600⁰⁰ Receipt # 66672
2. Is application complete? Yes _____ No _____
3. Staff Reviewer KEVIN WALL
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
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
www.boonecountyky.org - Web Page**

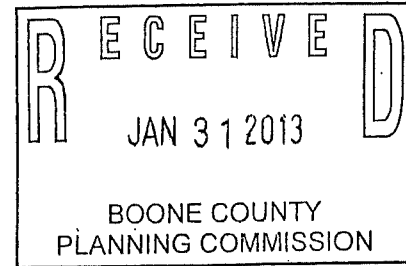
NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

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.

January 30, 2013

Kevin T. Wall, AICP, CDT
Zoning Administrator
City of Florence, Boone County
c/o Boone County Planning Commission
Administration Building
2950 Washington Street
Burlington, Kentucky 41005



RE: Mr. and Mrs. Roger Mullins
Meadowview Farm -Existing Nonconforming Use

Dear Kevin,

This office represents Sandi and Roger Mullins, d/b/a Meadowview Farm regarding its status as an existing nonconforming use under KRS 100.253(3) respecting the area of the farm adjacent to the mansion that has been used for corporate conferences, weddings, commercial presentations and related receptions with food and beverage, including alcoholic beverages, live and recorded music and related parking areas.

In short, these activities have been conducted on an ongoing seasonal basis during the "outdoor season"—late spring through autumn—for more than ten years.

This letter is written in response to our telephone conversation wherein you advised there had been a few complaints to the Planning Commission respecting some isolated incidents in connection with wedding receptions on the premises and the Planning Commission was investigating possible enforcement action since such activities constitute only a conditional use in the Agriculture zone of the premises.

Normally, KRS 100.253(3) is asserted as a defense in an enforcement action. However, as we discussed, since the Planning Commission is contemplating such action, and since there are pre-booked wedding receptions scheduled for the farm this summer, we present the following law and facts at this time to avoid uncertainty to those prospective brides and their families.

KRS 100.253(3) is dispositive and states:

3. Any use which has existed legally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the

administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Wedding receptions, including music and dining with alcoholic beverages, have been held at the farm next to the mansion during outdoor weather times of the year since at least 1992. Examples are as follows:

Tonya and David Edmier's wedding/reception held there in 1992 included 200 guests.

In 1993 the Leadership Conference for Tupperware USA was a large corporate outdoor event with food and alcoholic beverages. Sandi Mullins was national vice president for sales for Tupperware for many years and often held regional meetings/receptions/sales "pep rallies" and award recognitions outdoors at the farm during the summer months.

Word spread of the delightful venue for such events. Even Formica held a regional training session outdoors in 1994 with many attendees at the reception.

Since 1997 the number of weddings and corporate reception events has grown steadily. Examples are Cynthia Ruebling's wedding and Tupperware training/receptions in the summer of 1997 among others.

In 1998 the highlight event was Tupperware Recognition and Training for five (5) Regions attended by over 200 managers, distributors and national president Bill Spears.

In 1999 and 2000 there were similar weddings and events. Examples are Robyn and Steven Giss (350 attendees). In 2001 and 2002 weddings continued to grow. Memorable ones were Jody Melo and Dr. Joseph Scalfani (250 attendees) and Mindy and Ino Alegre (175 attendees). All involved tents, outdoor ceremonies, food, drink and music. These weddings and corporate events continued through the decade of 2002 through 2012, every warm weather season. Large events included a 2005 "Top Leadership" reception for 150 and Jody Sampson and Marty Walsh wedding reception of 160. These were typical, not the only ones.

In 2006 through 2009, numerous weddings and major corporate receptions were conducted on the premises. Memorable ones are 2006 and 2007 Life Touch School Photography, involving the food, drink, music and all the touches, each involving over 100 attendees. In addition to weddings there was a large cancer fundraiser with food, beverage and entertainment in 2008. The Faubion/Salazar wedding in 2009 also stands out as an elaborate affair.

There were 11 weddings in 2010, 14 in 2011 and 17 in 2012. About 17 are booked for the summer of 2013.

In additional, there have been horseshows with tents, parking and refreshments for at least 20 years, which were for a fee.

Many of the events were catered by Eddie's Southern BBQ, (known to all Boone County Fair goers) and in recent years Be Creative Catering.

The property adjacent to the mansion has been taxed as a business instead of the agricultural exemption value for many years.

Various corroborating statements are attached.

Sandi Mullins has personally conducted these activities continuously during the warm weather months for over ten years. Her sworn verification to that as fact is contained at the end of this letter.

The Mullins' property is zoned A-2. The Mullins' use for receptions with dining including alcoholic beverages in the warm weather months has been for each annual season since prior to 2002.

The receptions have not expanded in scope and area of their operation since those held prior to 2002. They have always been held on the curtilege adjacent to the mansion, on the law and near the gravel and paved parking areas.

Consistent seasonal use legally constitutes "continuous" use under KRS 100.253(3). "Use under the statute means what is "customarily or habitually done or subject of a common practice"

Legrand v. Ewbank, 284 S.W.3d 142, 145 (Ky. Ct. App. 2008, Perkins v. Joint City-Council Planning Commission, 480 S.W.2d 166, 167 (Ky. 1972)). Under that definition, because it is common practice that outdoor weddings and receptions are customarily held during select (warmer) months, the use qualifies as "continuous." Further, case law interpreting the element of "continuous" is instructive in this matter, and provides that "possession is continuous if the operations are carried on continuously at such seasons as the nature of the business . . ." Asher v. Gibson, 198 Ky. 285 (Ky. 1923). Certainly, the general nature of the outdoor reception/wedding business establishes that outdoor weddings and receptions are performed in particular seasons. Therefore, the use of the property for outdoor weddings should meet the second aforementioned element, requiring that the use must be in "continuous existence."

Moreover, it is well established that the increase in frequency of the use does not deprive the status of the protected nonconforming use. The leading precedent of Board of Adjustment; Bourbon County v. Brown, d/b/a Clintonville Auction House, 969 S.W.2d 214 (Ky. App. 1998) so holds. There the property was zoned residential and the Browns sought to build an offsite parking lot for their non-conforming auction house in the residential zone. The irate neighbors

countered, asking the Board of Adjustment to shut the auction operation down for two reasons: the auction house itself had been expanded under roof and because the number of auctions had increased, which the neighbors contended was an enlargement and extension of the non-conforming use. The Board of Adjustment agreed but the Bourbon Circuit Court reversed the Board of Adjustment and the Kentucky Court of Appeals agreed with the Bourbon Circuit Court, holding that the increase in frequency of the auctions is not "enlargement or extension of a non-conforming use beyond the scope and area of its operation" that the statute prohibits.

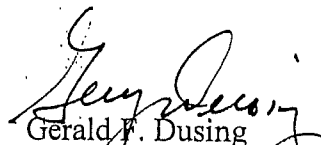
"Nonconforming uses enjoy a status of a vested property right and enjoy broad constitutional protection." Felty v. Petty, 2011 Lexis 162, (Ky. App 2011) at p.4, citing Dempsey v. Newport Board of Adjustment, 941 S.W.2d 483 (Ky. App 1997).

CONCLUSION

Sandi and Roger Mullins have conducted outdoor weddings and similar receptions, corporate trainings and the like on Meadowview Farm adjacent to the mansion, using the lawn and existing gravel and paved parking areas, including food, alcoholic beverages music and related typical "reception" activities continuously during the warm weather permitting outdoor season, since well prior to 2002, with no enforcement action by any agency. Their use is statutorily protected to continue as a nonconforming use.

Respectfully submitted,

ADAMS, STEPNER,
WOLTERMANN & DUSING, P.L.L.C.


Gerald F. Dusing
Attorneys for Sandi and Roger Mullins

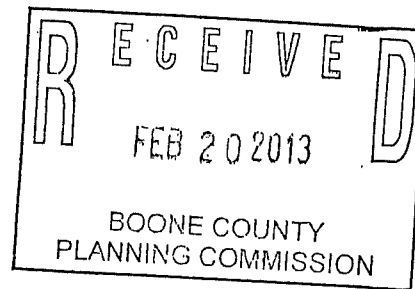
GFD/dmc
Encl.

EXHIBIT D

February 20, 2013

VIA HAND DELIVERY

Kevin T. Wall, AICP, CDT
Zoning Administrator
City of Florence, Boone County
c/o Boone County Planning Commission
Administration Building
2950 Washington Street
Burlington, Kentucky 41005



RE: Mr. and Mrs. Roger Mullins
Meadowview Farm -Existing Nonconforming Use

Dear Kevin,

Per your request, enclosed are supplementary documentation that Mr. and Mrs. Mullins have been conducting outdoor corporate, wedding, training, shows and similar events, with entertainment, dining and alcohol etc., on the premises for more than the past ten (10) years. These supplement her sworn verification of the factual statements in our previous correspondence.

Enclosed are:

1. Overview of events. This is not an exclusive list.
2. 2010-2012 Support Documents;
3. 2003-2005 Support Documents;
4. 2006-2009 Support Documents;
5. 2010-2012 Support Documents; and
6. Letter of Crystal Amlung of Bright Tent Rentals explaining rentals 2000-2007 for selected events at Meadowview and why all originals are no longer available.

These are not the only events – just documentation that can be found/gathered for events so long ago. All events were for a fee. None were merely gatherings of friends/family.

Of particular probative value proving the current nonconforming use of the premises existed for more than ten years is the professional card “Meadowview Manor” marketing the

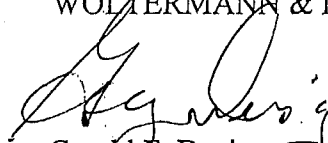
Kevin T. Wall, AICP, CDT
February 20, 2013
Page 2

premises for this use. Notice the area code. The enclosed documents the area code changed to 859 in 1999.

Thank you in advance for your consideration.

Very truly yours,

ADAMS, STEPNER,
WOLTERMANN & DUSING, P.L.L.C.



Gerald F. Dusing
Attorneys for Sandi and Roger Mullins

GFD/dmc
C. Client
Enclosures

EXHIBIT E

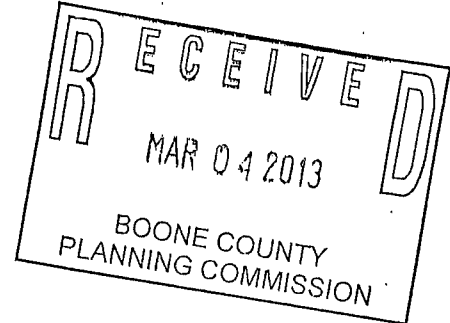
Adams
STEPNER, WOLTERMANN & DUSING, PLLC

Gerald F. Dusing
Attorney at Law
Gdusing@aswdlaw.com
t: (859) 394-6200f: (859) 392-7206

40 W. Pike Street, P.O. Box 861, Covington, KY 41012-0861

March 1, 2013

Kevin T. Wall, AICP, CDT
Zoning Administrator
City of Florence, Boone County
c/o Boone County Planning Commission
Administration Building
2950 Washington Street
Burlington, Kentucky 41005



RE: Mr. and Mrs. Roger Mullins
Meadowview Farm -Existing Nonconforming Use

Dear Kevin,

Enclosed is additional documentation providing Meadowview Farm has been the venue for paid corporate events, weddings, trainings and the like involving outdoor ceremonies with food and drink for well over ten (10) years.

Very truly yours,

ADAMS, STEPNER,
WOLTERMANN & DUSING, P.L.L.C.

A handwritten signature in black ink, appearing to read "Gerald F. Dusing".

Gerald F. Dusing
Attorneys for Sandi and Roger Mullins

GFD/dmc
C. Client
Enclosures

EXHIBIT F

BOONE COUNTY PLANNING COMMISSION

www.boonecountyky.org/pc
www.boonecountygis.com

Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264
plancom@boonecountyky.org



March 22, 2013

Mr. Gerald Dusing
Adams, Stepner, Woltermann & Dusing
40 W. Pike Street
P.O. Box 861
Covington, KY 41012-0861

FAX: 392-7206

RE: Mullins Event Venue at 10830 Big Bone Church Road, Boone County, Kentucky
(Meadowview Manor/Farm)

Dear Mr. Dusing:

As we discussed the other day regarding the claim of a legal pre-existing, nonconforming use at Meadowview Farm under the "ten year" rule, I have met with Dale Wilson regarding case law and legal standards. Based on our meeting and the materials provided so far, I have the following specific questions regarding the operation.

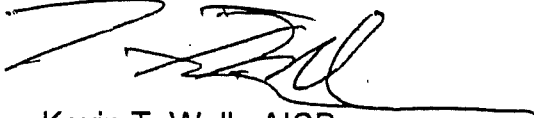
1. My understanding of what activities are claimed to have the pre-existing, nonconforming status is fairly general. Please provide an explanation and/or representative list of what type activities have occurred and are believed to now have the pre-existing, nonconforming status.
2. Based on the information provided, the activity levels for the event venue type functions have varied, as they were more intermittent in the earlier years and have noticeably increased since 2010. At what level or frequency of "for hire" events is it believed that the pre-existing, nonconforming status would now apply?
3. Horse shows were mentioned several times regarding the types of events which have contributed to the claim of pre-existing, nonconforming status. Certain horse related events (with 70 or less participants) are exempt from local zoning per the definition of "agricultural use" in KRS 100.111. Were some or all of the horse show events mentioned exempt per the agricultural use definition?

