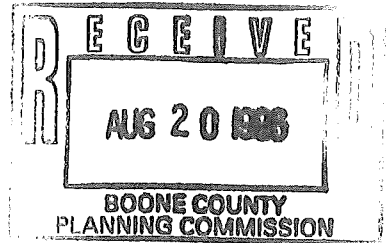


APPLICATION FORM  
**BOARD OF ADJUSTMENT**  
**AND**  
**ZONING APPEALS ACTION**



(See Boone County Zoning Regulations)

**SECTION A** (To be completed by applicant)

1. (Check One)  
 Boone     Florence     Walton     Union  
 (Check One)
2.  Conditional Use Permit     Variance     Appeal  
 Change in Non-Conforming Use
3. Applicant's Name Bonnie Cosmah & George Cosmah  
 Phone Number 1780 Timber Lane    ~~Phone~~ No. 282-8818  
 Applicant's Address 1780 Timber Lane  
Burlington    Ky    41005  
 City    State    Zip
4. Description of Request: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
5. Name of Development Yesterdays
6. Location of Development 1009 Burlington Pike  
Florence KY 41042
7. Acreage Under Review .85
8. Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_
9. Owner of Property DR. CURTIS & HILDEGARD BEHNS  
 Phone Number of Owner 1-808-486-3588
10. Address of Property Owner 98-402 KOAUKA LOOP, #811  
AIEA HAWAII 96701  
 City    State    Zip
11. Proposed Use(s) on Site Ice cream bar - coffee shop
12. Total Square Footage of Existing and/or Proposed Buildings  
1662' on 1st floor, 300' on 2nd floor
13. Current Zoning on Property SR-2
14. Deed Book 244 Page No. 156 Group No. 2032
15. Is the site subject to a zone change? \_\_\_\_\_  
 If yes, give date of approval \_\_\_\_\_
16. Have you submitted a Site Plan with this request? yes
17. Have you submitted a list of adjoining property owners with this request? yes
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.  
 Applicant's Signature: Bonnie Cosmah, George Cosmah  
 Property Owner's Signature: J. Curtis Behns, Hildegard Behns

(over)

BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2

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

1. Date Received Aug 20 96 Fee Received 270.00 B#11153
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
\_\_\_\_\_ **Approved**  
\_\_\_\_\_ **Approved with Conditions (See #6)**  
\_\_\_\_\_ **Denial (See #7)**
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Reasons for Denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005  
(606) 334-2196 Phone  
(606) 334-2264 Fax

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

**DEVELOPMENT:** Ice Cream and Coffee Shop

**APPLICANT:** Bonnie Cosmah and George Cosmah

**LOCATION:** 1007 Burlington Pike, Boone County

**ZONING:** Suburban Residential Two (SR-2)

**DATE:** September 11, 1996

The applicant is requesting a Change in Non-Conforming Use to allow an ice cream and coffee shop on a .85 acre tract located at 1007 Burlington Pike, Boone County, Kentucky. The site is currently vacant and is the former site of Rightway Nursery Inc., and more recently Ma and Pa Antiques and Craft. The current zoning is Suburban Residential Two (Sheet 1-Location).

The Board of Adjustments and Zoning Appeals has the power to hear and render decisions on applications to permit a change from one non-conforming use to another. The Board shall not permit such a change unless the new non-conforming use is as equally or more compatible with permitted uses in the district in which it is located as the existing non-conforming use. The Board shall not allow any changed non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original non-conforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with other provisions of this order.

When the Board reviews this request it must consider the proposed change in non-conforming use as it relates to the previous use which occurred on the site last. This use was Ma and Pa Antiques and Crafts. In addition, the Board must compare the proposed use to the permitted uses which include:

1. Detached single-family dwelling units;
2. Duplex dwelling units with attached garages;
3. Townhouse dwelling units (minimum 5 acres);
4. Agricultural farming, dairying, and stock-raising;

5. Recreation defined in this district as open space parks, hiking areas and trails, bikeway systems and picnicking areas.

Conditional Uses include:

1. Conversion of an existing dwelling into multiple units of not more than three families;
2. Clubhouses, community centers and similar common assembly or shared facilities where the facility is an integral part of a residential development and the membership is limited to residents of a common development or neighborhood;
3. Townhouse dwelling units;
4. Churches, synagogues, temples and other places of religious assembly for worship;
5. Cemeteries including mausoleums;
6. Duplex dwelling units with attached garages (3 or more acres);
7. Nursery and day care centers.

