

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [checked] Florence _____ Walton _____ Union _____
2. (Check One) Conditional Use Permit _____ Variance _____ Appeal [checked] Change in Non-Conforming Use
3. Applicant's Name MARK & SUSAN INGRAM. Phone Number 606/586-6499 Fax No. Applicant's Address 5276 Bullittsville Rd., Box 604 BURLINGTON KY 41005-0604
4. Description of Request: NDN CONFORMING USES
5. Name of Development
6. Location of Development 5276 Bullittsville Rd.
7. Acreage Under Review 18.14 acres
8. Lot Number and Name of Subdivision (if part of a subdivision) N/A
9. Owner of Property MARK & SUSAN INGRAM Phone Number of Owner 606/586-6499 Address of Property Owner BURLINGTON KY 41005-0604
10. Proposed Use(s) on Site HORSE BOARDING FACILITY WITH RIDING TRAILS & ARENA (INDOOR)
11. Total Square Footage of Existing and/or Proposed Buildings 14344
12. Current Zoning on Property RS 1
13. Deed Book FB 168 Page No. 171 Group No. # 2019
14. Is the site subject to a zone change? No
15. 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: Susan Ingram Mark Ingram

Property Owner's Signature: Susan Ingram Mark Ingram

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2

V19824

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

1. Date Received 3-24-99 Fee Received 326.00 R# 19824
2. Is application complete? Yes No
3. Staff Reviewer Kriss Lowry
4. Scheduled Board Action Date 4/14/99
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

APPLICANT: Mark & Susan Ingram
LOCATION: 5276 Bullittsville Road, Burlington, Kentucky (Boone County)
ZONING: Suburban Residential One (SR-1)
Date: April 14, 1999

Proposal

The applicant is requesting a change in non-conforming use for a 18.14 acre parcel of land located on Bullittsville Road. The property has been used agriculturally to raise livestock and produce hay, tobacco, corn, soy beans, wheat, oats, etc. In addition, the property has also been used for trail riding and contains a stable for boarding horses. The applicants seek to expand the use of their existing horse stable to a commercial horse boarding operation by constructing a 60'x 36' addition to their existing barn. This addition will include a hay storage area and ten (10) stalls for boarders. The applicants also propose the construction of an arena (or a 60'x161' pole barn) for indoor horseback riding and lessons. A viewing stand, which will accommodate up to six (6) people, will also be constructed within the arena.

The applicant submitted the following exhibits with the application:

Exhibit A - Drawing of the proposed indoor riding arena, stable addition of 10 stalls and storage area.

Exhibit B - Drawn site layout of proposed additions.

Exhibit C - Topographic map of the site

Exhibit D - Survey of the 18.14 acre lot.

Exhibit E - February 23, 1999 letter from Mark Ingram to Kevin Costello

Exhibit F - March 18, 1999 letter from Mark Ingram to Kevin Costello

Exhibit G - Letter from Ann S. Teely

Exhibit H - Letter from Charlene Hempfling

Existing Conditions

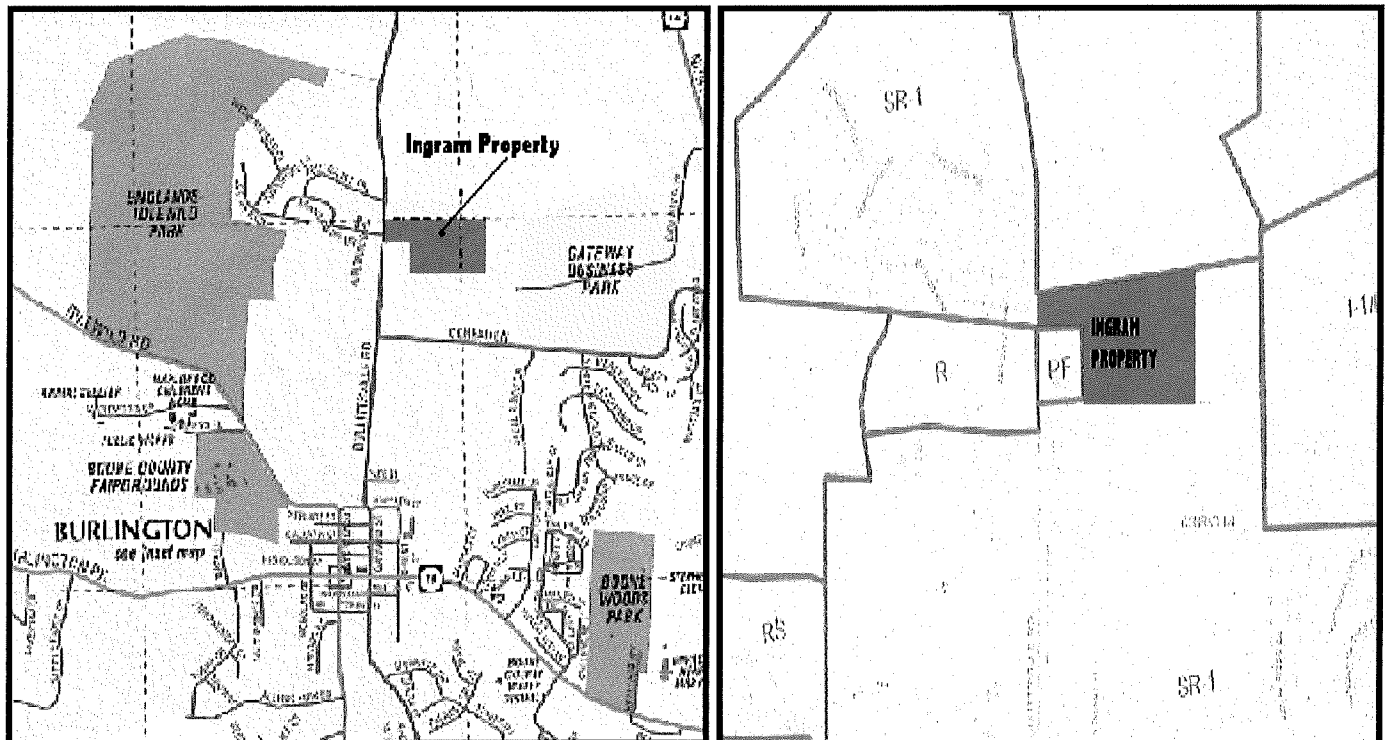
1. The property was located in an Agricultural Estates (A-2) District until approximately 1986 when the Boone County Fiscal Court and Planning Commission initiated and approved a zone change to Suburban Residential One (SR-1). In the A-2 District both commercial boarding and riding stables are allowed as conditional uses. However, the SR-1 District (which is the current zoning of the property) only allows *"Farms of tobacco, fiber, cash grain, fruits, tree nuts, vegetables or other filed*

