



SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 1-24-91
2. Fee Received \$200.00 R 4063
3. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
4. Staff Reviewer \_\_\_\_\_
5. Scheduled Board Action Date \_\_\_\_\_
6. Board Action:  
\_\_\_\_\_ Approval  
\_\_\_\_\_ Approved With Conditions (See #7)  
\_\_\_\_\_ Disapproved (See #8)
7. Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Reasons For Disapproval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## STAFF REPORT

#4

DEVELOPMENT: Greenfield Farm (formerly Ellis Farm)  
APPLICANT: Charles Deters  
LOCATION: 472 Chambers Road, Boone County, Kentucky  
ZONING: Agricultural Estate (A-2)  
DATE: February 13, 1991

### REMARKS:

The request by the applicant, Charles Deters, is for an appeal of the Zoning Administrator's decision to allow a mobile home on a 300 acre farm located at 472 Chambers Road. The site is currently zoned Agricultural Estate (A-2).

### History of Site/Complaint

On December 12, 1990, the Zoning Enforcement Officer issued a Notice of Violation to Charles Deters (see attached copy) giving him seven days to remove a mobile home on a site zoned Agricultural Estate (A-2). This mobile home was placed on the 300 acre parcel without a zoning permit. Instead of removing the mobile home, the applicant appealed the decision of the Zoning Administrator to allow the mobile home even though it has been interpreted that mobile homes are not permitted in the Agricultural Estate (A-2) zoning district.

The applicant has stated that the farm is being used as a thoroughbred race horse farm. The mobile home in question is located next to a large barn which is divided into 16 stalls. The barn was formerly used as a hospital barn, which included an operating room and recovery room. According to the applicant, the purpose of placing a mobile home on the property was to "provide a place for a guard or night watchman to assist mares in foal delivery during the night". The occupant is an employee of the applicant as he is charged with caring for the horses on the entire farm. The applicant has submitted a letter outlining his arguments to permit the mobile home (see attached copy).

### Boone County Zoning Regulations

The current Boone County Zoning Regulations specifically allows mobile homes in two zoning districts. Mobile homes are principally permitted uses in the Agriculture (A-1) and Mobile Home Park (MHP) zoning districts. In 1986, the Boone County Planning Commission adopted the current zoning regulations, which allowed mobile homes in these two districts. The Planning Commission felt that individual mobile homes would be appropriate either on 5 acre tracts of land zoned A-1 or clustered in a mobile home park. Also, the Kentucky Revised Statutes changed in 1986 to disallow an agricultural exemption for mobile homes. K.R.S. 100.2.3 states text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building and certificates of occupancy. The Boone

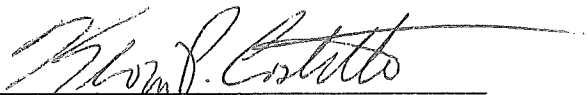
County Planning Commission felt that mobile homes would be more appropriate in the A-1 district rather than the A-2 district since its purpose is "to preserve and protect the supply of productive lands and other open-space for non-urban uses" instead of only providing for low density residential development in the context of a rural environment. In addition, mobile homes are classified as a single use in the A-1 zone just as a single-family dwelling unit is defined as a single use (see attached copy). Mobile homes by definition cannot be used for office use but for residential use. Dwelling unit is defined to include industrialized units, which is intended to described modular or pre-fabricated housing units and is not intended to include mobile homes as a separate definition exists for mobile homes.

Staff Concerns

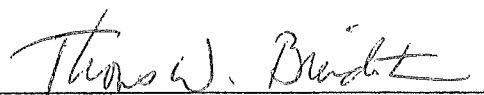
Upon making a decision, the Board should consider the following staff concerns.

1. The applicant has provided no evidence that the mobile home is being used as an office to manage or administer the farm. According to the applicant, the applicant's farming and breeding business is located in Kenton County and not on the Greenfield Farm. It appears that the mobile home is only being used for residential purposes.
2. The Staff is disputing how much of the property is being farmed or used for agricultural purposes or in the breeding of horses since the site is basically a 300 acre undeveloped site. The horse business is only occurring on a small portion of the site. Upon visiting the site the Staff noticed the presence of only a few horses. There is another residence on the farm and these residential uses are not customarily incidental and subordinate to the limited agricultural use.
3. If this mobile home is permitted in an Agricultural Estate (A-2) zone, it will set a precedent and will alter the essential character of property that is currently zoned in this manner.