Mr. Gerald Dusing
March 22, 2013
Page 2

4. Was there any investment in construction, improvements, land alteration, etc., to accommodate the event venue use now claimed to have pre-existing, nonconforming status?

The additional documents provided the other week have been helpful, although any other documents available to further support the claim such as occupational licenses, ABC licenses, tax returns, insurance statements, and the like would be beneficial. Private information such as social security numbers and income figures may be blacked out. I hope to provide a prompt response once the information requested above is provided. Please call me if you have any questions or would like to discuss further.

Sincerely,



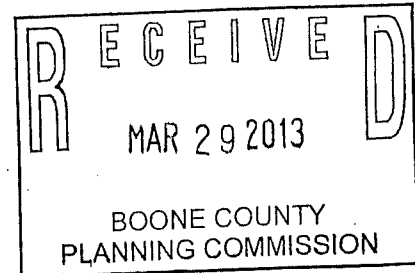
Kevin T. Wall, AICP
Zoning Administrator
Boone County Fiscal Court

KTW/vlm

cc: Jeff Earlywine, Boone County Administrator
Dale Wilson, BCPC Legal Counsel

March 28, 2013

Kevin T. Wall, AICP, CDT
Zoning Administrator
City of Florence, Boone County
c/o Boone County Planning Commission
Administration Building
2950 Washington Street
Burlington, Kentucky 41005



RE: Mr. and Mrs. Roger Mullins
Meadowview Farm -Existing Nonconforming Use

Dear Kevin,

This responds to your March 22, 2013 correspondence and the questions you pose.

1. Events that have occurred continuously annually over the past ten (10) years that qualify as pre-existing, non-conforming activities under KRS 100.253(3) are horse shows, weddings with wedding receptions and business training/awards banquets and ceremonies. The horse shows have been conducted in the arenas and surrounding pastures. The wedding receptions and business banquets/conferences have been conducted in the curtilage to the main mansion. All those activities included food and beverage and live and recorded music. All but the horseshows included alcoholic beverages.

Enclosure 1 is a representative (not complete) list of the business events and weddings held on the premises for a fee over the past 12 years.

2. The number of events has gradually increased over the past 12 years, from approximately 7 in 2001 to about 24 in recent years. None on Sunday. Average attendance has been 150 for weddings and horseshows, but has been up to 350 for a wedding and corporate event.
3. Horse shows have ranged from 100 to 150 attendees.
4. There has been no investment in construction, improvements or land alteration. Events are held with portable (although large) tents and are catered.

Tax returns and insurance statements do not break out income from these events. Farm returns (Schedule F) only have two income line items: 4. "Sales of livestock, produce, grain and other products you raised" and 10. "Other income."

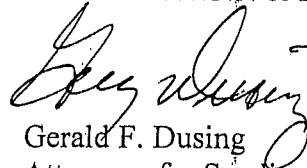
Kevin T. Wall, AICP, CDT
March 27, 2013
Page 2

"Other income" was included for all years but not itemized on the returns all 10 years. Insurance has been a commercial policy from day 1 but does not differentiate between riding stable and other events. No ABC license was obtained because the Mullins never furnished or sold alcoholic beverages: all alcoholic beverages and food service has always been provided by a licensed caterer.

If you need any other information, please do not hesitate to advise.

Very truly yours,

ADAMS, STEPNER,
WOLTERMANN & DUSING, P.L.L.C.



Gerald F. Dusing
Attorneys for Sandi and Roger Mullins

GFD/dmc
C. Client
Enclosure

The Highlights of our 10 + years are as follows:

2000: Robyn & Dr. Steven Giss wedding ceremony and reception, on May 28, 2000. This was a tented reception, sit down dinner for 350+. Open bar, dancing and socializing until midnight. Camargo Tent Rentals handled all the rentals. Cars were parked on the gravel surfaces and area by the horse barn and at the orchard.

September 9: Chris Meyers/ Stacey Mains wedding reception for 120. Tented, DJ and dance floor.

2001:

June 22, 23. Tupperware Event, "Day with the Diamonds." There were 250 people in attendance. Our Keynote Speaker was Debbie Gardner, Survive Institute. Her Bio and confirmation of the event is included.

We Served 2 lunches, 1 catered dinner and wine and beer. There was a large tent, 40' by 100'. There was a sound system for the training and for music played while the lunches and dinner was served. This was a recognition event, training and also breakout training throughout the 2 days.

September 14, 2001....Tupperware Leadership Workshop (100) Training was focused on "How to Build Successful Relationships". We had different Regional Managers doing the training. At the end of the afternoon there was a Pig Roast (Eddies BarBQ) plus wine and beer provided. This was a tented event. We used Nelson Tent Rentals out of Alexandria, KY. We used a sound system for training and for music after the meeting.

September 21, 2001: 25th Anniversary Celebration Kristi & Gary King. 200 in attendance. 40 by 100 tent and rentals from Camargo Tent Rentals. Buffet dinner, wine and beer served. DJ for the music

We have 2 Horseshows per year. They are attended by 75 to 125 people. We have a food tent and run the event from 8 A.M. until the final class around 5 P.M. There is an official judge and numerous classes for all disciplines. The dates in 2001 were May 19, and October 13.

October 20, 2001: We have an annual Hayride for our church. The church is Gloria Dei Lutheran Church in Crestview Hills, KY. This is well attended and we have 150 to 200 people attend. There is a food tent. We have a variety of food and beverages served. Music and bonfire.

2002:

May 18, Horseshow (as explained above).

June 29: Jody Melo & Dr. Joe Scalfani wedding reception only. This was a tented reception with 250 in attendance. Sit down dinner and full open bar. DJ for music until 11:30 PM.

September 6: Tupperware Corporation Training meeting. Tented and sound provided for 100 people. Speaker was Jim Bellonzi, Vice President of Field Operations.

August 15: Tupperware Corporate Training Day "The Passion Plan". Attended by 150 people. Tented event. Buffet dinner was served and open bar. This was a full day starting at 9 AM and ended after dinner at 7:30 PM. Training was done by Sandi Mullins and other Regional Managers.

September 5, 6, & 7: 3 Day Training for New Distributors all geared around building their business skills. Training done by Sandi Mullins, LaVonne Admire, Joyce Pace and Gene Hall. (Tupperware VP's) This is was a tented event. We served buffet dinners on the first two nights, with beer and wine on the second

night. They left around 4 the third day. Sound system was used for the training and later in the day for the recognition and fun. Had 70 people in attendance.

September 21: Mindy & Ino Alegre wedding ceremony and reception. Tented event, dance floor, buffet dinner, open bar, DJ from Nashville, TN. Closed at 12 PM. Around 175 in attendance.

October 12: Horseshow, 75 to 150 attending.

October 19: Gloria Dei Lutheran Church Hayride 100 to 150 attending.

2003:

March 16, 2003: Belleview Baptist Church 200+ attended

May 17, 2003: Horseshow with 100 to 125 attending

May 30: Tupperware Corporate Event, Day with the Diamonds Recognition and training event. (Invitation enclosed) Presented the New Distributor Opportunity to the Top Managers. (100 in attendance) Tented event with Buffet luncheon served. After the training we took them on a Hayride and had a Pig Roast from Eddies Barbeque in the evening. Had dancing and a DJ. Event lasted from 9 A.M. until close at 10 P.M.

June 13: Tupperware Corporate 110 in attendance Distributors from the three states, Indiana, Kentucky and Ohio were here for announcements and goal setting.

July 12: Tracy Chriske Wedding reception only 75 in attendance.

July 24: Secom Business training and luncheon. Tented affair, buffet served.

September 5: 5 Region Training & Recognition Day. Tented Event and Buffet luncheon. Grilled steaks for dinner and had beer and wine. (200 in Attendance)

October 25: Gloria Dei Lutheran Church Hayride. Food Tent. Music and Hayrides for around 150 people. Bonfire and singing.

2004:

March 31: Tupperware Leadership Workshop "Even Eagles Need a Push". (125 in attendance) This was a tented event plus we did some team building exercises out in the woods. Sound system used. Luncheon served and Buffet dinner with bar.

May 15: Meadowview Farm Horseshow Attendance of 75 to 125. Food tent and activities for those attending. We start at 7:30 AM and close at 5.

June 5: Cindy Russell Wedding reception 60 in Attendance. Tented and sitdown dinner. Open bar

June 12: 35th Wedding Anniversary Party for Pam and Paul Miller (100 attended) Had a 40 by 60 tent, sit down dinner with open bar. DJ and dancing.

September 4, 5: Tupperware Distributor Meeting. Training was on "Effective Leaders" Tented event. Luncheons and one dinner served. Had a sound system. There were approximately 70 in attendance.

September 11: Cyndi Caldwell Wedding reception. Tented, buffet dinner, wine and beer served. Approximately 150 in attendance.

October 16: Erica Yacso Wedding reception for approximately 150. Tented, DJ, Buffet dinner and wine and beer served.

October 16: Meadowview Farm Horseshow. Attendance is 75 to 125. Food Tent and beverages. Open the first class at 8 A.M. and close after the last class, around 5:30 P.M.

October 23: Gloria Dei Lutheran Church Hayride. Food Tent, bonfire, 2 hayrides, sing a longs, s'mores and hotdogs on the fire. Attendance is 100 to 150 depending on the weather.

2005:

May 6: Pam Augur Wedding reception for approximately 150. Tented, buffet dinner and open bar. DJ and sound system.

May 14: Meadowview Farm Horseshow. Food and Beverage Tent, classes starting at 8 and running until they finish around 5:30 P.M. Well attended and we have an official judge. Usually have 100 to 150 in attendance.

June 11: Caroline Stamm: Wedding reception for 200 guests. Tented, buffet dinner with wine and beer served. DJ, sound system dance floor.

June 25: Tracie Hodge Wedding reception with 135 guests. Tented, buffet dinner, alcohol served. DJ and dance floor.

August 13: Wedding reception for Eric Bennett. Tented event, 175 in attendance, buffet dinner and wine and beer served.

September 3: 50th Wedding Anniversary Party for Carol and Lee Lacorte. Tented event, buffet dinner with open bar, River city DJ has an email confirming this event with me. 100 people in attendance.

September 10: Tupperware Corporate Event, Day with the Diamonds. Our training theme was "Making Strategy Work". Tented event with sound system. Training, recognition and kick off of big sales push for October. Buffet dinner and wine and beer. Training presented by Sandi Mullins, Paulette Krisher and Pam Cliff. (150 in attendance)

October 15: Meadowview Farm Horseshow. Attended by 75 to 125 people. Food and beverage tent, parking of all the large horse trailers on the lot by the bottom barn. Time runs from 8 A.M. until 5:30 P.M.

October 22: Gloria Dei Lutheran Church Hayride. Attendance around 100 to 150. Bonfire, 2 different hayrides, singing and roasting of hotdogs and marshmallows.

2006:

May 20: Meadowview Farm Horseshow. Well attended in the spring with 150 people here. Food and beverage Tent. Official Judge. Using both the indoor and outdoor arenas for the classes. 8 A.M. until 5:30 P.M.

May 27: Tupperware Cardinal Party Sales Reunion. 100 in attendance. Tent was 40 by 60, DJ and dance floor, Buffet dinner and wine and beer.

June 3: Kathy Kokkila & Bill Jarvi: Wedding reception for 180 guests. Buffet dinner, wine and beer served, tented with DJ and dance floor.

June 14, 15, 16: Tupperware Corporate Training. "Sales Management Seminar." Taught by Sandi Mullins, Glenn Drake and Bob Ulrich. Tented event with 65 people in attendance. Luncheons and buffet dinners served. Sound system used. Daily homework given and reviewed.

July 15: Sweco Corporate training meeting. Approximately 200+ coming and going.

September 8: Life Touch Company. Training on "Principled Centered Leadership". Tented event and luncheon served. Sound system used. (100 in attendance). Sandi Mullins did the training with activities involving the participants.

October 14: Meadowview Farm Horseshow. Food and Beverage Tent, Costume class for rider and horse. Big hit. Attended by 100 + people. Official Judge. Opened the first class at 8 A.M. and closed around 5:30 P.M.

October 21: Gloria Dei Lutheran Church Hayride. Food and Beverage Tent. Bonfire, singing, roasting hotdogs and s'mores. Have 100 to 150 in attendance. 2 hayrides given.

2007:

May 12: Meadowview Farm Horseshow. Food and Beverage Tent. Around 100 to 125 in attendance. Official Judge. Classes for all disciplines. Starting time is 8 A.M. and closing around 5:30 P.M.

June 16: Life Touch Company Recognition and Training Meeting. Training on personality profiles, DISC. 100 people in attendance. Tent event. Buffet luncheon. Sound system used.