crops” and “*Farms of no predominant crops, including range and grassland pastures, horticultural specialties, apiary farms and other agricultural and related activities*” as permitted uses. Commercial boarding and riding stables are not listed as permitted or conditional uses in the SR-1 District. However, it is important to note that “the keeping and use of pets and animals” is listed in the SR-1 District as an accessory use (Article 9, Section 932). As commercial boarding and riding stables are not a permitted or conditional use in the zone in which the Ingram property resides, the applicants must demonstrate that they have operated a horse boarding operation as a non-conforming use and that a change in non-conforming use can be justified for the construction and operation of an indoor riding area.

2. The applicants state that the property has been used to board horses and for trail riding since 1980. Although the applicants have provided a list of names and letters from former boarders (Exhibits F,G and H), the applicants have not provided documentation of a *commercial* boarding operation (bills, receipts, etc.).

Surrounding Land Uses and Zoning

The property is located just north of Burlington and is surrounded by various land uses. To the north, the property is bordered by a farm zoned Agricultural-Estates (A-2). Directly to the east of the property is the Gateway Business Park zoned Industrial-One (I-1/PD). A Cincinnati Bell office building, zoned Public Facilities (PF), and Suburban Residential One (SR-1) is located to the south. The county detention facility which is zoned as Recreation (R) is located to the west of the property. Also to the west of the property is a large residential neighborhood that was purchased (with the exception of four lots) by the Cincinnati-Northern Kentucky International Airport. Pictures of the site and adjacent uses are provided on the following pages.



INGRAM PROPERTY

**Front View of the Property
(Facing the Ingram House)**

The barn addition and arena are proposed to be placed behind the house.



View of existing barn and stable.

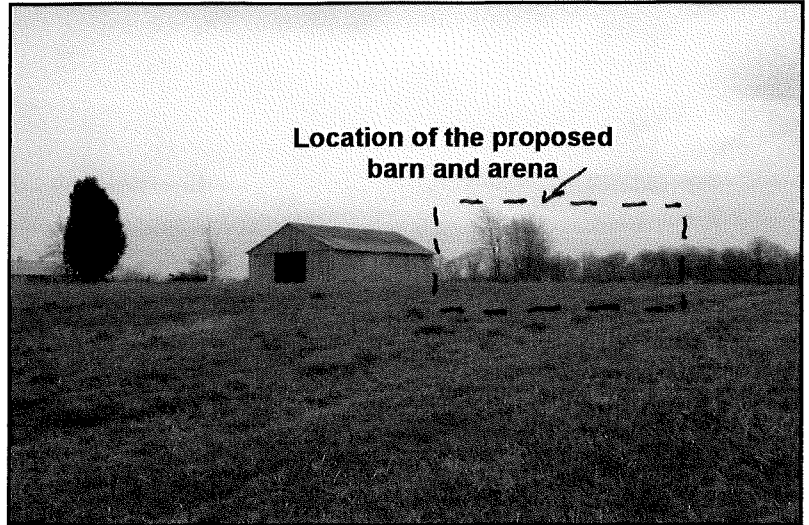
The applicants are proposing to add 10 stalls to the existing barn and a hay storage area as submitted on the drawing in Exhibit B.



Interior view of the existing barn/horse stable.