Respectfully submitted,



Kevin P. Costello, AICP  
Asst. Director/Zoning Administrator



Thomas W. Breidenstein  
Zoning Enforcement Officer

KPC/TWB:kat

NOTICE OF VIOLATION # 312

Name Charles Deters  
Street Chambers Rd.  
City Boone Co Zip Code \_\_\_\_\_  
Location of Violation old Ellis farm

Article 6 Section 621 Date 12/12/90  
Description mobile home in A-2 zoning district - must be removed to comply

Failure to comply within 7 days from the above date will result in possible legal action, including fines up to \$500.00 for each day the violation continues.

Zoning Officer Thos W. Bredt

I hereby acknowledge receiving this notice:

Danny Miller

ZONING ADMINISTRATOR'S OFFICE  
2950 Washington Street  
P.O. Box 697  
Burlington, Kentucky 41005  
334-2196

2995 Washington ✓

1-12

DETERS, BENZINGER & LA VELLE, P.S.C.

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PLEASE REPLY TO:

Covington

January 11, 1991

CHARLES H. DETERS\*  
GERALD E. BENZINGER  
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JAMES A. DRESSMAN III  
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BRIAN C. RIEGER\*  
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Boone County Board of Adjustment  
2995 Washington Street  
Burlington, Kentucky 41005

To: Boone County Board of Adjustment and Zoning Appeals:

Please consider this an appeal from a determination of zoning violation. A copy of the citation is attached.

FACTS: Immediately prior to December 12, 1990, on about December 1, 1990, the appellant, Charles H. Deters, moved a mobile home onto the 300 acre Greenfield Farm (formerly Ellis Farm). Greenfield is used as a thoroughbred race horse farm. The mobile home was placed next to a large barn which is divided into 16 stalls. The barn was formerly used as a hospital barn in that it is equipped with an operating room and recovery room for horses, electric, plumbing, including water and a septic system. The purpose of the move was to provide a place for a guard or night watchman to assist mares in foal delivery during the night. Before this year, the barn was only used for turn outs and horses of less value. The barn is located very close to the expressway (I-75) and has been a refuge at night for persons walking along the interstate. The occupant is an employee of the appellant, is single and will pay no rent for the mobile home nor the utilities used. In other words, he is there for the convenience of the farm. He is the principal person in charge of caring for the horses on the entire farm.

ISSUE: Does the mobile home violate the provisions of Article 6, Section 621 (A-2 one) of the Boone County Zoning Ordinance. (I think more accurately Section 622.)

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It is argued that Section 622 under A-2 Zone allows the same accessory uses as permitted in Section 612 under A-1 Zone. Accessory uses allowed under Section 612 as incidental and subordinate to permitted uses include inter alia:

1. Dwelling units of the family of the farm owner, operator and/or resident manager ... and
2. Offices for farm management and administration of agricultural services offered on the farm premises.

The mobile home should be allowed under either or both of the above accessory uses. It cannot be disputed that the mobile home is used for resident manager and is used in the management and administration of a horse farm.

Dwelling Unit is defined as "space, within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family and its household employees. Dwelling unit includes public housing and industrialized units."

Dwelling is defined as "any building which is wholly or partly used or intended to be used for residential purposes, but not including hotels, motels or tourist cabins." (emphasis added)

Where the definition excluded hotels, motels or tourist cabins, it should have excluded mobile homes if such was intended.

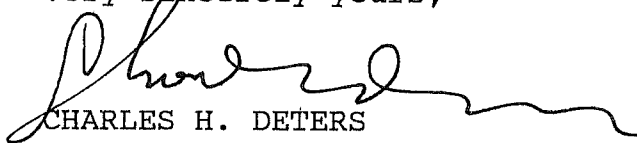
See also Section 613 (1) Conditional Uses and Criteria. See also Article 20 (def.) "Agricultural Use." Both these sections seem to allow the use of a farm for residence of those who work on the farm. Article 20 - DEFINITIONS "Agricultural Use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timer (sic), orchard fruits, vegetables, flowers or ornamental plants, including provision for dwelling for persons and their families who are engaged in the above agricultural use on the tract, but

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not including residential building development for sale or lease to the public. (emphasis added)

It is respectfully suggested that a mobile home is a permitted dwelling unit for use by an employee who works on the farm and is part of management.

Very sincerely yours,



CHARLES H. DETERS

CHD:cw

Enclosure

cc - Mr. Dale T. Wilson

## Article 6

### AGRICULTURAL DISTRICTS .

#### Intent

The intent of this article is to specifically identify and protect the present and future viability and character of agricultural and rural lands.

#### Section 610

##### AGRICULTURE (A-1)

The purpose of this district is to preserve and protect the supply of productive agricultural lands and other open space, primarily for non-urban uses.