#### Surrounding Land Uses and Zoning (Sheet 2-Zoning)

- North: Auto dealership zoned Commercial Services (C-3)
- South: Single family homes zoned Suburban Residential Two (SR-2)
- East: Shell gasoline station zoned Commercial Two (C-2)
- West: Accounting office zoned Commercial One (C-1)

#### Site History

In 1983, the Board of Adjustment approved a change in non-conforming use to allow the establishment of Rightway Nursery Inc. The previous use of the property was a dentist office. In November of 1995, the Board of Adjustment approved a change in non-conforming use to allow Ma and Pa Antiques and Craft.

#### Layout Plan

The plan shows the existing building to remain along with the existing free standing sign. Parking is to be located between the building and Hwy 18. Thirteen (13) spaces are shown.

Staff Concern and Comments

1. Any exterior changes to the site including paving or constructing new buildings or structures will require Site Plan approval by the Boone County Planning Commission Staff.
2. The site contains an existing free standing sign which could be reused provided a sign permit is obtained through the Boone County Planning Commission. The existing sign is not permitted to expand in size or height. In addition, any building mounted signs which exists could also be reused, but would not be permitted to be enlarged.
3. Staff does not believe that the parking shown on the layout plan will work as proposed. There is not enough room between the building and the existing edge of pavement to allow two rows of parking spaces. The plan does not show any reference to the access along Hwy 18. What does the applicant intend on doing with this access in conjunction with the proposed parking.
4. If the rear portion of the lot is developed for additional parking, landscaping should be installed along the existing fence line to screen the neighboring residential homes. This would be addressed at the Site Plan Review.

Conclusion

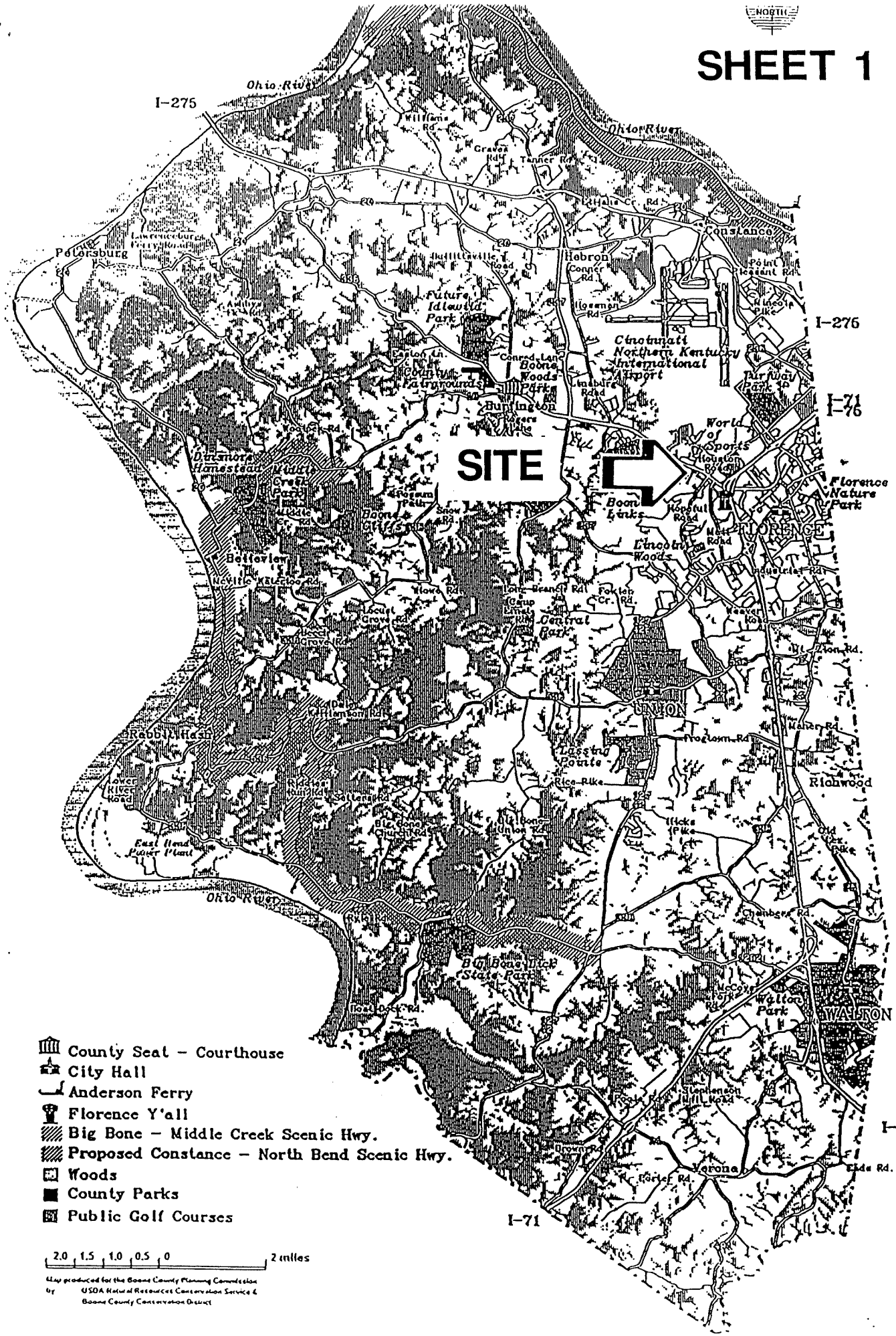
The Board should review the applicant's request with regard to the compatibility of the proposed non-conforming use with the permitted uses and conditional uses within the district. In addition, the proposed use has to be equally or more compatible than the previously non-conforming use. The Board shall not allow any changes of the non-conforming use to be increased or enlarged, nor extended to occupy a greater area of land that was occupied by the original non-conforming use.