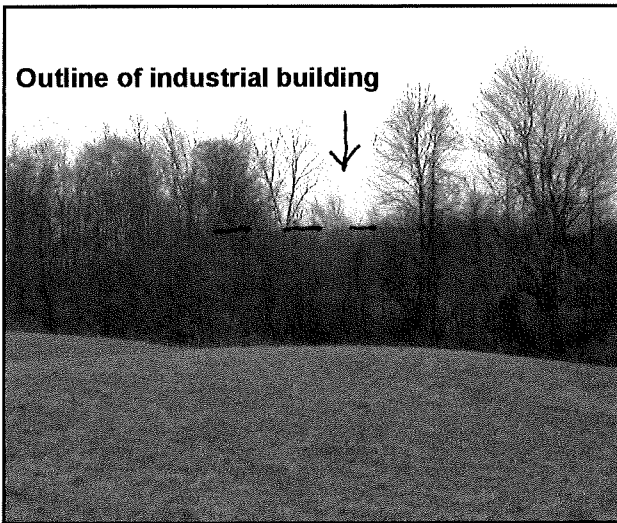


Another view of the proposed addition and arena location.



ADJACENT LAND USES

Business Park (East)



Cincinnati Bell Office (South)



Subdivision owned by the Airport (West)



Detention Center (West)



Non-Conforming Use Regulations

Non-conforming uses are defined as uses which lawfully existed at the time of the adoption or amendment of the zoning regulations, that do not conform to the regulations of the zoning district in which they are situated. As the Ingram property is located in a Suburban Residential (SR-1) District, the use of a stable for boarding purposes is categorized as a non-conforming use because boarding is not a permitted or conditional use allowed in this district. In addition, the proposal to operate a use not previously present on the property, such as a riding arena, would be categorized as a change in non-conforming use since it is not pre-existing and not permitted in the SR-1 District. The sections of the Boone County Zoning Ordinance that pertain to non-conforming uses are *summarized* below.

Article 2, Section 220 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for changes in nonconforming uses.

Article 2, Section 270 of the Boone County Zoning Ordinance entitled “*Non-conforming Lots, Uses, and Structures*” states that it is the intent of the regulations that a nonconforming use or structure *shall not be enlarged or extended beyond the scope and area of its operation at the time it became a legal nonconforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of nonconforming uses or structures.*

Article 2, Section 272 of the Boone County Zoning Ordinance states that where, at the time of adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided that the *Board shall not allow the enlargement or extension of a non-conforming uses beyond the scope and area of its operation at the time these regulations were adopted.* This section of the ordinance and KRS 100.253 allows the following:

1. The lawful use of a building *or premises*, existing at the time of the adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from *one (1) non-conforming use to another unless the non-conforming use is in the same or more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain non-conforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years* and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.
3. Any use which has existed legally, does not conform to the provision of the zoning regulations, has been in continuous existence for a period of ten years and not the subject of an adverse order shall be deemed a nonconforming use.

Article 2, Section 273 of the Boone County Zoning Ordinance states that the Board of Adjustments and Zoning Appeals shall have the power to hear and decide on applications to permit a change from one nonconforming use to another. However, *the Board shall not permit such a change unless the new non-conforming use is:*

1. *as equally or more compatible with permitted uses in the district in which it is located as the existing nonconforming use, and the*
2. *application for change of nonconforming use shall conform to the procedures and requirements for appeals as specified in Sections 245-254, inclusive of this order and KRS 100.253.*

Staff Concerns/Comments

1. The board must find that the expansion of the existing non-conforming use from a horse stable (used for occasional boarding) to a commercial boarding operation is not enlarging or extending the non-conforming use beyond the scope and area of its operation at the time these regulations were adopted or allowing a structure which is prohibited elsewhere in the same district (*Article 2, Section 270*). The expansion of the horse stable to commercial boarding operation does not appear to be changing the scope of the operation or significantly increasing the area of the operation. In addition, the construction of additional stalls for boarding and hay storage area are equally compatible to the existing nonconforming use and are accessory to farming operation, a use of the property which is currently permitted in the SR-1 District. In addition, it is important to note that the SR-1 District allows accessory uses and structures for “the keeping and use of pets and animals” (*Article 9, Section 932*).
2. The board must also find that a change in non-conforming use from a horse boarding facility to one which includes a riding arena is in the same or more restrictive classification than the current non-conforming use (*Article 2, Section 272*) and is equally or more compatible with permitted uses in the SR-1 District (*Article 2, Section 273*). The addition or change in nonconforming use to allow the construction of a riding arena appears to be somewhat beyond the scope of the original operation and does not appear to be in the same or more restrictive classification for several reasons. Although several people may have occasionally boarded horses and rode trails as part of the farming operation, the property has never housed an arena and riding lessons have never been conducted on the property. In addition, the board cannot allow a structure or use which is prohibited elsewhere in the same district (*Article 2, Section 270*). A riding arena is not included as a permitted or conditional use in the SR-1 District. Therefore, the construction of a riding arena and conducting of riding lessons as part of the boarding operation does violate *Article 2, Section 270* of the ordinance unless the applicant provides appropriate documentation demonstrating prior use of this property as a riding stable with on-site riding instruction.

Conclusion

It is the staff’s opinion that the proposed expansion of an existing barn to include additional stalls and hay storage, even if for expanded boarding facilities, is not a significant change in scope or area of the existing nonconforming use. In addition, the use and structures are equally compatible with those allowed in the SR-1 District.