June 9: Wedding reception for Tiffany Helton. Tent, dance floor, buffet dinner and open bar. 250 in attendance.

August 25: Morgan Juett & Jamie Bond. Wedding reception for approximately 200 guests. Buffet dinner and open bar. DJ, Dance floor and special lighting.

October 13: Meadowview Farm Horseshow. Food and Beverage Tent. Official Judge. Attendance 100 to 150. Starting time is 8 A.M. and closing is after the last class. Costume class for both rider and horse.

October 20: Gloria Dei Lutheran Church Hayride. Food and Beverage Tent, bonfire and singing. Attendance is 100 to 150.

2008:

May 17: Meadowview Farm Horseshow. Food and Beverage Tent. Official judge. Attendance 125. Show starts at 8 A.M. and ends at 5:30 P.M.

May 31: Wedding reception Mary Beth Eichinger. Tent, dance floor, port a let. Buffet dinner and wine and beer. About 80 in attendance.

June 21: Anita Williams Wedding reception 160 guests, buffet dinner, wine and beer served, DJ and dance floor, special lighting.

July 23: Corporate Event for Starcraft RV; 120 in attendance. Tented and buffet luncheon and beverages served. Sound system used.

August 23: Life Touch Company Training Day. "Even Eagles Need a push/ Learning to Soar in a Changing World". Tent Event. 100 in attendance. Buffet luncheon with beverages served.

September 1: Benefit for Cancer Victim, Mick Unkrout. Laura Wagner was my contact person. 859-525-2580. Tent Event, beer served, snacks. Music with DJ. People came and went but there were probably 100+ people all together.

September 27: Edgewood Electric Business meeting and recognition. 180 in attendance, dinner served with beverages. Sound system.

October 18: Staples, Inc. Business training meeting 80 people with a buffet luncheon served.

October 18: Meadowview Farm Horseshow. Food and Beverage Tent. Official judge. Well attended due to the costume party theme. Costumes for both rider and horse. Start time is 8 A.M. and close at 5:30 P.M. Attendance was 150.

October 25: Gloria Dei Lutheran Church Hayride. Food and Beverage Tent.

Bonfire and singing, roasting hotdogs and marshmallows, 2 hayrides. About 100 people in attendance.

2009:

May 10, 2009: 50th Birthday Party Sabrina McDaniel. Tented event, DJ, Buffet dinner and wine and beer served. Attendance was 100.

July 11: Jodi and Martin Walsh 111 wedding ceremony and reception. Tented reception (used Nelson Tents), Buffet dinner and open bar. Dance floor and DJ. A detailed list of costs and vendors for this wedding is attached. Attendance was 156.

July 25: Meadowview Farm Horseshow. The flyer example that we use for all the horse shows is attached. We just did one show this year. Well attended and had

the food and beverage tent set up. Starting class at 8 A.M. and closed at 5:30 P.M.

August 9: Kristen Faubion and Nicco Salazar wedding ceremony and reception. Tented event, buffet dinner with beer and wine served. 75 people in attendance. DJ and dance floor. Closed reception at 10 P.M.

September 9: Commonwealth Orthopedic Center: 40 in attendance, buffet luncheon with beverages served, Sound system.

October 24: Gloria Dei Lutheran Church Hayride. Well attended with 150 there. Food and beverage tent set up. 2 hayrides and the usual bonfire, sing along and roasting s'mores and hotdogs.

2010:

May: Meadowview Farm Horseshow

May 22: Rachael Glahn & Brian Stamper wedding ceremony and reception. Tented event, buffet dinner and wine and beer served. 100 guests. DJ and dance floor. Close of reception is 11 P.M.

July 3: Alison Johnson & Pierre-Yves LeBigot wedding ceremony and reception. Tented reception, buffet dinner and bar. DJ and dance floor. 80 guests.

July 17: Cynthia Peace & Ralph Dudley Second couple-(double wedding) Rita Horton & Steve Faris. Tented wedding ceremony and reception for 60 guests. Buffet dinner and open bar. DJ and dance floor reception.

July 24: Jessica Simendinger & Alex Cohen. Wedding ceremony and reception. Sit down dinner for 250. Open bar, DJ Dance floor. Her father is Mark Simendinger who is the manager of the NASCAR track in Sparta, KY.

August 21: Elise Knochel & Paul Washburn. Tented reception and wedding ceremony. 100 people for a buffet dinner and wine and beer. DJ and dance floor.

September 18: Lindsey McVay & Ryan Brown. Wedding ceremony and reception. Tented event with buffet dinner and open bar. DJ and dance floor. 125 people.

September 25: Emily Taylor & Ryan Vaughn. Wedding ceremony and tented reception. Tented Event with 250 guests. Buffet dinner and open bar. DJ and dance floor.

October 1: Laura Earsing & Nate Halenkamp. Wedding ceremony and tented reception. 185 guests. Buffet dinner and wine and beer. DJ and dance floor.

October 2: Melinda Hammel & Brian Waldorf. Wedding ceremony and tented reception. Buffet dinner and beer and wine served. DJ and dance floor. 100 guests

October 9: Charity Worthington & Tony Cooper. Wedding ceremony and tented reception. 200 guests. Buffet dinner and open bar. DJ and dance floor.

October 23: Carla Schumacher & Robert Zell. Wedding ceremony and reception. Tent, dance floor and DJ. 200 guests. Buffet dinner and open bar.

October 30: Gloria Dei Lutheran Church Hayride. 100 to 125 people in attendance.

2011:

May 21: Meadowview Farm Horseshow. Food and beverage tent. 75 to 80 in attendance.

May 28: Julie Franks & Andy Henry. Wedding ceremony and tented reception. 40 by 100 tent. 180 guests. Buffet dinner and open bar. DJ and dance floor.

June 11: Tiffany Parker & Casey Sprague. Wedding ceremony and reception. Tent 40 by 80 for 150 guests. Buffet dinner and wine and beer served. DJ and dance floor.

June 18: Sarah Jane Bodnar & Kirt Donaldson. Wedding ceremony and reception. Tent 40 by 100 for 155 guests. DJ and dance floor. Buffet dinner and open bar.

July 16: Angel Crouch & James Meredith. Wedding ceremony and reception. Tent 30 by 60 for 120 guests, buffet dinner and bar, DJ and dance floor.

September 3: Megan Cooper & Andy King. Wedding ceremony and reception. Tented event. 125 guests. Buffet dinner and wine and beer, DJ and dance floor.

September 10: Devon Jeffers & Mel Reynolds. Wedding ceremony and reception. Tented event for 100 guests. Buffet dinner and wine and beer served. DJ and dance floor.

September 16: Kimberly Estey & Stephen Noble. Wedding ceremony and reception. Tent 40 by 100 for 200 guests. Buffet dinner and open bar. DJ and dance floor.

September 24: Libby Mercer & Peter Hogben. Wedding ceremony and reception. Tent 40 by 60 for 100 guests. Buffet dinner and open bar. DJ and dance floor.

October 1: Cynthia Steinbis & John Wills. Wedding ceremony and reception. Tent 40 by 80 for 160 guests. Buffet dinner and bar. DJ and dance floor.

Oct 7: Kelsey Dwyer & Tony Hogavero. Wedding ceremony and reception. Tent 30 by 50 for 100 guests. Buffet dinner and wine and beer served. DJ and dance floor.

October 8: Carrie Cisco & Brian Flanagan. Wedding ceremony and reception. Tented event for 100 people. Buffet dinner and wine and beer served. DJ and dance floor.

October 15: Amanda Jones & Nick Bartine. Wedding ceremony and reception. Tent 40X60 for 110 guests. Buffet dinner and open bar. DJ and dance floor.

October 21: Emily Meier & Jeff Goshorn. Wedding ceremony and reception. Tent 40X100 for 200 guests. Buffet dinner and open bar. DJ and dance floor.

October 28: Gloria Dei Lutheran Church Hayride. 125 to 150 attended.

2012:

May 5: Jessica Lee & Nathanael Cole. Wedding ceremony and reception. Tent 40X60 for 120 guests. Buffet dinner and no alcohol served. DJ and dance floor.

May 12: Kaitlyn McKinnon & Brandon Bullock. Wedding ceremony and reception. Tent 40X100 for 250 guests. Buffet dinner no alcohol served. DJ and dance floor.

May 19: Courtney Wallace and Drew Fassler. Wedding ceremony and reception. Tent 60X120 for 250 guests, Buffet dinner and open bar. DJ and dance floor.

May 26: Maggie Mays & Jason Millay. Reception only. Tent 40X100 for 200 guests. Buffet dinner and open bar. DJ and dance floor.

June 23: Ashlie Berling & Josh Lyons. Wedding ceremony and reception. Tent 40X100 for 185 guests. Buffet dinner and open bar. DJ and Dance floor.

August 4: Andrea Jones & Greg Sebastian. Wedding ceremony and reception. Tent 60X90. 235 Guests. Buffet dinner and open bar. DJ and dance floor.

August 11: Jaime Rose Bunning & Adem Mahoney. Wedding ceremony and reception. Tent 40X100 for 150 guests. Buffet dinner and open bar. DJ and dance floor.

August 18: Brittany Thomas & Todd Rassman. Wedding ceremony and reception. Tent 30X60 for 100 guests. Buffet dinner and wine and beer. DJ and dance floor.

August 25: Morgan Melzer & Michael King. Wedding ceremony and reception. Tent 60X120 for 275 guests. Buffet dinner and open bar. DJ and dance floor.

September 1: Denise Ante & Kenny Mason. Wedding ceremony and reception. Tent 40X80 for 200 guests. Buffet dinner and open bar. DJ and dance floor.

September 8: Katie Byers & Mike Liberman. Wedding ceremony and reception. Tent 40X100 for 200 guests. Buffet dinner and wine and beer. DJ and dance floor.

September 15: Kelly Woodard & Ray Mullins. Wedding ceremony and reception. Tent 40X60 for 150 guests. Buffet dinner and wine and beer. DJ and dance floor.

September 22: Mona Mezzaros & Jim Syrowski. Wedding ceremony and reception. Tent 40X60 for 130 guests. Buffet dinner and open bar. DJ and dance floor.

September 23: Kristen Wilder & Andrew McClaskey. Wedding ceremony and reception. Tent 40X60 for 150 guests. Buffet dinner and open bar. DJ and dance floor.

October 6: Katie Blickenstaff & Jeremy Survance. Wedding ceremony and reception. Tent 40X80 for 100 guests. Buffet dinner and open bar. DJ and dance floor.

October 13: Alysha McKinney & Paul Anderson. Wedding Ceremony and reception. Tent 30X60 for 100 guests. Buffet dinner and wine and bar. DJ and dance floor.

October 20: Sara Kinney & Aaron Muntz. Wedding ceremony and reception. Tent 40X80 for 135 guests. Buffet dinner and open bar. DJ and dance floor.

October 21: Meadowview Farm Horseshow

October 27: Gloria Dei Lutheran Church Hayride.

EXHIBIT H
STRAUSS TROY
attorneys at law

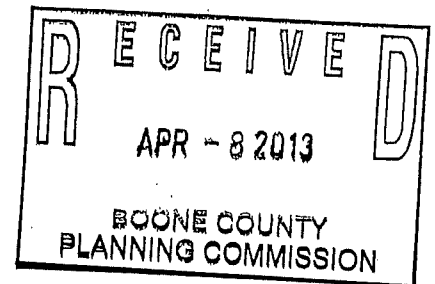
tbhelssen@strausstroy.com

Writer's Direct Dial No. (513) 768-9711

April 5, 2013

Via U.S. Mail and E-mail: kwall@boonecountyky.org

Kevin T. Wall, AICP, CDT
Zoning Administrator
Boone County Planning Commission
2950 Washington Street
Burlington, KY 41005



Re: Mr. and Mrs. Roger Mullins
Meadowview Farm Illegal Business Use

Dear Mr. Wall:

I have been retained to represent the interests of Mr. and Mrs. Roger Griggs, who reside at 10650 Big Bone Church Road, Union, Kentucky, adjacent to the property owned by Mr. and Mrs. Roger and Sandi Mullins, who are operating an unlawful wedding reception business on their property adjoining the Griggs farm. The purpose of this letter is to supply you with the necessary facts and other information to justify enforcement of the Boone County Zoning Regulations against Mr. and Mrs. Mullins for the unlawful use of their property. My clients and I have undertaken a detailed review of the information submitted by the Mullins' and their attorney. Much of that information is false, half-truths and exaggerations of what has actually occurred on their property.

The Mullins property is zoned A-2 in the Boone County Zoning Regulations, which prohibit the use of their property as a business of operating a "wedding reception" business. Rather, as you are fully aware, the Zoning District allows only various residential and agricultural uses as listed in the Ordinance. In fact, this is a very restrictive zoning district in which "Eating establishments" are only permitted in the zone as a conditional use, and only "excluding alcoholic beverages". The Mullins' do not have a conditional use permit for their business on the site. The zone prohibits the use of the property in the manner in which the Mullins' are operating their business. Therefore, we hereby ask you to perform the services required of your office, and issue the necessary actions and directives to terminate the operation of this unlawful business on the Mullins' property.