#### Section 611

##### Principal Permitted Uses

The following uses are permitted:

1. Single Family dwelling units;
2. Farms of tobacco, fiber, cash grain, fruits, tree nuts, vegetables, or other field crops;
3. Farms of no predominant crops, including range and grassland pastures, horticultural specialties, apiary farms and other agriculture and related activities;
4. Farms and ranches of dairy production, livestock including cattle, hogs, sheep, goats, horses or similar, poultry or other fowls;
5. Animal Husbandry services including veterinarian, animal hospital, poultry hatching and other services;
6. Fish hatcheries, and other fish culture activities and related services;
7. Wild life preserve sanctuaries, habitats, cultures and related activities;
8. Forestry activities including timber production, tree products production, commercial forestry production, forest nurseries and other forestry activities and related services;
9. Horticultural, floricultural, viticultural, and other agricultural related uses and services;
10. Agriculture related activities including grist milling services, corn shelling, hay baling, threshing, contract sorting, grading and packaging services and other agricultural processing services;
11. Retail trade for the sale of hay, grain, feed and other farm and garden supplies excluding equipment and vehicles;
12. Roadside stands, farmers marts and similar sales uses of agricultural and related products produced on the premises;

13. Garden plots and other similar forms of communal or organizational farming practices;
14. Mobile homes.

#### Section 612

##### Accessory Uses

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses including:

1. Dwelling units of the family of the farm owner-operator and/or resident manager including:
  - a. private garages and parking;
  - b. structures such as fences and walls;
  - c. buildings such as storage sheds, private greenhouses and gazebos;
  - d. storage of a recreational vehicle or unit;
  - e. private swimming pool, sauna, bathhouse and like accessories;
  - f. private recreational court, complex or similar recreational activity;
  - g. private stables or other keeping and use of pets and animals.
2. Temporary buildings incidental to construction;
3. Offices for farm management and administration of agricultural services offered on the farm premises.

#### Section 613

##### Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral part of the agricultural use of the land, and the activity is not of scale, nature or other character which will detract or conflict with the principal purposes of the district; or b) the activity is necessary to provide the specified public service for the character of the activity does not overpower, transcend or conflict with the principal purpose of the district; and c) provided the arrangement of use, building or structure is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

1. Dwellings or rooming houses for persons employed on the premises other than the family of the farm owner/operator and/or resident manager;
2. Garden store, nursery and similar landscape sales of products produced on the premises;
3. Commercial kennels and boarding stables including grooming and veterinary services (minimum 5 acres).
4. Churches, synagogues, temples and other places of religious assembly for worship;
5. Cemeteries and mausoleums if adjacent to or in extension of an existing cemetery;
6. Public and commercial outdoor recreation;

7. Duplex dwelling units;
8. Commercial stockyards and feed lots;
9. Dumps and landfills for non-combustible materials including sanitary landfills;
10. Production, processing and sales of organic fertilizer.

Section 614

Intensity

The maximum intensity of use shall not be greater than one lot per five (5) gross acres of land.

Section 615

Minimum Size

The minimum size and extent of an A-1 district, including all the contiguous private property so designated, shall not be less than thirty (30) acres.

Section 616

Minimum Standards

The following standards shall apply to any permitted, accessory or conditional use and structure in this district:

1. No use shall include the operation or maintenance of a commercial stockyard or feedyard, except as permitted as a conditional use.
2. See Table 1 for dimensional standards.

**Section 620  
AGRICULTURAL ESTATE (A-2)**

The purpose of this district is to provide for low density residential development in the context of a rural environment.

Section 621

→ Principal Permitted Uses

Permitted uses in the A-1 district numbered 1-10, inclusive, are permitted in the A-2 district.

Section 622

→ Accessory Uses

All accessory uses permitted in the A-1 district are permitted in the A-2 district.

Section 623

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral part of the agricultural or residential use of the land, and the activity is not of scale, nature or other character which will detract or conflict with the principal purposes of the district; or b) the activity is necessary to provide the specified public service for the residents of the district so long as the service area, use, scale or other character of the activity does not overpower, transcent or conflict with the principal purpose

of the district; and c) provided the arrangement of use, building or structure is mutually compatible with the organization of permitted and accessory uses to be protected in the district.

1. Roadside stands, farmers mart and similar sales uses of agricultural and related products produced on the premises;
2. Garden store, nursery and similar landscape sales of products produced on the premises;
3. Garden plots and other similar forms of communal or organization farming practices;
4. Churches, synagogues, temples and other places of religious assembly for worship;
5. Cemeteries and mausoleums if adjacent to or in extension of an existing cemetery.
6. Public and commercial outdoor recreation;
7. Duplex dwelling units.
8. Commercial kennels and boarding stables including grooming and veterinary services (minimum 5 acres);

#### Section 624

##### Intensity

The maximum intensity of use shall not be greater than one (1) lot per two (2) acres of land.