However, it is also the opinion of the staff that the proposed addition of the riding arena and the offering of riding lessons is a notable change (unless the applicant provides the board with appropriate documentation of this prior use) in the scope of the existing non-conforming use and conflicts with *Article 2, Section 270* of the Boone County Zoning Ordinance. This section specifically states that the board cannot grant approval for the construction of an riding arena for the purpose of conducting riding lessons because this type of structure and use is not an existing nonconforming structure/use and is not

permitted in the SR-1 District. It is important to note that this applicant does have the option of requesting a zone change to Agricultural Estates (A-2) where riding stables and arenas are allowed as a conditional use.

Finally, it is also the opinion of the staff that the board's approval of all or a portion of the applicant's request due to its location and variety of adjacent land uses will not: (1) adversely affect the public health, safety or welfare; (2) alter the essential character of the general vicinity; and (3) will not cause a hazard or a nuisance to the public. However, should the board approve any portion or all of the applicant's request, it is required that the applicant submit and meet all requirements of the Site Plan process (in accordance with *Article 30 of the Boone County Zoning Ordinance*) including the approval of the Boone County Planning Commission prior to initiating construction or the operation of the boarding and/or riding facility.

Respectfully submitted,



Lara B. Robertson, AICP

Attachments

- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D
- Exhibit E
- Exhibit F
- Exhibit G
- Exhibit H

EXHIBIT A

C. 60 X 162 X 16 Indoor riding arena. The arena will have a place to stand and watch riders on the west end.

B. 60 X 36 Addition to add ten more stalls to our existing horse barn. It will have storage on the west side and the east side. Storage space will be added at a later time.

A. 60 X 36 Eight stall barn horse built in 1980.

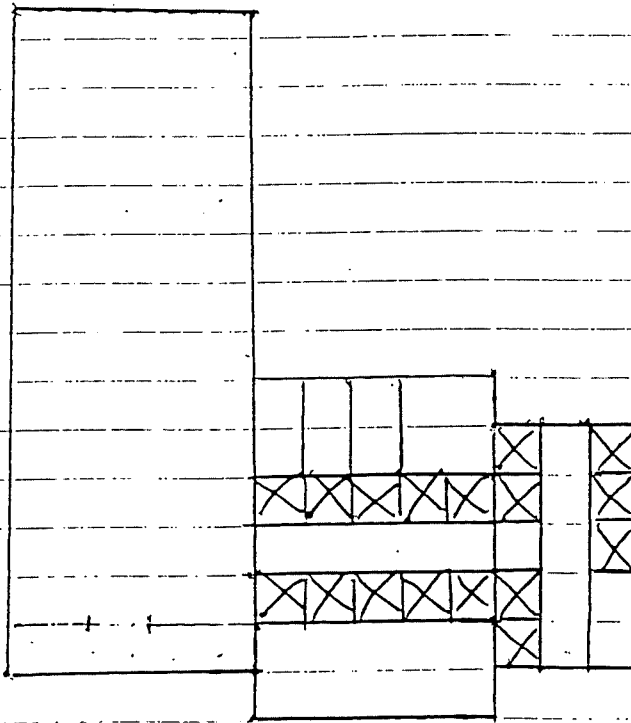
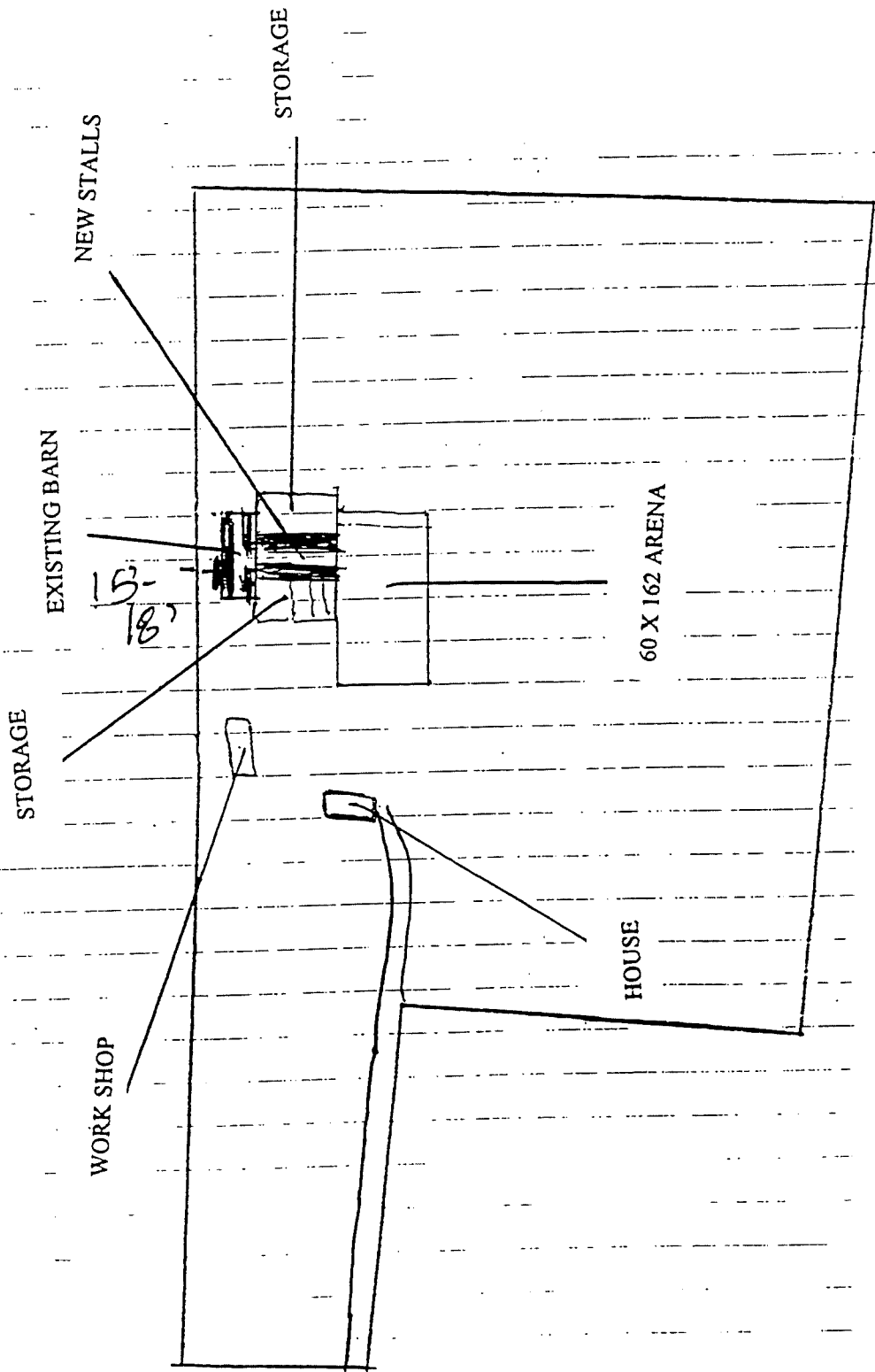