Respectfully Submitted,

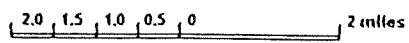


Edward Coleman  
Planner

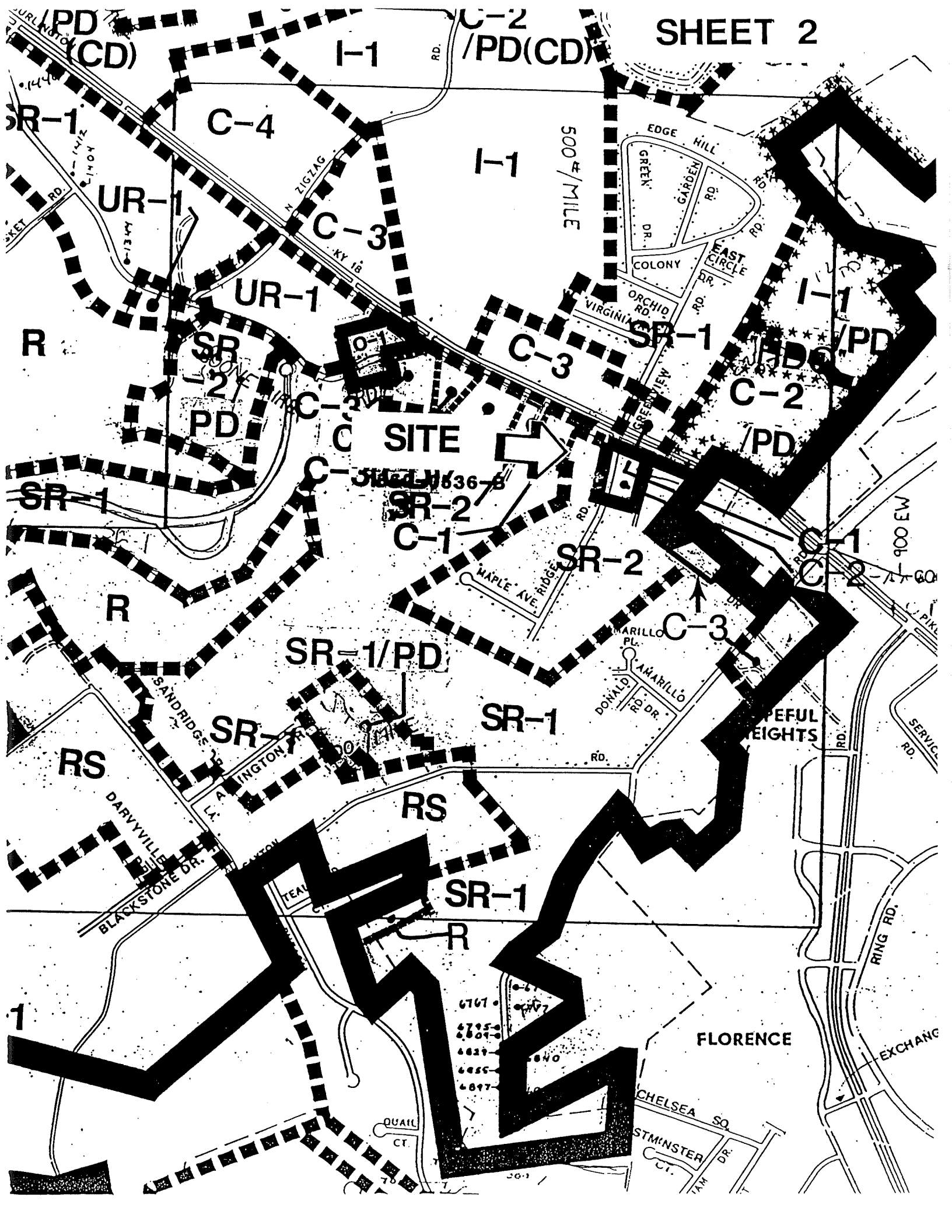
EC\par



-  County Seat - Courthouse
-  City Hall
-  Anderson Ferry
-  Florence Y'all
-  Big Bone - Middle Creek Scenic Hwy.
-  Proposed Constance - North Bend Scenic Hwy.
-  Woods
-  County Parks
-  Public Golf Courses



Map produced for the Boone County Planning Commission  
 by USDA Natural Resources Conservation Service &  
 Boone County Conservation District



C-2 / PD(CD)

I-1

C-4

I-1

UR-1

C-3

UR-1

R

SR-2

PD

SITE

C-3

SR-1

I-1

C-2

PD

SR-1

C-1

SR-2

SR-2

C-1

R

SR-1/PD

C-3

SR-1

PEPUL  
HEIGHTS

RS

SR-1

RS

SR-1

R

FLORENCE

6767  
6785  
6804  
6829  
6856  
6897

CHELSEA SQ

STMINSTER CT

QUAIL CT

RING RD

EXCHANG

500 FT/MILE

ME 00B

17 GO

PIKE

SERVIC

RD

RD

RD

RD

RD

RD

PD (CD)