The evidence clearly shows that the Mullins' began to aggressively pursue the wedding reception business only in 2010, after terminating any use of their property for Tupperware or other corporate events.

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Kevin T. Wall, AICP, CDT
April 5, 2013
Page 2 of 7

The Mullins' Submissions

On March 28, 2013, the Mullins' attorney submitted to you a memorandum created by the Mullins' entitled, "*The Highlights of Our Ten-Plus Years...*" of the use of their property. The memorandum is particularly telling. Please review the chart which is attached to this letter as **Exhibit A**, which lists out by year, from 2000 to 2012 the number of events that the Mullins' identify in the categories of Wedding/Anniversary Receptions, Corporate/Tupperware events, and Church Hayrides & Horse Shows. This chart is taken directly from the information in the Mullins' own "*Highlights*" memorandum submitted to you by their counsel. As you will see, in the ten year period covering the years 2000 through 2009, the Mullins hosted 23 wedding/anniversary parties on their property, an average of 2.3 such events per year. By comparison, in the three years from 2010 through 2012, the Mullins', by their own admission, hosted 41 such events, an average of 13.6 per year.

By comparison, during the 10-year period from 2000 to 2009, the Mullins' hosted Corporate Events for various businesses, mostly their own Tupperware business, on 23 occasions (coincidentally the identical number as of wedding/anniversary receptions that they had conducted through that period), also averaging 2.3 such Corporate Events per years. During the years 2010 through 2012, however, the Mullins' identify no such events.

Therefore, it is abundantly clear that a major change occurred in the use of the Mullins' property after the year 2009, and beginning with the year 2010. Prior to January 1, 2010, they averaged 2.3 Weddings per year and 2.3 Corporate events per year. After that date, they averaged 13.6 weddings per year and 0 corporate events per year.

As of January 1, 2010, the Mullins' obviously entered the Wedding Reception business, and began to aggressively and actively market the use of their property for such events. Prior to that, it was an infrequent or occasional use of their farm annually, where a couple of times per year someone would use their property for a wedding or anniversary party. That change, beginning effective in the year 2010, represents an enlargement of a non-conforming use beyond the scope of its operation prior to that time. Prior to 2010, there was only an occasional and inconsistent use of the property as a site for such wedding/anniversary events, averaging only about two per year, and on three occasions, only one in a year. Some or many of those were even family and friends and not even "rentals" of the site.

My clients, and many other neighbors of the Mullins', will confirm and verify to you that the use of the Mullins' property has increased dramatically over the last three years, and the adverse impact of that business operation on the neighborhood has been dramatic. The frequency and amount of the noise and traffic from these events are excessive and unacceptable, and the alcohol-use at these events has increased the unacceptable nature of the Mullins' use of their property, in clear violation of the Boone County Zoning Regulations.

Kevin T. Wall, AICP, CDT
April 5, 2013
Page 3 of 7

It is patently obvious from review of the Mullins' own information that a major change in the use of their property occurred effective with the 2010 season. The proof of this exists on the basis of the very information submitted by the Mullins', through their attorney. In fact, in addition to their "*Highlights*" memo, they have provided significant additional documentation of the escalation in the use of the property effective in 2010, by providing copies of wedding reception contracts, catering invoices, tent rental invoices, and portable toilet contracts. With the additional verification submitted by the Mullins' themselves, it is easy to piece together the obvious conclusion: **the Mullins' significantly changed the manner in which they use their property in 2010 to begin the active and aggressive marketing of its use as a Wedding Reception business, increasing their annual total of such events from an average of 2.3 per year to an average of 13.6 per year, an increase of almost six times, or approximately 600% increase in the number of such events per year.**

There is additional evidence to verify the active and aggressive marketing of the Mullins' farm as an option for outdoor weddings, by close review of a website which they have created at www.meadowviewfarmkentucky.com. (Copy of primary website pages attached as **Exhibit B**). Under a tab entitled "Country Weddings", the Mullins' effectively market their wedding site with glowing descriptions, enhanced photography and solicited testimonials. The website contains not only inviting descriptions of what can be offered at the farm for a wedding location, but literally hundreds and hundreds of photographs of past weddings that have occurred at the Mullins' farm. Not unexpectedly, of the 11-12 weddings whose photo album are displayed on their website, virtually every one occurred within the last few years after they started aggressively marketing the business and taking such photos for the website.

There are three other interesting observations from review of the Mullins' website. First, they have a tab for "Horse Boarding", which is obviously a more normal use for a farm property. The "Horse Boarding" tab comes second on the website after the tab for "Country Weddings". The Mullins' priorities are obvious. They are in the business of holding wedding receptions first.

Second, the Mullins' website has a third tab for "Shows and Events", which, at least as of the undersigned last viewing thereof on April 3, 2013, simply stated, "*There are no items to display*". This entry on the website (that there are no items to display in the category of shows and events) coincides with and supports the attached chart that beginning in 2010, the Mullins' began to change their use of the property, beginning to aggressively develop their Wedding Reception business.

Third, the domain name for their website was initially created on December 1, 2008, and its content was copyrighted in 2009, when they started to aggressively market their new business of holding wedding receptions.

Kevin T. Wall, AICP, CDT
April 5, 2013
Page 4 of 7

Observations by the Griggs

The Griggs' have lived in their current residence since 1994. Prior to 2010, there had been only a handful of occasions where the Mullins' had events that the Griggs' could hear from their farm. Those were mostly horse shows (one or two per year) that usually ended at dark. Over the years, there were occasional weddings. The Griggs' attended several of these weddings, especially where relatives of the Mullins' were married. The Griggs' even attended the reception when the Mullins' renewed their own wedding vows. These events were infrequent and isolated. These were not paid affairs, and they had very few per year. In recent years, the number has escalated to a dozen or more a year. Up until last year, the Griggs' simply tolerated the couple events per year, hoping that there would not be many, that they would be over shortly, and they wanted to be neighborly. However, the size, scope, noise and adverse impacts progressively escalated from these events. Instead of a single night per week, the Mullins' appear to even be expanding to multiple weekend nights. The Mullins' have offered little or no information with regard to their plans for 2013 or beyond.

The Planning Commission should also be aware that Mrs. Mullins was an executive for Tupperware for many of the last 10 or 15 years. Occasionally, they held events for the company to increase their business. Many of these events were small, involving less than 50 attendees, compared with the wedding receptions attended by hundreds of people. Most of these corporate events were daytime affairs, and if they had music or alcohol, the sound was significantly lower and the impact of the alcohol was insignificant compared to the wedding receptions in the recent three years. Some of the weddings for prior years were for friends and family, not clients of the Mullins' business. It has only been the last three years or so that the Mullins' have begun to market to outsiders the use of their facility. Only in the last couple of years have the Mullins' begun to advertise these events on their website, and to do these weddings regularly for profit.

None of the church hayrides included loud music, the serving of alcohol, or late night events.

By signing the verification page, the Griggs verify for your record to facts stated above.

Mr. Griggs has spoken to many of the neighbors. Many other local neighbors can and will verify that the Mullins' wedding reception business took off in 2010, escalating significantly from occasional events prior thereto. Other neighbors will also verify that the noise is a major problem in the area, adversely affecting many neighbors. There are also strong concerns about the degree of alcohol consumption and traffic at some of the events.

The Legal Issues

Turning to how the foregoing facts and history apply to the legal principles, in order to qualify under KRS 100.253 requires that a use has been in continuous existence for a

Kevin T. Wall, AICP, CDT
April 5, 2013
Page 5 of 7

period of ten years. In this situation, the Mullins' used their farm on an occasional basis to conduct weddings during the 10-year period between the year 2000 and 2009. However, that occasional and infrequent use of the property for weddings was significantly enlarged in scope in 2010, by a 600% increase in the operation of a business for holding Wedding Receptions, resulting from the effective and aggressive marketing of the site for such use. It dwarfs the far more infrequent use for weddings of family and friends prior to 2010.

The weddings are an entirely different breed of event, as compared to corporate events, church hayrides, and horse shows. **The weddings involve more noise, more alcohol, more traffic and later hours**, each of which have significant adverse impacts on the adjacent property owners. By contract, the corporate events, church hayrides, and horse shows are generally earlier in the day, involve no or moderate use of alcohol, and produce significantly less noise.

A wedding or two on a farm per year for family and friends of the owners is not a violation of the customary activities that an owner can utilize his property, and would not rise to the level of illegal activity under KRS 100.253. Therefore, the Mullins' pre-2010 uses do not qualify for the "exception" created by the statute. The same could be said of a couple business meetings of the property owner's business, or hayrides for their church. The illegal activity began when they took their business to a new level in 2010 and began to aggressively market the property as a business of holding wedding receptions. None of that occurred in the previous ten years.

The Mullins attorney has relied heavily on the Board of Adjustments, Bourbon County v. Brown case (969 S.W.2d 214, Ky. App., 1998) to support his argument. Be aware that in that case the property owner increased their illegal use of the premises as an auction house from two days per week to three days per week. Here the increase has been incredibly almost six times as much as the previous years. Further, in the Brown case, the impact of the activities was the same after the mild increase in the number of events. Here, the impact has not just been the dramatic six-fold increase in number of events, but also the dramatic increase in the adverse effects of the illegal use due to more noise, more traffic, later hours and more traffic.

The Future of the Business

The Mullins' have shared with the Griggs' that they have had substantial financial problems and are seeking to sell the farm. Mr. Mullins recently advised Mr. Griggs that the Mullins' are in serious financial straights, and considering bankruptcy. The Mullins' have tried to sell the farm on many occasions, including to the Griggs's. A few years ago, the Mullins' sold the Griggs' a 53-acre tract, in order to garner proceeds sufficient to assist financially with their daughter's wedding.

If a finding were made that the property can be used as a wedding reception facility, that designation would stay with the property, and could be employed by a subsequent buyer. Legally, the use would not be limited to just the Mullins' while they owned the

Kevin T. Wall, AICP, CDT
April 5, 2013
Page 6 of 7

property, but would pass to a future owner as well. If the use of the property as a Wedding Reception business were legally recognized, the Mullins' could sell their property to a company who wanted to even more aggressively pursue the marketing and profitability of the farm as a Wedding Reception business. Such a circumstance could set horrible precedence, and wreak havoc with the neighborhood, permitting even more of these loud, late, and alcohol-soaked events to occur on the property. This simply cannot be permitted to occur. The Griggs' are prepared to exert all necessary effort to prevent that from happening.

Conclusion

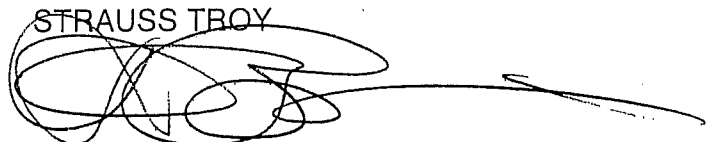
On the basis of the foregoing, the undersigned on behalf of Mr. and Mrs. Roger Griggs requests that you enforce the Boone County Zoning Regulations and issue a letter directing the Mullins' to cease and desist from the operation of their wedding reception business on their property.

Next Steps

This letter represents the first opportunity that the Griggs have had to submit information to you. **The Griggs just found out about this issue last week.** There is additional information and evidence that they want to submit to you about this matter. Also, other neighbors of this business have indicated that they want to submit information to you about their concerns. There has been no notice to any of the neighbors of this issue being considered by you until now. The Mullins have had months to gather and submit their information (albeit supportive of the noncompliance with the statute for their "business use" of the farm property). There has been no notice or opportunity to be heard by those opposing the Mullins plans. This is an important decision with long term effects on the area. Before you issue a decision, adequate opportunity must be afforded to the Griggs and other concerned citizens to submit their information for your consideration.

When your decision has been issued, I hereby request to be notified immediately of same. Thank you.

Very truly yours,

STRAUSS TROY


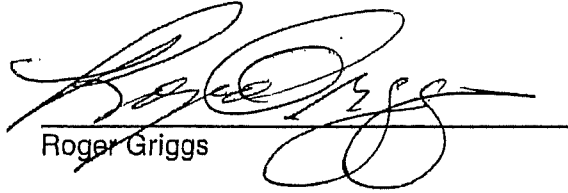
Timothy B. Theissen

TBT:srw
Enclosure
cc: Mr. and Mrs. Roger Griggs

Kevin T. Wall, AICP, CDT
April 5, 2013
Page 7 of 7

VERIFICATION

The following verify the accuracy of their statements contained herein.