EXHIBIT B



Mark Ingram
Box 604
Burlington, KY 41005-0604

February 23, 1999

Mr. Kevin P. Costello, AICP
Executive Director
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Dear Mr. Costello:

Thank you for meeting with my wife, myself and my father-in-law regarding our desire to build an indoor riding arena. Your insight and willingness to review our case is certainly appreciated. As requested, the following is an attempt to describe the history of the land and its use and also our plans to build a small family business from a horse-boarding barn and riding arena.

The land in question is an 18.14 acre small farm located approximately one mile north of Burlington on Bullittsville Road (see attached description of deed). Described in past documents and deeds as the "Uitz farm", my daughters represent the seventh generation to live on this land. The 18.14 portion of acreage was transferred to my wife and myself in 1986 on which to build a home. At that time, the existing horse barn (36' x 60') was in use, with all the farm being zoned agricultural. The horse barn had previously been built in 1980 for my wife's use for her horses and horse-owning friends. At that time, she was boarding horses as needed and continued to raise colts from that site.

I found that in 1986, our 18.14 tract of land was changed to SR-1 zoning from previous Agriculture zoning. We had no knowledge of the change until recently. It is my understanding that by adding stalls to our existing barn we will not be in violation of the zoning. To ensure our success, the additional arena is a must and would enhance our facility and boarding services. The primary use of the arena would be for riding, instruction. Other uses would include hay and equipment storage.

The existing horse-barn has potential of eight finished stalls and we intend to add ten more stalls to it. It has septic run-off, city water and loft space for hay storage. According to our drawings (see attached) we propose to add an indoor arena for riding instruction purposes. The dimensions will be a : 60' x 162' x 16' tall, 2-12' sliding agriculture doors on east and west ends, 2-9' x 10' sliding people doors, 306' of side band lighting. There will be no loft space for hay storage. There will be no bleachers, but may be a small corner enclosed protected area where 1-6 spectators may watch as the training takes place. There will be a sand and sawdust mixture on the floor for cushion. This arena building would have metal siding and every post have rebar set in concrete for added strength. The builder has quoted to meet all building specifications. The arena would be placed adjacent to the horse barn in the open field directly behind our house.

Mark A. Ingram
5276 Bullittsville Road
Burlington, KY 41005-0604

March 18, 1999

Mr. Kevin P. Costello, AICP
Executive Director
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Dear Mr. Costello:

The purpose of this letter is to prove prior Non-Conforming Usage of our 18.14 acres (Land). This 18.14 acres was part of a 221-acre farm, which was part of a 600-acre track of land granted to my wife's family after the Revolutionary War. As stated in my first letter, our 18.14 acres has a history of six generations working this land as a farm and boarding stable. (Working includes farming, raising cattle, sheep, fowl, horses and other livestock to sustain the family. The farming includes but is not limited to raising tobacco, corn, soy beans, wheat, oats, fruit trees, berries, hay, truck gardening, etc.) This letter will also prove that Susan (Elslager) previously owned horses and boarded horses for other owners on the acreage in question, prior to 1986 through the present. Also my father-in-law had persons using his farm for horse care/boarding. In whole, that is why Susan's father built the barn, her need for horse care and boarding. We had show horses in the barn owned by persons other than family through the present. Our daughters still show horses and we still board horses. This 18.14 acres has been in use for boarding and trail riding since 1980.