SR-1

SR-1

SR-1

SR-1

SR-1

SR-1

SR-1

SR-1

SR-1

SR-1

SR-1

SR-1

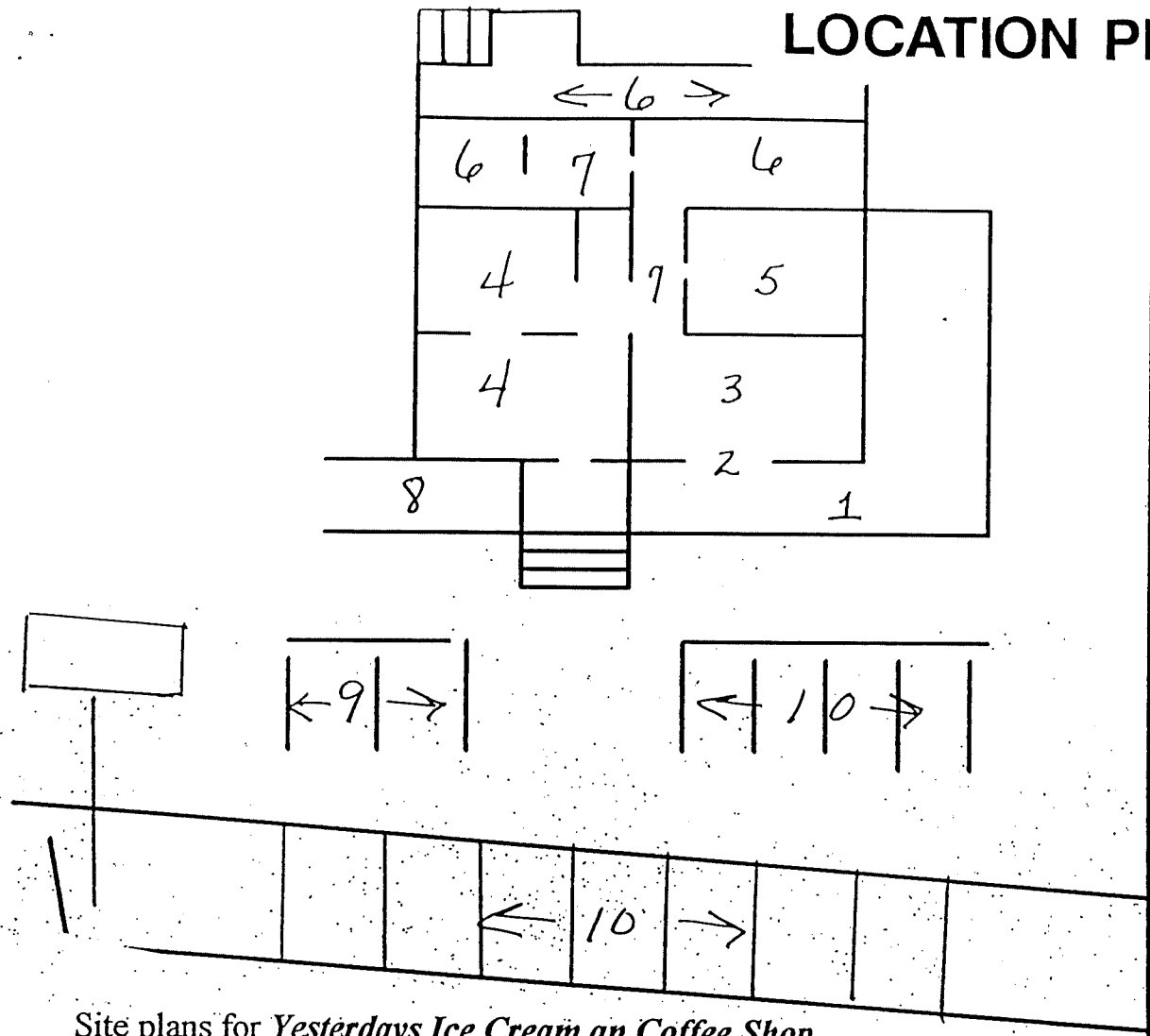
SR-1

SR-1

SR-1

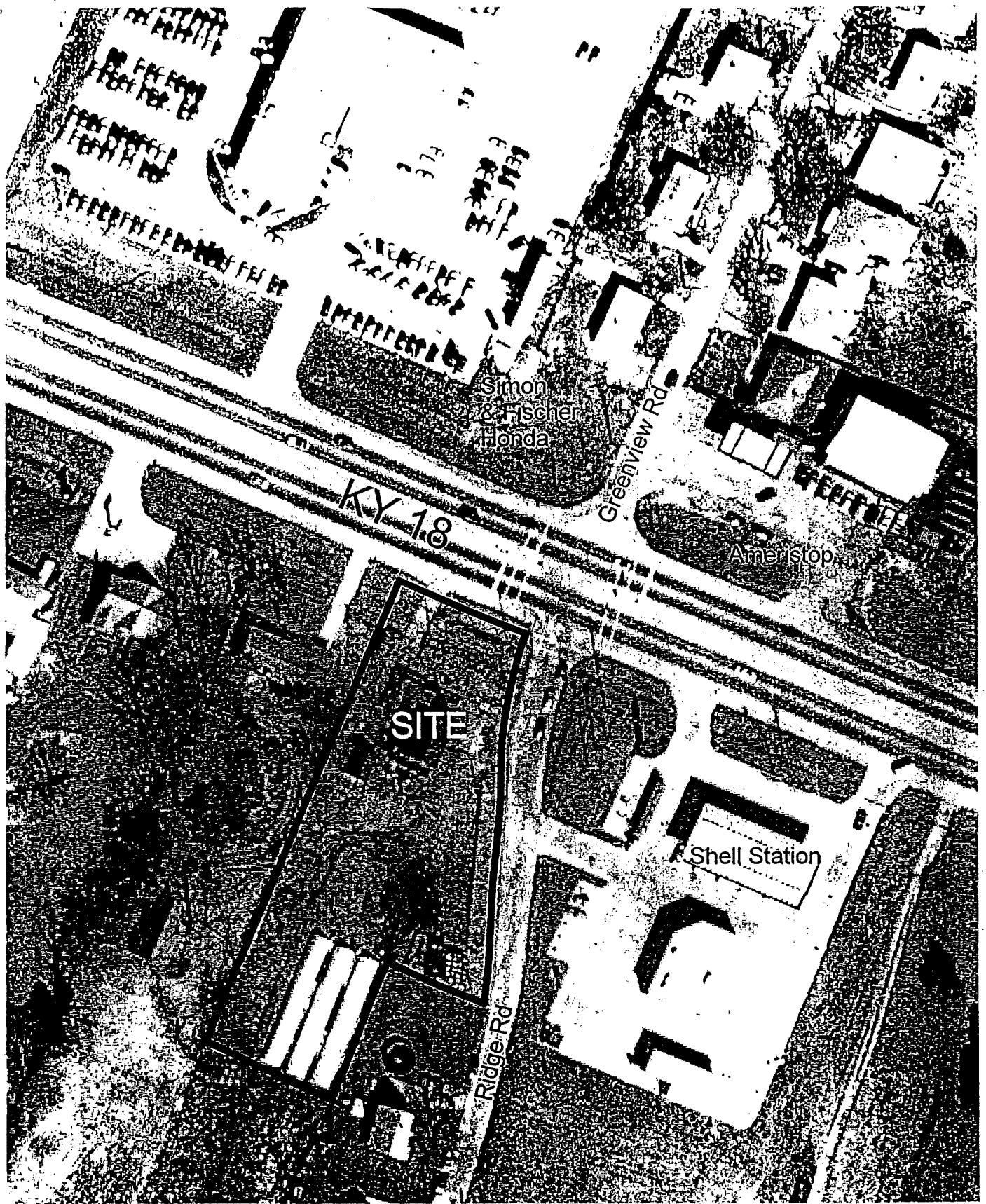
SR-1

# LOCATION PLAN



Site plans for *Yesterdays Ice Cream and Coffee Shop*

1. Wood deck for outside seating and walk-up service window.
2. Walk-up service window.
3. Service area consisting of coffee machines, ice cream machines and related equipment, possible soup and sandwich preparation, no open flame or grills.
4. Inside seating area approx. 15 ft. wide and 30 ft. in length.
5. Bathroom (s) ?
6. Storage area, possible mop sink area and employee break room.
7. Hallway
8. Handicap access ramp.
9. Handicap parking.
10. Customer parking.



# Cosmah

Boone County Planning Commission - GIS Services Division



COPY

CLUR # 96-BCBOA-014-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Dr. Curtis and Hildegard Bevins  