Roger Griggs

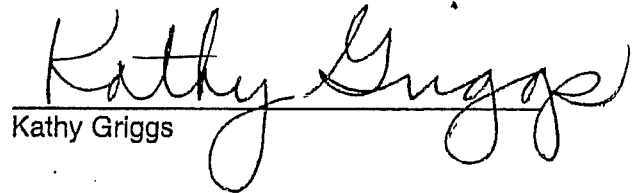

Kathy Griggs

EXHIBIT A

TABLE OF MULLINS USE OF FARM 2000 – 2012
(extracted from the Mullins' "Highlights"
memorandum submitted March 29, 2013)

| YEAR | WEDDING/ANNIVERSARY RECEPTIONS | CORPORATE/ TUPPERWARE EVENTS | CHURCH HAYRIDES & HORSE SHOWS |
|------|--------------------------------|------------------------------|-------------------------------|
| 2000 | 2 | 0 | 0 |
| 2001 | 1 | 2 | 3 |
| 2002 | 2 | 3 | 3 |
| 2003 | 1 | 4 | 3 |
| 2004 | 4 | 2 | 3 |
| 2005 | 5 | 1 | 3 |
| 2006 | 1 | 4 | 3 |
| 2007 | 2 | 1 | 3 |
| 2008 | 2 | 5 | 3 |
| 2009 | 3 | 1 | 2 |
| 2010 | 11 | 0 | 2 |
| 2011 | 13 | 0 | 2 |
| 2012 | 17 | 0 | 2 |

EXHIBIT B

**Selected pages from the website
For the Mullins' Wedding Reception business:**

WWW.MEADOWVIEWFARMKENTUCKY.COM



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Meadowview Farm has two arenas, indoor and outdoor. We have six paddocks plus three fields for daily turnout. There is a total of 163 acres for trail riding. There is ample parking available for horse trailers.

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- [Shows & Events](#)
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- [Contact Us](#)
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- [Weddings](#)
- [Engagements](#)
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If you're looking for the warmth and intimacy that only a natural country setting can offer, have your wedding at Meadowview Farm. We are dedicated to helping you create a day that is as special and unique as you both are. A day that is full of love, laughter, and wonderful wedding day memories! Together we will make it a day that everyone will look back on and say, "What a beautiful wedding!"



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- [Outdoor Country Weddings](#)
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[Wedding Services](#)

[Outdoor Wedding](#)

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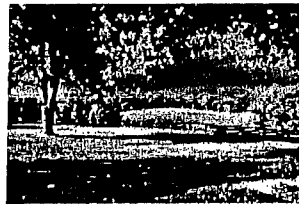
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Wedding Services



Meadowview Farm provides the beautiful backdrop for your special event. We are specifically setup to host large outdoor weddings and tented receptions in our dedicated outdoor facility which provides unmatched privacy and beauty in Northern Kentucky.

The following wedding services are provided by Meadowview Farm:

- An event manager is provided to ensure every event is seamless and perfect. Meadowview Farm strives to provide the highest quality services and the highest attention to detail.
- Enjoy access to our the meadows, trails, and flower gardens.
- A full facility staff is provided to meet your individualized needs. We will direct your parking, escort your guests, ensure all of the farm facilities are picturesque during your event, take care of last minute needs, and more!
- Beautiful backdrops for wedding and family pictures.
- Flowers and other floral decorations are provided in all of the public places.
- Use of the farmhouse is provided for the bridal party including a bridal room for changing and refreshing.
- Signs directing wedding guests to Meadowview Farm from State Rt. 536 are provided to make getting your guests to Meadowview Farm easy. Interior signage is also provided to guide your guests within the farm boundaries.
- Off-street parking with valet directed parking for approximately 150 cars with easy access to wedding site and is secluded from the wedding site.
- Meadowview Farm provides all required utilities such as power, water, lighting, and guest facilities.
- An on-staff photographer is an option.

Contact us at 859-384-4048 and we will be happy to work with you on a package that is personalized for your special wedding.

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[Horse Boarding](#)

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[About Us](#)

[Contact Us](#)

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[Weddings](#)

[Engagements](#)

[Horse Show Photos](#)

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Outdoor Country Weddings



Getting married at Meadowview Farm is an experience. Imagine using a huge, classic Kentucky farm as the location for your outdoor wedding and having a complete staff to help setting just the way you want it.

The scenery is always changing at Meadowview Farm seasons. From Spring, Summer, and Autumn, things happening at the farm whether it be haying, different bloom, or the magic of Fall starting to show on the roads.

A large side yard near the home will be the site for your wedding. We have held events for 300 plus in beautiful white wedding gazebo which is the perfect spot for the ceremony and just a few feet away. A stone walled flower garden with a bubbling fountain and fish pond adds additional atmosphere and mingles and photos to be taken.

Meadowview Farm offers the ideal location and setting for your guests to enjoy the panoramic views and enjoy all the beauty our Kentucky farm has to offer. Walk through the fields, look at all the gardens, take your shoes off and feel the grass beneath your feet as another famous Meadowview Farm sunset unfolds before your eyes. Smell the country air, enjoy a dance or two, and see the night time stars.



Contact us at 859-384-4048 and we will be happy to work with you on a package that is your special wedding.

View sample photos of the grounds and setup options:



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- [Shows & Events](#)
- [About Us](#)
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[Home](#)

[Country Weddings](#)

[Wedding Services](#)

[Outdoor Wedding](#)

[Testimonials](#)

[Wedding Photos & Resources](#)

[Horse Boarding](#)

[Shows & Events](#)

[About Us](#)

[Contact Us](#)

Photo Albums

[Weddings](#)

[Engagements](#)

[Horse Show Photos](#)

[Horse Farm Grounds](#)

Wedding Testimonials

One of the best choices we ever made

The Meadowview Farm for our daughter's outdoor wedding was one of the best choices we ever made. The Farm is incredible. At the reception I got positive feed back from our guests about the facility, the beauty of Meadowview Farm and the food and entertainment. The reception was very lively – "The best wedding reception I have ever attended!" I heard many times: "You really know how to throw a great party" also.

-- Neal and Susan Kinney, Mother and Father of the bride -- Sara and Aaron Muntz's wedding

Her wedding day was exactly as she imagined it -- perfect!

As soon as I arrived at Meadowview Farm I knew we had found the ideal setting for my daughter's wedding. Everything about it was exactly what she was looking for. The natural beauty of the farm set the stage for this special day. The gazebo and gardens created just the right blend of elegance and simplicity. The wedding took place in October when the beauty of fall was at its peak. Her wedding day was exactly as she imagined it -- perfect!

-- Donna Meier, Mother of the bride -- Emily and Jeff Goshorn's wedding

[\(VIEW PHOTOS\)](#)



Fantastic wedding venue

Thanks for a fantastic wedding venue! You have a wonderful home and a beautiful location for a wedding. You two are absolutely wonderful!

-- Cyndi Steinblis and John Wills

[\(VIEW PHOTOS\)](#)

Meadowview Farm was the most important part of our stunning, unforgettable wedding

Being able to hold our wedding at Meadowview Farm was the most important part of our stunning, unforgettable wedding. We were so close to home, yet we felt so far away. Driving up the entrance to the farm was absolutely breathtaking and set the mood for the rest of the evening. The ceremony and reception overlooked gorgeous horse fields and the sun setting over hearts cut into the distant hills, creating a photographers dream backdrop. The 163 rolling acres allows for immense creativity for those wanting to host a unique wedding celebration. We had a carnival theme full of rides, games, even a hot air balloon. Sandy and Roger were extremely flexible and helpful throughout the whole planning process. They went above and beyond any expectations we had and



Impressed us beyond words. We highly recommend Meadowview Farm to any bride and groom looking for a location full of romance, elegance, nature and stunning sunlight for phenomenal photographs. Truly a hidden gem.

-- Courtney and Drew Fassler, Independence KY
([VIEW PHOTOS](#))

Made us feel special

Opening your home to the wedding party the day of the wedding was wonderful. The upstairs suite was perfect, giving all of the women a place to relax and prepare for the excitement. The bridal luncheon was lovely. Coming down the stairs to a formal dining room and beautifully set table for a light lunch was so much fun, made us feel special, and provided all of us a chance to chat and reflect while anticipating the joy of the wedding ceremony and reception ahead.

-- Janet Donaldson, Mother of the groom -- Kirk Donaldson and Sarah Jane Bodnar's wedding

Your beautiful farm setting provided an atmosphere of simplistic serenity

We would like to thank you again for the use of Meadowview Farm for our wedding ceremony. Your beautiful farm setting provided an atmosphere of simplistic serenity while your assistance helped everything go smoothly that day. Wishing you the best in health and happiness!

-- Ralph and Cyndi

Meadowview Farm made our wedding the most amazing day of our lives

Our wedding at Meadowview Farm was simply perfect! The rolling hills and setting sun offered a beautiful backdrop to our outdoor ceremony and reception. Our guests endlessly commented on how smoothly everything went, and how beautiful the farm is. Our wedding was flawless!



My husband and I could not have asked for a better site for our ceremony and reception. Sandi and Roger welcomed us into their home with open arms and great ideas. Armed with vendor recommendations, Sandi was ready and willing to help where needed. She has a wonderful reputation and relationship with wedding vendors, proven by the smoothness with which everything fell into place. Wishing we could do it all over again, as Meadowview Farm made our wedding the most amazing day of our lives.

Thanks again, Sandi--we really could not have asked for a better couple to come into our lives. I thank google (and God!) for bringing you into our lives, and I look forward to being friends for many years to come. Thank you so much for your kind words about myself and the wedding, it means the world to me, and to Ryan, my HUSBAND! Hoping to have many happy years, and to be as much in love as you and Roger are today.

-- Lindsey McVay and Ryan Brown
([VIEW PHOTOS](#))

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- Horse Boarding
- Shows & Events
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Goshorn Wedding

(100 pictures)



Click to open image!

Featured in Kentucky Bride Magazine, 1

Photographs of the Emily Meier and Jeff Gost reception on October 21, 2011.

- Venue: Meadowview Farm in Union, Kentucky
- Wedding Photography: Wagner Photographi
- Catering: Be Creative Catering
- Tent: Advantage Tent & Party Rental
- Flowers: The Secret Garden

Mullins Wedding

Mason Wedding

Photos by Broadway Photos of Kelly Woodard and Ray Mullins wedding held at Meadowview Farm.

Photos by Darrin Ballman Phot Ante and Kenny Mason wedding Farm.

(85 pictures)



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Click to open image!

(4 pictures)

Millay Wedding

Photos by 1326 Studios of Maggie Mays and Jason Millay's wedding reception at Meadowview Farm.

(63 pictures)



Lyons Wedding

Photos by My Lily Rose Photo Josh Lyons wedding reception at



(30 pictures)

Bullock Wedding

Photos of Kaitlyn McKinnon and Brandon Bullock's wedding and reception held at Meadowview Farm.



(9 pictures)

Brown Wedding

Photos of Lindsey McVay and R and reception at Meadowview Fa



(82 pictures)

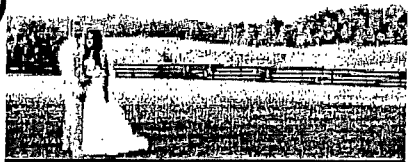
Fassler Wedding

Photos of Courtney Wallace and Drew Fassler wedding and reception at Meadowview Farm.

Wills Wedding

Photographs by Kaitlin Kroeger and John Wills wedding at Meac

(25 pictures)



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Click to open image!

(16 pictures)

Bartine Wedding



Halenkamp Wedding

Photographs by Heather Wood of Amanda and Nick Bartine's wedding at Meadowview. [View blog.](#)

Photographs of the Laura and N wedding and reception held at N



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(19 pictures)

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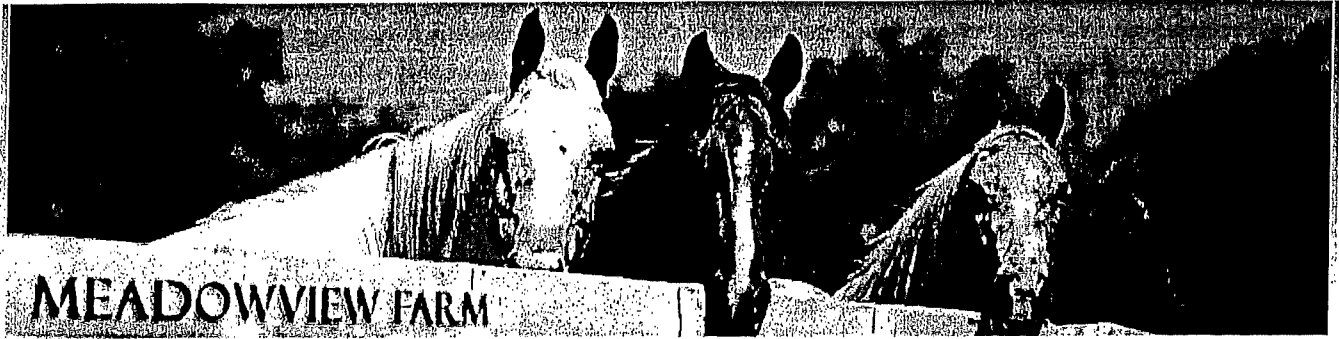
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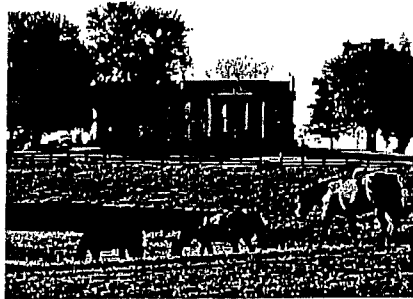
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- Country Weddings
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- Shows & Events
- About Us
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- Weddings
- Engagements
- Horse Show Photos
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Meadowview Farm in Northern Kentucky



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Meadowview Farm has two arenas, indoor and outdoor. We have six paddocks plus three fields for daily turnout. There is a total of 163 acres for trail riding. There is ample parking available for horse trailers.