I carefully read the information Kevin Wall gave me on or about the 12th of Feb. regarding Boarding Stables and Riding Stables AND OTHER SIMILAR OUTDOOR SPORTING ACTIVITIES which falls under a CONDITIONAL USES AND CRITERIA. Also under an A2 Zoning, PRINCIPAL PERMITTED USES, ANIMAL HUSBANDRY SERVICES or ANIMAL MANAGEMENT / ANIMAL FARMING SERVICES are stated. This is under ARTICLE 6, AGRICULTURAL DISTRICTS, in SECTION.613. & 611. Caring for horses falls under this Article. In the past before our zoning was changed, my wife and her father managed horses and cattle. Both used the 18.14 acres in question for grazing and riding. The barn also was used for ANIMAL HUSBANDRY SERVICES. Animal Husbandry Services and a Boarding Barn or Riding Stable are similar services offered to the public. Section 611 No 5 relates to farm animal services like an Animal Hospital. This can be loosely interpreted under A2 zoning.

Article 9, Section 930 sheds new light on the current zoning of our 18.14 acres which is presently zoned SR1. Section 931, PRINCIPALLY PERMITTED USES No3 states that FARMS OF NO PREDOMINANT CROPS, RANCH AND GRASSLAND PASTURES, HORTICULTURAL SPECIALTIES, APIARY FARMS AND OTHER

4-05-1999 12:01PM

FROM PENTA*PC 1042556746

P. 2

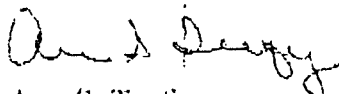
EXHIBIT G

April 4, 1999

To Whom It May Concern:

This letter is in reference to the use of land on Builitsville Road in Burlington, Kentucky owned by Mark and Susan Ingram. I boarded my horse on the Eislager/Ingram farm for three years from 1980 through 1982. I utilized the facilities as well as the trails provided for riding throughout the property. If you should wish to discuss this with me further please feel free to contact me at 770-445-5958.

Sincerely,



Ann S. Teely
87 Cypress Drive
Dallas, Ga. 30132

EXHIBIT H

April 4, 1999

Dear Sir,

This is a note to clarify that I, Charlene Hempfling, had boarded my horse on Susan Estager / Ingrams farm during the years of November 1981 through May 1983. During this time, I spent time on many occasions trail riding over Susan's father's farm. There were many nice areas to ride over.

Sincerely,
Charlene Hempfling
Charlene Hempfling
7026 River Rd
Hebron, Ky 41048

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
March 10, 1999
6:30 P.M.

BOARD MEMBERS PRESENT:

Mr. I. A. Archambault
Mr. Dan Houston
Mrs. Shirley Millar
Mr. Walt Ryan
Mr. George Whitton, Chairman

All members were present.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Whitton called the meeting to order at 6:30 P.M..

Approval of the Minutes:

Chairman Whitton stated that the Board members had received copies of the Minutes of the Boone County Board of Adjustment Meetings of February 3, 1999 and February 10, 1999. He asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. Houston moved that they be approved as mailed. Mr. Archambault seconded the motion and it carried unanimously.

Agenda Items:

1. The request of Waterloo Holiness Church for a Conditional Use Permit to allow an expansion of the existing church for Sunday School rooms on property at 9133 Beech Grove Road, Boone County, Kentucky. The property is currently zoned Agricultural Estate (A-2).

Kriss Lowry, AICP, with the firm of Kriss Lowry & Associates, Incorporated, presented the Staff Report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Pastor Doug Cornett from Waterloo Holiness Church stated that they drew up the addition, but it was not received in time for the Staff Report. The addition will be 14 feet. The lean-to that is currently there is 12 feet wide. The length of the church on the back side is 14 feet. He stated that the lot drops off sharply, but they have 14 feet across the side of the church for the addition. The church seats 74 people and they only need 14 or 15 parking spaces. He stated that the travel trailer that is there is currently being used for Sunday school and it is 31 feet long. On Sunday morning, he parks his truck in front of the travel trailer and the truck and travel trailer fit there. He stated that they have more than the minimum number of parking spaces. In response to a question from the Chairman, Pastor Cornett stated that they have at least twenty parking spaces.

Ms. Lowry stated that the parking requirement is one space per five people, and they would be required to have about 15 spaces.

Chairman Whitton asked if the addition is any more encroaching on the right-of-way. Pastor Cornett responded that it is no closer to the road.

Ms. Lowry questioned the lean-to. Pastor Cornett responded that it is a temporary arrangement to get them through for a while, but it will be removed.

Mrs. Millar asked if the travel trailer will be moved. Pastor Cornett responded "yes".

Chairman Whitton asked if there was anyone else present who wished to speak in favor of the request. There being no response, he asked if there was anyone present who wished to speak in opposition or to ask questions. There was no response.

There being no further discussion of the application, Mr. Ryan moved to grant the request with the condition that a Site Plan be submitted that conforms to the Zoning Ordinance. Mr. Houston seconded the motion and it carried unanimously.

2. The request of Todd Engle and Alana Engle for a reduction in the required minimum lot frontage for Lot 18, Kirby Subdivision, Kirby Drive, Boone County, Kentucky. The property is currently zoned Agricultural Estate (A-2).

Kriss Lowry, AICP, with the firm of Kriss Lowry & Associates, Incorporated, presented the Staff Report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Dean Lower and Mr. Todd Engle were present. Mr. Lower stated that the property is for his daughter and son-in-law. He stated that if there is a problem with the driveway, it could be placed on the other side of the lot, or the lot could be split up differently.