98-402 Koauka Loop, #811  
Alea, Hawaii 96701

2. ADDRESS OF PROPERTY

1007 Burlington Pike  
Florence, Kentucky

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Yesterdays

DEED BOOK: 244

PAGE NO.: 156

GROUP NO.: 2032

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

Zoning Map Amendment:  
From      to     

Conditional Use Permit

Development Plan

Conditional Zoning

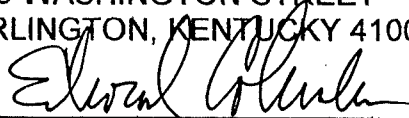
Subdivision Plat  
(Unrecorded)

Other: Change in Non-Conforming  
Use

Variance

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

BOONE COUNTY PLANNING COMMISSION  
2995 WASHINGTON STREET  
BURLINGTON, KENTUCKY 41005



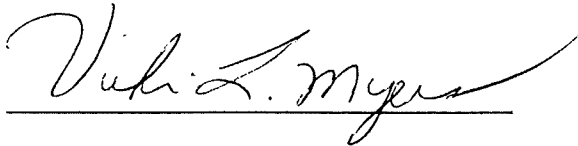
SIGNATURE OF COMPLETING OFFICIAL

Edward Colman, Planner  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Edward Coleman on behalf of the  
Boone County Planning Commission this 11th day of September 1996.

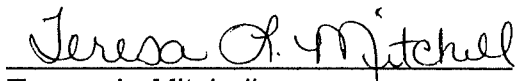


NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell  
Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

NO TITLE EXAMINATION

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

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Change in Non-Conforming Use as approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of September 11, 1996 Certificate of Land Use Restriction (# 96-BCBOA-014-A), for Dr. Curtis and Hildegard Bevins, property owner.

The following conditions will apply: (1). Site Plan Review and approval is required

The approved Change In Non-Conforming Use as well as the preceding conditions apply to the property

described in: DEED BOOK 244

PAGE NO. 156

Group No. 2032