We offer lessons: Western, English hunter jumper, and Dressage. There is leasing available. For the youth we have a 4H club. The facility has a heated office, bathroom and lounge area.

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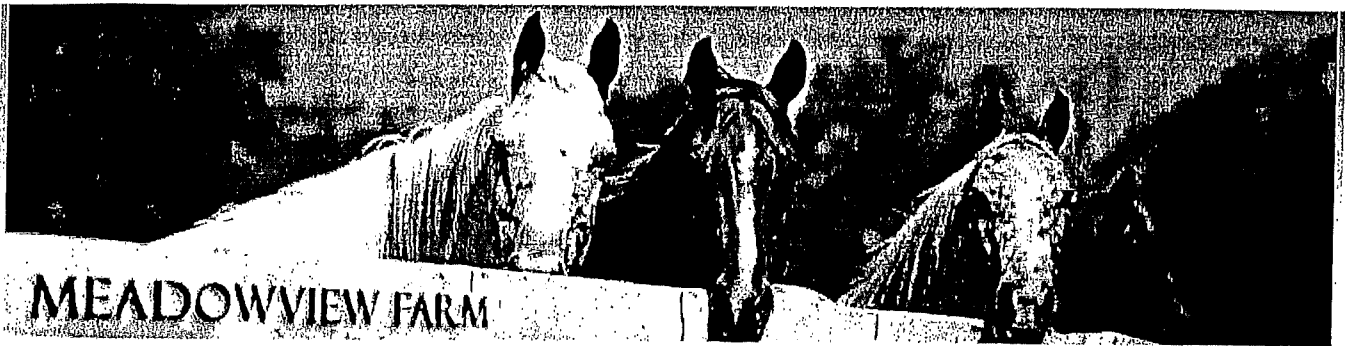
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- [Indoor & Outdoor Arenas](#)
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- [Horseback Riding Trails](#)
- [Testimonials](#)
- [Rates](#)
- [Shows & Events](#)
- [About Us](#)
- [Contact Us](#)
- Photo Albums**
- [Weddings](#)
- [Engagements](#)
- [Horse Show Photos](#)
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Meadowview Farm horse boarding stables provides the finest in care for you and your horse. Our farm is built for training horses of all breeds and for the enjoyment of safe horseback riding and comfortable living quarters for the horse. The quality lodging has easy access and convenience to the arenas, pastures and trails. It is private and quiet. Relax and enjoy your horse training and trail riding in the care of Meadowview Farm.



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[BACK](#)

- [Home](#)
- [Country Weddings](#)
- [Horse Boarding](#)
- [Shows & Events](#)
- [About Us](#)
- [Contact Us](#)

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- [Weddings](#)
- [Engagements](#)
- [Horse Show Photos](#)
- [Horse Farm Grounds](#)



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- Home
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- Horse Boarding
- Shows & Events
- About Us
- [About the Farm](#)
- [Meet the Owners](#)
- Contact Us

Photo Albums

- Weddings
- Engagements
- Horse Show Photos
- Horse Farm Grounds

Meet the Owners



Sandi and Roger Mullins are animal lovers, boasting several horses, dogs, and cats. Sandi grew up with h competed in 4H shows in western pleasure and som is the happiest when around horses and the great o

After a long and successful career in sales, Sandi wa "retired" on their dream farm, Meadowview. A wife fo of four, and a grandmother to 16, Sandi is able to sh others, especially family and friends. Her hobbies inc hosting events, showing English Bulldogs and travell

person, Sandi loves the interaction with horse boarders and seeing them enjoy the faciliti

Roger was raised on a farm in Northern Iowa. He and Sandi married and moved to Chicago where he became a computer programer. His goal was always to own his own farm. After many successful years of owning his own company and working with Sandi, he was able to purchase a beautiful horse farm in Northern Kentucky... Meadowview Farm. Roger keeps the farm ship-shape and maintains the paddocks and lawns surrounding the barns and home. He is an amateur winemaker as well and recently entered a wine competition in Kentucky where he received several medals for his Blackberry and Pear-Rubarb wine. Roger enjoys seeing the boarders and helping out whenever necessary.



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April 8, 2013

VIA E-MAIL: KWall@boonecountyky.org

Kevin T. Wall, AICP, CDT
Zoning Administrator
City of Florence, Boone County
c/o Boone County Planning Commission
Administration Building
2950 Washington Street
Burlington, Kentucky 41005

RE: Mr. and Mrs. Roger Mullins
Meadowview Farm – Existing Nonconforming Use

Dear Kevin,

This letter is written in response to Mr. Theissen's correspondence (on behalf of Mr. and Mrs. Roger Griggs) dated April 5, 2013 wherein Mr. Theissen provides an inaccurate portrayal of facts and misapplies the relevant Kentucky law.

Inaccurate Facts

A review of the documentation submitted to you by the Mullins, *inter alia*, "The Highlights of Our Ten-Plus Years," directly contradicts Mr. Theissen's assertions that the activities now taking place on the Mullins' property constitute a "major change" from the pre-2010 events. In fact, the activities occurring pre-2010 were substantially identical to the weddings that were, and still are, taking place today on the Mullins' property.

Mr. Theissen states that the pre-2010 non-wedding events were "small, involving less than 50 attendees, compared with the wedding receptions attended by hundreds of people." However, the documentation submitted by the Mullins establishes that the pre-2010, non-wedding events were attended by a large number of people similar to, and in all meaningful ways representative of, weddings:

| Date of Non-Wedding Event | Number of People in Attendance |
|----------------------------------|---------------------------------------|
| a. June 22-23, 2001 | 250 |
| b. September 14, 2001 | 100 |
| c. August 15, 2002 | 150 |

| | |
|------------------------|-----|
| d. September 5-7, 2002 | 70 |
| e. September 6, 2002 | 100 |
| f. May 30, 2003 | 100 |
| g. June 13, 2003 | 110 |
| h. September 5, 2003 | 200 |
| i. March 31, 2004 | 125 |
| j. September 4-5, 2004 | 70 |
| k. September 10, 2005 | 150 |
| l. May 27, 2006 | 100 |
| m. June 14-16, 2006 | 65 |
| n. September 8, 2006 | 100 |
| o. June 16, 2007 | 100 |
| p. 2008 | 120 |
| q. 2008 | 100 |

As is obvious from the above, non-wedding events involved more than 50 people. Moreover, these events were not "mostly daytime affairs" as Mr. Theissen asserts. For example, the June 22-23, 2001 event lasted until 10p.m., the August 15, 2002 event lasted until 9p.m., the May 30, 2003 event lasted until 10p.m., the September 5, 2003 event lasted until 10:30p.m., the March 31, 2004 event lasted until 9p.m., the September 4-5, 2004 event lasted until 10p.m., and the May 27, 2006 event lasted until 10:30p.m.

In addition to being attended in numbers similar to weddings and lasting into the night hours, the activities themselves are very much comparable to those occurring at weddings and subsequent receptions. These activities include: catered dinners, (including alcohol), amplified music being played via sound system, DJs, multiple tents, tables, toasts, laughing, and dancing. These are all characteristics one would likely associate with a wedding.

Mr. Theissen specifically argues that "none of the church hayrides included loud music, the serving of alcohol, or late night events." Again, the documentation submitted by the Mullins

evidences that although no alcohol was being served, church hayride events included bonfires and music being played until 10p.m. – contrary to Mr. Theissen’s claim.

Despite facts conclusively establishing that the pre-2010 events occurring on the Mullins’ property included weddings and events falling under the same classification, Mr. Theissen attempts to overcome these truths by resorting to hyperbole and rhetoric by referring to the events as “alcohol-soaked events.” This is untrue. Caterers permitted on the Mullins’ property are in sole control of the alcohol being served and are instructed by the Mullins to stop serving alcohol at 10p.m. The caterers then serve coffee and tea until the close of the event at 10:30-11:00p.m.

Controlling Law

KRS 100.253(2) permits a nonconforming use to be changed to a different nonconforming use of the same or a more restrictive zoning category without requiring the new use to be incidental to the old use. Prewitt v. Johnson, 710 S.W.2d 238 (Ky. Ct. App. 1986). To begin, there has not been a change of nonconforming use in this case – weddings have been held on the Mullins’ property since 2000 as Mr. Theissen concedes. To the extent there has been a change in that more weddings compared to other events are being held, such change does not rise to the level of constituting an impermissible expansion of the use of the property to take it outside of the protections in KRS 100.253(3).

In Prewitt, the property owner sought to change the use of his property from a service station and garage to a retail used car business. The Court of Appeals held that such a change in use was not an enlargement or extension of a nonconforming use, reasoning that “the automobile sales business was of the same classification as the automobile service station, so such a change was statutorily permissible.” Prewitt, 710 S.W.2d at 239. The court continued by stating that “KRS 100.253(3) clearly permits a nonconforming use of the same or a more restrictive classification without requiring the new use to be incidental to the old use. If the Legislature intended to prohibit different successive nonconforming uses, or to phase them out entirely, we presume the statutory language would have said so.” Id. at 240.

The weddings being held on the Mullins’ property fall within the same classification as the other events described herein. At their core, they are all events where a large number of people gather to eat and drink, listen to music, and socialize with each other. These events last well into the evening hours and are substantially identical, meaning that they fall into the same classification and thus are entitled to the protections embodied in KRS 100.253(3).

Notably, Prewitt is far from an outlier and is instead representative of Kentucky law regarding the scope of nonconforming uses. For example, in Franklin Planning and Zoning Comm. v. Simpson Cnty. Lumber Co., 394 S.W.2d 593 (Ky. 1965), the Kentucky Supreme Court held that the storage of logs was not such a deviation from the owner’s prior use of the

property on which to store bricks so as to constitute an impermissible expansion of the use of the property.

Mr. Theissen is essentially arguing that because the number of weddings has increased over the past three years that this alone constitutes an impermissible expansion of scope. However, the argument that frequency alone is sufficient to defeat a property use's status as a constitutionally protected nonconforming use was squarely rejected in Bd. of Adjustments, Bourbon Cnty. v. Brown, 969 S.W.2d 214 (Ky. Ct. App. 1998). In Brown, the court held that an addition to the structure to accommodate a restroom and *an increase in the number of auctions held at an auction house did not enlarge the nonconforming use* (emphasis added). Quoting A.L. Carrithers & Son v. City of Louisville, 63 S.W.2d 493 (1933), the court held that the fundamental purpose, characteristics of the building, and activities remained the same.

In 2008, after reviewing Prewitt, Brown, Simpson County Lumber Company, and A.L. Carrithers & Son, cited herein, *supra*, the Kentucky Court of Appeals held that restricting a property owner from operating a full service restaurant and meeting facility when the property owner was already legally operating a bed and breakfast was impermissible by the Board of Adjustments. See Greater Harrodsburg/Mercer Cnty. Planning and Zoning Comm., 250 S.W.3d 355, 356 (Ky. Ct. App. 2008).

The Mullins may have increased the number of weddings being held on their property, but this does not remove that use from its constitutionally protected status as a nonconforming use. See Brown. Courts will only refuse to invoke the nonconforming use doctrine when the use of the property has transformed the inherent nature of the preexisting primary use. Greater Harrodsburg/Mercer Cnty. Planning and Zoning Comm., 250 S.W.3d 355, 356 (Ky. Ct. App. 2008). Here the Mullins have not transformed the inherent nature of their property; regardless of *purpose* (i.e. weddings, corporate events, Tupperware parties or church hayrides), the same core of *activities* have been occurring on the Mullins' property since 2000. Therefore, the Mullins' use of their property is constitutionally protected as a nonconforming use.

A nonconforming use is one legally in existence prior to the adoption of a zoning regulation under which it is prohibited. The right to continue such uses by the property owner free from government intervention is based in constitutional law and enjoys broad constitutional protection. Dempsey v. Newport Bd. of Adjustments, 941 S.W.2d 483 (Ky. App. 1997). This right becomes vested within the meaning of that term when the owner has in good faith substantially entered upon the performance of the series of acts necessary to the accomplishment of the end intended. Darlington v. Bd. of Councilmen, 282 Ky. 778 (Ky. 1940). The Mullins' right to continue hosting weddings and receptions has vested in conformity with KRS 100.253 (3) because the same core activities; receptions, with food, drink and entertainment in the same location, have been conducted on a commercial basis for more than ten (10) years. ("The Highlights of Our Ten-Plus Years")

Kevin T. Wall, AICP, CDT
April 8, 2013
Page 5

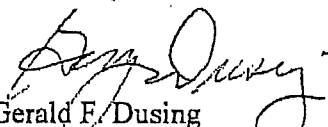
The documents presented prove that fact. The gazebo shown on the webpage has been there since 2000. Mr. Griggs has been aware of this ongoing activity for years, not one week.