Chairman Whitton stated that Ms. Lowry has a concern about the way the application was submitted. He asked if the issues could be worked out and an application submitted that addresses the concerns.

Counselor Wilson noted that when the review was done, Ms. Lowry could not tell if the driveway was too close to the steep edge or not. Ms. Lowry agreed and stated that to meet the requirement they would have to extend the panhandle. She reviewed the slide with the applicant and explained to him that, per the Subdivision Regulations, the panhandle has to be 150 feet and go straight back -- in which case it will drop over the hill. She suggested that they rework the plat.

Chairman Whitton asked if there was anyone present who wished to speak in favor of the request, in opposition, or to ask questions. There was no response.

Counselor Wilson explained that the plat as presented puts the panhandle of the back lot into a steep ravine, which creates a safety issue. The suggestion is that they rework the lots to see if there is a way to put the access for the back lot in a safer location.

Following discussion, Mr. Ryan moved to table the request to the next meeting of the Board. Mr. Archambault seconded the motion and it carried unanimously.

3. The request of James Badar and Mary Badar for a Variance to allow a reduction in the required 30-foot front yard setback for property at 6274 Satinwood Drive, Lot 26, Burlington Woods Subdivision, Boone County, Kentucky. The property is currently zoned Suburban Residential One (SR-1).

Kriss Lowry, AICP, with the firm of Kriss Lowry & Associates, Incorporated, presented the Staff Report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. James Badar offered to answer any questions.

Chairman Whitton asked if there was anyone present who wished to speak in favor of the request, in opposition, or to ask questions.

Elizabeth Stutler, an adjoining property owner, stated that they have no problem with the request.

There being no further comments, Mr. Houston moved to grant the request based on the topography. Mr. Archambault seconded the motion and it carried unanimously.

4. The request of The Drees Company for a Variance to allow a reduction in the required front, rear, and side yard setbacks for approximately 48 lots located within Hearthstone Subdivision on the west side of Pleasant Valley Road/Jamestown Court Intersection, Boone County, Kentucky. The property is currently zone Rural Suburban (RS).

Kriss Lowry, AICP, with the firm of Kriss Lowry & Associates, Incorporated, presented the Staff Report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Mike Schoettelkotte with The Drees Company stated that there are two parts to the request. The first part of the request is to increase the height of a fence from 6 feet to 8 feet in order to screen the adjacent property where there is outside storage. The fence would protect the rears of future homes that would back into it. The height is needed because of the topographical relationship between the properties. The second part of the request is in regard to the setbacks. There will be three hundred lots within the subdivision and the front portion is zoned Rural Suburban (RS). The lots meet or exceed the square footage and width

requirements, but a number of the lots are bisected by the zoning line and the houses across the street would be in another zone. To maintain consistency and visual compatibility, they want to have the same setbacks throughout the subdivision. They want the setbacks for the SR-1 zone.

Ms. Lowry questioned how close the fence would be to Pleasant Valley Road.

Mr. Schoettelkotte responded that there is a Cincinnati Bell substation there and they would probably bring the fence up to the setback of Pleasant Valley Road. He stated that it is a 60-foot right-of-way and a 30-foot setback. He stated that they will also build a mound along the road frontage.

Mrs. Millar questioned fence restrictions on the property -- could the fence be on the side of a house or in the front of a house? Ms. Lowry stated that there is a maximum height restriction. Mr. Schoettelkotte stated that the fence would be in the rear yards of the proposed subdivision. He noted that the attachment to the Staff Report indicates where the fence would be. Ms. Lowry reviewed the attachment with the Board.

Mr. Houston asked if there is a restriction in regard to the type of fence. Mr. Schoettelkotte responded that it would be a "shadow box" fence with alternating boards.

Chairman Whitton asked if there was anyone else present who wished to speak in favor of the request. There being no response, he asked if there was anyone present in opposition or having questions.

Joan Martin whose property faces this property, asked if the subdivision has been approved. She stated that the subdivision will set on a hill and they have had trouble with flooding with the subdivision across the street. She believes there will be flooding with this subdivision.

Mr. Schoettelkotte stated that the subdivision has been approved through the Preliminary Plat and a detention basin is shown on the Preliminary Plat. They are now doing the engineering design. He stated that the county requirements are that they have to install the detention basins and that process is reviewed by the Planning Commission Staff.

Counselor Wilson stated that if Ms. Martin wants input into the Final Plat approval, she should contact the Planning Commission Office and talk with the Staff reviewer for this subdivision. The project has not yet received Final Plat approval.

Mr. Ron Hurd stated that he lives where the map is marked "Hoffman". He is concerned that this might be their property. He questioned the open space.

Mr. Schoettelkotte stated that the open space is area that will not be owned by an individual owner and will be owned by the Homeowners' Association. It is an area that will be left undisturbed. He stated that the property has been surveyed and they are sure of the ownership boundaries.

Chairman Whitton advised Mr. Hund that if he is concerned about the property line, he could retain a surveyor to make sure there is no encroachment.

Mr. Hund stated that the hill drops off significantly and when they disturb the soil and there is torrential rain, it will cause havoc on their property, as it has in the past.

Chairman Whitton suggested that Mr. Hund also contact the Planning Commission Office.