#### Section 625

##### Minimum Size

The minimum size and extent of an A-2 district shall not be less than twenty (20) acres of land.

#### Section 626

##### Minimum Standards

The following standards shall apply to any permitted, accessory or conditional use and structure in this district:

1. No use shall include the feeding or sheltering of animals or poultry or the storage of refuse, compost, products, supplies or equipment within one hundred (100) feet of any residence, when a nuisance is created.
2. No use shall include the operation or maintenance of a commercial stockyard or feedyard.
3. See Table 1 for dimensional standards.

ARTICLE 20  
DEFINITIONS

Interpretation of Terms or Words

For the purpose of this order, certain terms or words used herein shall be interpreted as follows:

1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
3. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
4. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
5. The word "lot" includes the words "plot" or "parcel."

Accessory Use of Structure

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of structure.

Agricultural Use

"Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

Airport

Any runway, land area or other facility designed or used either publicly or privately by any person for the landing and taking-off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings, and open spaces.

Alley

(See Thoroughfare)

Alterations, Structural

Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

Automotive Repair

Major Automotive Repair - The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision services, painting, and steam cleaning of vehicles.

Minor Automotive Repair - (items 1-9 under Garage, Service Stations).

Commercial Recreation

Privately owned and operated buildings and premises in which users of the facility partake in activities related to fitness, purposeful relaxation or games in exchange for compensation to the operator of the facility.

Comprehensive Plan

A plan, or any portion thereof, adopted by the Planning Commission which serves as a guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. A comprehensive plan shall contain, as a minimum, a statement of goals and objectives, principles, policies, and standards; a land use plan element; a transportation plan element; a community facilities plan element; and any additional elements.

Conditional Use

A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Adjustment and Zoning Appeals.

Conditional Use Permit

A permit issued by the Zoning Administrator upon approval by the Board of Adjustment and Zoning Appeals to allow a use other than a principally permitted use to be established within the district and subject to the qualifications and conditions established by the Board.

Condominium

A single-family attached dwelling unit that can be purchased and is separately valued for property tax purposes, and in which property taxes for common areas are paid by a management association.

Corner Lot

(See Lot Types)

Cul-De-Sac

(See Thoroughfare)

Dead-end Street

(See Thoroughfare)

Duplex Dwelling Unit

A single-family dwelling and accessory structures which may be either attached side by side or one above the other to one other dwelling unit and/or accessory structures. Each dwelling unit in a duplex structure may have a separate entrance or may share a combined entrance.

Dwelling

Any building which is wholly or partly used or intended to be used for residential purposes, but not including hotels, motels, or tourist cabins.

Dwelling Unit

Space, within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family and its household employees. Dwelling unit includes public housing and industrialized units.

4. Reversed Frontage Lot: A lot on which frontage is at right angles to be the general pattern in the area. A reversed frontage lot may also be a corner lot.

#### Maintenance and Storage Facilities

Land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.

#### Mobile Home

Any coach, cabin, mobile home or other mobile structure in a one or more units which is intended, designed, and used for the fixed residence of a person, family, or a household, mounted upon wheels or supports, constructed on a "I-Beam" or similar type chassis which cannot be removed and still maintain the structural stability of the unit, mounted upon wheels or supports, or supported and/or capable of being moved or transported by another vehicle. For the purpose of this order, the removal of wheels and/or the attachment of a foundation to said mobile structure shall not change its classification. Also excluded from this classification, would be any unit with automotive capabilities or self contained (i.e. withholding tanks) trailer units designed or intended as recreational vehicles.

#### Model (per Resolution R- 31 & 32 -88; \*See Status of Amendments)

A structure or series of structures built with the purpose of displaying the craftsmanship of the builder/developer of that unit. The unit primarily serves as a marketing tool to sell future, similar units on other lots.

Model Home - a model designed and used primarily with the intent of selling lots within the same subdivision or within one lineal (road frontage) mile from the model.

#### Multi-Family Dwelling Unit

An attached dwelling unit in a building designed for three (3) or more families.

#### Nonconforming Building, Structure, or Use

A building, structure or use of land existing at the time of enactment of this order, and which does not conform to the regulations of the district or zone in which it is situated.

#### Nursery, Nursing Home

A home or facility for the care and treatment of children, pensioners, or elderly people.

#### Open Space

An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts, any other recreational facilities that the Planning Commission deems permissive. Streets, parking areas, structures for habitation, and the like shall not be included.

#### Parking Space, Off-Street

For the purpose of this order, and off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.