The Griggs' argument respecting noise is factually inaccurate, but that is beside the point. It is immaterial to the issue of compliance with KRS 100.253(3). Should the activities on the Mullins' premises escalate to the level of a nuisance, surrounding property owners such as the Griggs can seek the appropriate legal remedies. Such a result, however, cannot be accomplished through zoning and deprive the Mullins of an otherwise legal nonconforming use of their property. And I should add, when the race track on US 42 fires up, its decibel reading at the Mullins/Griggs fenceline exceeds the decibel reading of the latest wedding on the Mullins' premises.

Thank you.

Respectfully submitted,

ADAMS, STEPNER,
WOLTERMANN & DUSING, P.L.L.C.

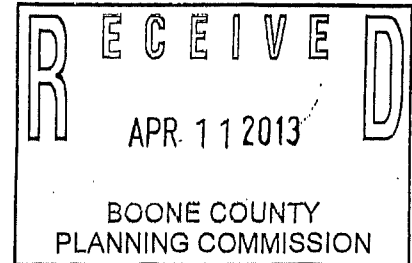


Gerald F. Dusing
Attorneys for Sandi and Roger Mullins

GFD/dmc
Encl.
C. Timothy B. Theissen, Esq.

April 10, 2013

Kevin T. Wall, AICP, CDT
Zoning Administrator
City of Florence, Boone County
c/o Boone County Planning Commission
Administration Building
2950 Washington Street
Burlington, Kentucky 41005



RE: Mr. and Mrs. Roger Mullins
Meadowview Farm – Existing Nonconforming Use

Dear Kevin,

Enclosed is a Verification Page which is page 6 of my April 8, 2013 letter, signed and sworn to by the Mullins which verifies under oath the facts contained in the letter.

Thank you.

Respectfully submitted,

ADAMS, STEPNER,
WOLTERMANN & DUSING, P.L.L.C.

A handwritten signature in black ink, appearing to read "Gerald F. Dusing".

Gerald F. Dusing
Attorneys for Sandi and Roger Mullins

GFD/dmc

Encl.

C. Timothy B. Theissen, Esq.

VERIFICATION

The facts contained in this paper are true and correct as I verily believe.

Sandi Mullins

SANDI MULLINS

Roger K Mullins

ROGER MULLINS

COMMONWEALTH OF KENTUCKY)) SS
COUNTY OF BOONE))

The foregoing was subscribed and sworn to by Sandi Mullins and Roger Mullins to be true and correct, before me, a Notary Public, this 8th day of April, 2013.

Emily Raymer

NOTARY PUBLIC

NOTARY ID 483328

My Commission Expires: 2/13/2017

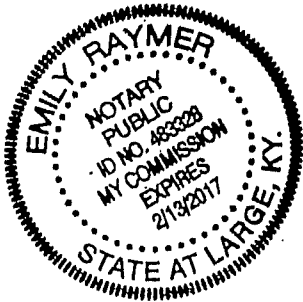


EXHIBIT J

Kevin Wall

From: dale.turner@fuse.net
Sent: Monday, April 01, 2013 7:44 PM
To: Kevin Wall
Subject: Re: Mullins letter info

Thanks for the information Kevin

As Mr Mullins noted, their early parties were corporate events and ended early in the day. Most people around here work during the day and didn't notice any activities. I also know some of their horse events were over before dusk.

My concerns are the noise levels have gotten louder and there is no one monitoring what gets said over the loud speakers. Also, If this land is grandfather in as a business and zoned as such, then Mr Mullins could sell the property and any type of business could take over.

Dale Turner
859-384-4201

From: "Kevin Wall" <KWall@boonecountyky.org>
To: "dale turner" <dale.turner@fuse.net>
Sent: Monday, April 1, 2013 11:53:24 AM
Subject: Mullins letter info

Mr. Turner:

The reply letter regarding the Mullins issue is attached as discussed.

Sincerely,

Kevin T. Wall, AICP CDT

Director, Zoning Services

Zoning Administrator

vi 859-334-2196

fi 859-334-2264



www.boonecountyky.org/pc

Kevin Wall
c/o Boone Co Planning and Zoning
3rd Floor, Admin Building
PO Box 958
Burlington, KY 41005

RE: Roger and Sandy Mullins "Meadow View Farm"

Mr. Wall-

My wife and I have lived off of Big Bone Church Road for the past two years. During this time, we have witnessed and verify the growing "business" practice of the Mullins's hosting weddings/receptions as well as horse-related shows and functions. These functions, during clement weather, will typically occupy most weekends.

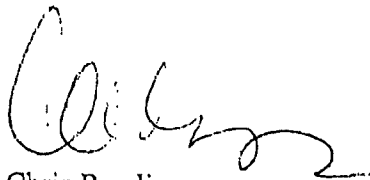
Despite living 1 mile or greater from this business, we can hear lucidly every word spoken through the PA system, i.e., toasts, and every lyric to the Electric Slide and Chicken Dance, as well as booming bass-lines to a host of profanity-laden music. On most occasions, these events will be hosted from early evening and extend well into the night, often surpassing 11:00 pm.

I cannot attest to the legalities of this 'business,' as I do not claim to be knowledgeable in the minutiae and legalese of local codes and laws [and have absolutely NO interest in doing so]. What I can attest to is the significant disruption that this 'business' poses to the solitude and serenity of a community in which these activities sorely clash and seem grossly misplaced.

I realize that your decision will ultimately be based on what does and does not conform to codes and is acceptable legally, but I would hope you would also consider the impact that this 'business' has on the Mullins's neighbors and surrounding pastoral setting.

If you decide in favor of the Mullins's continuity of their undoubtedly lucrative proceedings at the expense of their neighbors, then I invite you some Saturday evening to sit with us on our deck, and enjoy the drunken profane toasts amidst echoing the invigorating lyrics and performing the Electric Slide. Maybe, upon leaving, you will make it home without encountering an inebriated, weaving driver on Big Bone Church Road.

Thank you for your consideration.



Chris Rawlings
Forest View Dr
Union, KY



COPY

CLUR #13-BCBOA-012-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Roger & Sandi Mullins
10830 Big Bone Church Road
Union, KY 41091

2. ADDRESS OF PROPERTY

Meadowview Farm
10830 Big Bone Church Road

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Meadowview Farm

4. DEED BOOK 398 PAGE NO. 250 GROUP NO.

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

Zoning Map Amendment: Conditional Use Permit
From To

Development Plan Conditional Zoning

Subdivision Plat Other: Appeal
(Not Recorded)

Variance

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
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
~~BURLINGTON, KENTUCKY 41005~~


SIGNATURE OF COMPLETING OFFICIAL

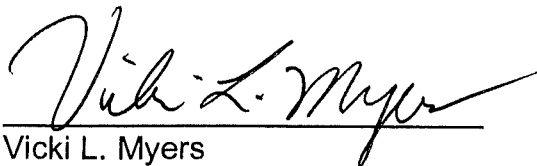
Kevin T. Wall, AICP, Director, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Kevin T. Wall

on behalf of the Boone County Planning Commission this 20th day of May, 2013.



Vicki L. Myers

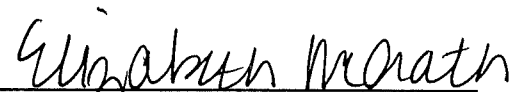
Notary ID 438411

NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 2015

This instrument was prepared for recording purposes only by:



Elizabeth McGrath

Boone County Planning Commission

2950 Washington Street, Room 317

P.O. Box 958

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 Appeal approved by the Boone Board of Adjustments and in accordance with the current zoning in effect as of May 8, 2013 Certificate of Land Use Restriction (#13-BCBOA-012-A), for Roger & Sandi Mullins, Property Owner(s).

The following conditions will apply:

- 1. Up to 22 events may be held during the course of 2013.
- 2. No events shall occur in July of 2013
- 3. No more events shall occur after December 31, 2013

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

DEED BOOK 398 PAGE NO. 250 GROUP NO.

SETTLEMENT AGREEMENT

Sandi and Roger Mullins ("Mullins"), owners and residents of Meadowview Manor Farm, 10830 Big Bone Church Road, Union, Kentucky (property which is more particularly described on the attached legal description of the Mullins property, marked as **Exhibit A**)(hereinafter the "Mullins Property"), Appellants to the Boone County Board of Adjustment of the April 10, 2013 Zoning Administrator determination attached and incorporated herein ("ZA Decision"), and **Kathy and Roger Griggs, ("Griggs")**, owners and residents of the adjoining property at 10650 Big Bone Church Road, Union, Kentucky, Cross-Appellants to the ZA Decision, agree to settle and resolve this matter on the following terms.

WHEREAS, Meadowview Manor Farm is and has been at all relevant times zoned Agricultural (A-1) and Agricultural Estate (A-2); and

WHEREAS Mullins has been using the Mullins Property for weddings and receptions and corporate events for a disputed number of years (Mullins: 10 years+; Griggs: <10 years), and the Mullins have claimed a grand-fathering of a right to continue to do so under KRS 100.253(3);

WHEREAS, the ZA Decision determined in relevant parts:

"Given the information outlined above, I have concluded that a legal pre-existing, nonconforming use has been established for limited use at 10830 Big Bone Church Road for a seasonal outdoor event venue. This use is subject to the following limitations or defining traits which are based on the information that you provided:

The types of events which may occur under this status include wedding receptions, anniversary parties; corporate type training/awards ceremony/banquet events, church bonfire/hay rides, and comparable functions. These events are typically characterized by the use of a temporary tent, service of food and beverages including alcoholic beverages, and a sound system with an emcee or DJ and the playing of recorded music.

Any single event shall be limited to a maximum of 250 guests or patrons.

The outdoor event venue function is limited to seven (7) event days per calendar year. Horse shows are not included in the seven event day limitation. As explained above, horse shows with seventy (70) or less participants are exempt from local zoning.

My basic finding is that based on the evidence provided, the event venue use as qualified or defined by paragraphs 1 through 3 immediately above has operated intermittently for ten (10) continuous years without adverse orders per KRS 100.253(3)"; and

WHEREAS, Mullins and Griggs have both appealed said ZA Decision to the Boone County Board of Adjustment, which is scheduled to hear their appeals on May 8, 2013; but

WHEREAS, both parties hereto desire to settle this matter between them pursuant to the terms of this Settlement Agreement, and both parties desire that the Board of Adjustment adopt the terms hereof as their modification of the ZA Decision and as the resolution of their respective appeals thereof;


NOW THEREFORE, it is agreed between the parties as follows:

1. Griggs will agree and support that Mullins may conduct up to twenty-two (22) outdoor events on the Mullins Property during the remainder of calendar year 2013 of the type determined to be pre-existing nonconforming uses in the ZA Decision. No such events shall occur during July, 2013.
2. Those events shall be conducted upon the following conditions:
 - a) Events shall end at 10:30 p.m.;
 - b) Service of alcohol shall cease at 10:00 p.m.;
 - c) In an effort by the Mullins to mitigate the noise generated from the event, all amplifiers and speakers of amplified music or amplified speech shall be directed toward the Mullins' residence and not toward residences along or across Big Bone Church Road. Amplification shall be controlled at all times and noise levels kept at a minimum to facilitate the function. Neighbor complaints are to initially directed at the Mullins who agree to limit the excessive noise. Excessive sounds and disturbance that not moderated by the Mullins maybe reported to the police. There shall be no amplified sound outside the tented events.
3. No such events shall occur at Meadowview Manor Farm after December 31, 2013, and the pre-existing nonconforming use status of these type events is extinguished as of that date and the property will conform to its original A-1, A-2 status, without the benefit of any claim of rights under KRS 100.253(3), which claim the Mullins permanently and unconditionally waive, terminate and agree to avoid. Mullins agree to immediately terminate all advertising and marketing of the use of the Mullins Property for such events.
4. This Settlement Agreement shall bind subsequent owners or tenants of the Mullins Property.
5. This Settlement Agreement and Agreed Judgment shall be recorded with the land records of the Boone County Clerk, and shall be enforceable by the Zoning Administrator of Boone County, the Griggs, and any interested party who otherwise would have legal standing to contest, protest or appeal the ZA Decision or this action by the Board of Adjustment, as well as any current or future property owner or tenant of property within one mile of the Mullins Property, all of whom are agreed intended third party beneficiaries of this Settlement Agreement.

6. Both parties hereto agree to unequivocally and unconditionally support the adoption of the terms of the Settlement Agreement and Agreed Judgment by the Boone County Board of Adjustment, such that the Mullins can pursue the additional events in 2013 and the Griggs get a termination of the objectionable use of the Mullins Property after the 2013 season. Both parties agree to support the adoption by the Boone County ~~Planning Commission~~ of the proposed compromise decision attached hereto as **Exhibit B**. However, the terms of this Settlement Agreement are binding on the parties regardless of the decision of the Boone County Board of Adjustment.

7. This Settlement Agreement shall be enforceable at law and in equity, and the enforcing party may obtain all legal and equitable relief necessary to enforce this agreement, including injunctive relief, and shall recover their attorney fees if successful.


IN WITNESS WHEREOF THE PARTIES SIGN BELOW:



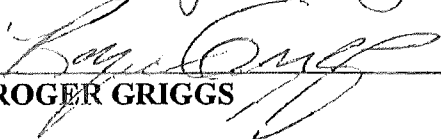
SANDI MULLINS



ROGER MULLINS



KATHY GRIGGS



ROGER GRIGGS

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF KENTON)

SUBSCRIBED AND SWORN to before me, by Sandi Mullins and Roger Mullins, who appeared before me, acknowledged that they have read the foregoing Settlement Agreement, find it to be fair and equitable, and fully understand all of the provisions and statements contained in this Settlement Agreement, at Covington, Kentucky, this 30 day of April, 2013.

Brianne H. L. Cherny
Notary Public, State-At-Large
My Commission Expires: 8/26/14

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF KENTON)

SUBSCRIBED AND SWORN to before me, by Kathy Griggs and Roger Griggs, who appeared before me, acknowledged that they have read the foregoing Settlement Agreement, find it to be fair and equitable, and fully understand all of the provisions and statements contained in this Settlement Agreement, at Covington, Kentucky, this 1st day of May, 2013.

Andrea Sweeney
Notary Public, State-At-Large
My Commission Expires:

This Instrument Prepared By:

[Signature]
Timothy B. Theissen, Esq.
Strauss Troy Co., LPA
Suite 1400, 50 East RiverCenter Boulevard
Covington, Kentucky 41011
(513) 621-8900
tbtheissen@strausstroy.com



ANDREA SWEENEY
Notary Public, Kentucky
State At Large
My Commission Expires
February 6, 2017
Notary ID# 482072

EXHIBIT A

LEGAL DESCRIPTION OF THE MULLINS PROPERTY

ATTACHED

(REFERENCE BOONE COUNTY CLERK RECORD:

M3125, PG 105

AND/OR

DB 398, PG 250)

EXHIBIT "A"

A CERTAIN TRACT OF LAND LYING AND BEING ON THE EAST SIDE OF BIG BONE CHURCH ROAD AND BEING ALL THE REMAINING OF ROGER MULLINS PROPERTY, PER DEED BOOK 398, PAGE 250, BOONE COUNTY, KY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: UNLESS STATED OTHERWISE, ANY MONUMENT REFERRED TO HEREIN AS AN "IRON PIN SET" IS A 24" LONG BY 1/2" DIAMETER REBAR WITH A YELLOW CAP STAMPED "LS 2936." ALL BEARINGS HEREIN ARE REFERRED TO AN ADJOINING PROPERTY OWNED BY KATHERINE GRIGGS AS PER DEED BOOK 649, PAGE 215.

BEGINNING AT A POINT IN THE CENTER OF BIG BONE CHURCH ROAD AT THE NORTHWEST CORNER OF KATHERINE E. GRIGGS (D.B. 649, PG. 215); THENCE WITH THE LINES OF GRIGGS S 13°43'23" E, 1718.25 FEET TO A CORNER POST; THENCE S 85°03'59" E, 596.90 FEET TO AN IRON PIN SET AT THE BASE OF A POST; THENCE WITH A NEW LINE OF GRIGGS OF A 53.3449 ACRE TRACT PURCHASED FROM ROGER AND SANDRA MULLINS S 01°32'34" E, 3092.98 FEET TO A STONE FOUND AT THE NORTHEAST CORNER OF NORMAN ADAIR (D.B. 166, PG. 504); THENCE WITH THE NORTH LINE OF ADAIR N 73°44'12" W, 1556.26 FEET TO A POST; THENCE N 75°30'10" E, 765.83 FEET TO A POST; THENCE N 73°37'52" W, 927.40 FEET TO A 1" IRON PIPE FOUND; THENCE N 24°52'00" E, 208.15 FEET TO A POST; THENCE N 29°27'00" E, 137.50 FEET TO A 1" IRON PIPE FOUND AT THE SOUTHWEST CORNER OF DAVID NOEM (D.B. 385, PG. 35); THENCE WITH THE LINES OF NOEM N 83°17'19" E, 196.00 FEET TO AN ANGLE IRON; THENCE N 68°27'19" E, 232.38 FEET TO A 1" IRON PIPE FOUND AT THE SOUTHWEST CORNER OF TERRY PHILLIPS (D.B. 716, PG. 115); THENCE WITH THE LINES OF PHILLIPS N 69°33'19" E, 176.91 FEET TO A STONE FOUND; THENCE S 89°56'41" E, 56.56 FEET TO A POST; THENCE S 87°17'41" E, 228.75 FEET TO A 14" HICKORY; THENCE N 73°27'19" E, 138.04 FEET TO A CORNER POST; THENCE N 20°48'19" E, 105.95 FEET TO A POST; THENCE N 30°53'19" E, 230.25 FEET TO A POST; THENCE N 33°45'19" E, 220.78 FEET TO A 1" IRON PIPE FOUND AT THE SOUTHEAST CORNER OF DANIEL MARSH (D.B. 457, PG. 24); THENCE WITH THE LINES OF MARSH N 19°16'19" E, 156.51 FEET TO A POST; THENCE N 21°57'19" E, 222.48 FEET TO A STEEL POST AT THE BASE OF A FALLEN POST; THENCE N 01°12'19" E, 65.95 FEET TO A CORNER POST; THENCE N 73°42'41" W, 268.48 FEET TO A CORNER POST; THENCE N 17°35'19" E, 476.00 FEET TO A CORNER POST; THENCE N 73°52'41" W, 149.53 FEET TO A CORNER POST IN THE EAST LINE OF EDWARD MARGRAVE (D.B. 229, PG. 31); THENCE WITH THE EAST LINE OF MARGRAVE N 09°39'54" E, 428.51 FEET TO A CORNER POST IN THE SOUTH LINE OF JAMES PEACE (D.B. 276, PG. 323); THENCE WITH THE LINES OF PEACE S 83°00'39" E, 45.00 FEET TO AN IRON PIN SET; THENCE N 06°13'39" W, 318.22 FEET TO AN IRON PIN SET AT THE SOUTHEAST CORNER OF SAM DIBERT (D.B. 610, PG. 120); THENCE WITH THE LINES OF DIBERT N 05°43'20" E, 124.65 FEET TO AN IRON PIN SET; THENCE N 15°21'24" W, 273.71 FEET TO THE SOUTHEAST CORNER OF RALPH KELLY (D.B. 581, PAGE 223); THENCE WITH THE LINES OF KELLY N 16°13'39" W, 318.22 FEET TO AN IRON PIN SET; THENCE N 03°40'39" W, 358.07 FEET TO A POINT IN THE CENTER OF SAID BIG BONE CHURCH ROAD PASSING THRU AN IRON PIN 25.00 FEET BACK; THENCE WITH THE CENTER OF SAID ROAD N 83°15'27" E, 169.85 FEET; THENCE N 84°07'42" E, 135.15 FEET; THENCE N 86°53'46" E, 280.86 FEET; THENCE N 85°45'56" E, 159.33 FEET TO THE PLACE OF BEGINNING, CONTAINING 153.8898 ACRES MORE OR LESS, EXCLUSIVE OF ALL RIGHT OF WAYS AND EASEMENTS OF RECORD. THE ABOVE DESCRIPTION IS IN ACCORDANCE WITH A SURVEY MADE BY JERRY L. CANNON, RLS NO. 2936, ON DECEMBER 19, 1999.

EXHIBIT B
PROPOSED SETTLEMENT AGREEMENT AND AGREED JUDGMENT
OF THE
BOONE COUNTY BOARD OF ADJUSTMENT

**SETTLEMENT AGREEMENT
AND AGREED JUDGMENT**

Sandi and Roger Mullins ("Mullins"), owners and residents of Meadowview Manor Farm, 10830 Big Bone Church Road, Union, Kentucky, Appellants to the Boone County Board of Adjustment of the April 10, 2013 Zoning Administrator determination attached and incorporated herein ("ZA Decision"), and Kathy and Roger Griggs, ("Griggs"), owners and residents of the adjoining property at 10650 Big Bone Church Road, Union, Kentucky, Cross-Appellants to the ZA Decision, agree to settle and resolve this matter on the following terms.

WHEREAS, Meadowview Manor Farm is and has been at all relevant times zoned Agricultural (A-1) and Agricultural Estate (A-2); and

WHEREAS, the ZA Decision determines in relevant parts:

"Given the information outlined above, I have concluded that a legal pre-existing, nonconforming use has been established for limited use at 10830 Big Bone Church Road for a seasonal outdoor event venue. This use is subject to the following limitations or defining traits which are based on the information that you provided:

The types of events which may occur under this status include wedding receptions, anniversary parties; corporate type training/awards ceremony/banquet events, church bonfire/hay rides, and comparable functions. These events are typically characterized by the use of a temporary tent, service of food and beverages including alcoholic beverages, and a sound system with an emcee or DJ and the playing of recorded music.

Any single event shall be limited to a maximum of 250 guests or patrons.

The outdoor event venue function is limited to seven (7) event days per calendar year. Horse shows are not included in the seven event day limitation. As explained above, horse shows with seventy (70) or less participants are exempt from local zoning.

My basic finding is that based on the evidence provided, the event venue use as qualified or defined by paragraphs 1 through 3 immediately above has operated intermittently for ten (10) continuous years without adverse orders per KRS 100.253(3)"; and

WHEREAS, Mullins and Griggs desire that the Board of Adjustment adopt the terms hereof as their modification of the ZA Decision and as the resolution of their respective appeals thereof;

NOW THEREFORE, it is decided, agreed and resolved that the ZA Decision is modified as follows:

8. Mullins may conduct up to twenty-two (22) outdoor events during the remainder of calendar year 2013 of the type determined to be pre-existing nonconforming uses in the ZA Decision. No such events shall occur during July, 2013.
9. Those events shall be conducted upon the following conditions:
10. Events shall end at 10:30 p.m.;
11. Service of alcohol shall cease at 10:00 p.m.;
12. In an effort by the Mullins to mitigate the noise generated from the event, Amplifiers and speakers of amplified music or amplified speech shall be directed toward the Mullins' residence and not toward residences along or across Big Bone Church Road. Amplification shall be controlled at all times and noise levels kept at a minimum to facilitate the function. Neighbor complaints are to initially directed at the Mullins who agree to limit the excessive noise. Excessive sounds and disturbance that not moderated by the Mullins maybe reported to the police. There shall be no amplified sound outside the tented events.
13. No such events shall occur at Meadowview Manor Farm after December 31, 2013, and the pre-existing nonconforming use status of these type events is extinguished as of that date and the property will conform to its original A-1, A-2 status, without the benefit of any claim of rights under KRS 100.253(3), which claim the Mullins permanently and unconditionally waive, terminate and agree to avoid. This provision shall bind subsequent owners or tenants of the Mullins Property.
14. This Settlement Agreement and Agreed Judgment shall be recorded with the land records of the Boone County Clerk, and shall be enforceable by the Zoning Administrator of Boone County, the Griggs, and any interested party who otherwise would have legal standing to contest, protest or appeal the ZA Decision or this action by the Board of Adjustment.

The findings of fact and rational of this action by the Board of Adjustment is as follows:

1. The Board of Adjustment adopts the overall determination of the ZA Decision as supportable by substantial evidence, but acknowledges that whether the uses at issue may be limited in number of events per year, or whether the uses qualify at all to be pre-existing nonconforming uses under the criteria of KRS 100.253, are both closed questions and are both fairly debatable either way;

2. The 22 events permitted in 2013 are wedding receptions that were already booked prior to the time the Zoning Administrator was requested to make a determination as to the claimed pre-existing nonconforming status of those events. The families of those booked weddings have already, to a large extent, made family and financial commitments in reliance on having their wedding reception at Meadowview Manor Farm on the appointed date. Those commitments include, but are not limited to, out of town guest vacation arrangements; entertainment bookings, honeymoon travel arrangements and many non-refundable fees, deposits

and the like, involve contracts generated by the Mullins, as well as the difficulty and probable impossibility of making suitable alternative venue arrangements for 2013 wedding dates.

3. It is fair and reasonable to compress the seven (7) per annum dates permitted by the ZA Decision be compressed into the twenty-two (22) already committed dates in 2013 in order to accommodate the innocent third parties, the brides, who have no involvement in this process but who have the most to lose by the ZA Decision and any “up or down” decision by this Board of Adjustment. It is a fair and reasonable exchange for the compression and acceleration of permitting seven (7) events per annum into twenty-two (22) during the remaining events this 2013, that the pre-existing nonconforming use be extinguished at the end of calendar year 2013.

4. Therefore, weighing the facts, circumstances and desires of the Appellants and Cross-Appellants, it is determined by this Board of Adjustment to adopt this Settlement Agreement as its Decision and Judgment, at the request of the Appellant and Cross-Appellant, and no objection by the Zoning Administrator.

Chair
Boone County Board of Adjustment