Mr. Schoettelkotte stated that a detailed plan is on record with the Planning Commission.

Mr. Hund questioned what effect it would have on The Drees Company if they are not allowed the Variance.

Counselor Wilson explained that denial of the Variance would not unapprove the plat for the subdivision -- it would just require them to comply with the setback requirements. They would still have the same number of lots.

Mr. Ryan asked if the subdivision across the road had the large detention areas like those proposed for this subdivision. Mr. Houston stated that it is only fairly recent that the detention has been required. Ms. Martin stated that it was after the flood that Fiscal Court was out there and decided that they needed to do that. It was about three years ago. Mr. Houston stated that he doubts that the subdivision across the street has the detention.

Mrs. Millar asked Ms. Lowry to review the drawings attached to the Staff Report. Ms. Lowry clarified that some of those drawings relate to the subdivision across the street.

Mr. Hund stated that the traffic on Pleasant Valley Road is terrible and he was hit in the rear recently when trying to turn into his driveway. He stated that the policeman told him that if they could stop the semis and cement trucks on Pleasant Valley Road, 90% of them would fail the weight limit. He stated that with the new subdivision, the traffic

will get worse. He stated that each new subdivision puts 500 or 600 more cars on the road.

Chairman Whitton agreed and commented that it is a growing county and a lot of people are moving here. The builders are here to accommodate the demand.

Mrs. Millar stated that the rears of the lots will face Pleasant Valley Road. She asked if they all will utilize the 30-foot setback so that they are all thirty feet from the back of the lot and consistent. She is concerned from an aesthetic standpoint that it is not one house that is setback 30 feet and then another that is setback 40 feet. She stated that they should all have the same rear yard setback.

Mr. Schoettelkotte explained that they will all have the same rear yard setback. The lots along Pleasant Valley Road will exceed the minimum thirty feet, but they will all be uniform. He stated that you view the houses from the front and some houses may be deeper. The uniformity would be from the front. He stated that there will be a mound along Pleasant Valley Road and the houses that back into Pleasant Valley Road will not be seen from the road. The mound will be six feet to eight feet.

Mr. Houston questioned a turning lane on Pleasant Valley Road.

Mr. Schoettelkotte stated that there is a KDOT requirement to provide left turn movement into the subdivision. He stated that there will be a right turn decel lane so that people do not have to stop to make the turn in. They can make a sweeping turn into the subdivision. He noted that they have to provide a substantial road improvement on KY 237. He stated that they are required to dedicate additional roadway for future road improvements plus the turn lanes.

Mr. Hund questioned the material the fence will be made of and what it will look like.

Mr. Schoettelkotte responded that it will be a wood board fence called a "shadow box fence". He explained that one board is on one side of the runner and the next board is on the other side of the runner. You cannot see straight through the fence. It will not be chainlink.

Tammy Hund, an adjacent property owner, questioned the advantage of decreasing the back and sideyards, other than to make it aesthetically common to the other side of the street -- which looks awful with the houses so close to the

road. She sees more of an advantage to setting the houses further back. She stated that there are cheap houses on the other side of the street.

Mr. Schoettelkotte stated that he was talking about consistency within the subdivision -- not with the houses across the street. He stated that this subdivision will be much nicer than what is across the street. From a home value and design standpoint, it is a much higher quality development.

Chairman Whitton asked if there were any further comments or questions. There being none, Mrs. Millar moved to grant the request for the 48 lots with the setbacks to be the same as in the SR-1 zone and to change the fence height requirement from six feet to eight feet with the condition that it be a wooden fence consistent with the setback in the rest of the subdivision. Mr. Archambault seconded the motion and it carried unanimously.

There being no further business to come before the Board, Mrs. Millar moved to adjourn. Mr. Archambault seconded the motion. The meeting was adjourned by unanimous consent at 7:35 P.M..

APPROVED:

George D. Whitton, Chairman

Attest:

Jan Hancock, Recording Secretary

COPY

CLUR # 99-BCBOA-007-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

Mark and Susan Ingram
5276 Bullittsville Rd. Box 604
Burlington, Kentucky 41005 -0604

2. ADDRESS OF PROPERTY
5276 Bullittsville Road
Boone County, Kentucky

3. NAME OF SUBDIVISION OR
DEVELOPMENT (if applicable)
Horse Boarding Facility

DEED BK.:168

PAGE NO.:17

GROUP NO.:2019

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

Zoning Map Amendment:
From _____ To _____

Conditional Use Permit

Development Plan

Conditional Zoning

Subdivision Plat
(Not Recorded)

Other: 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

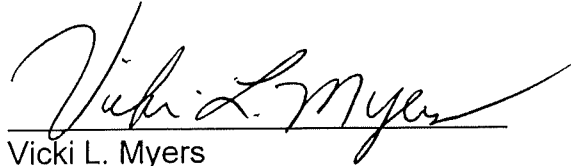

SIGNATURE OF COMPLETING OFFICIAL

Kevin C. Costello/AICP, Executive Director
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

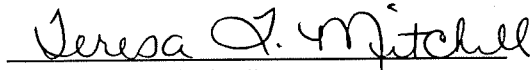
Subscribed, sworn to, and acknowledge before me by Kevin Costello, on behalf of the
Boone County Planning Commission this 12th day of May, 1999.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

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 approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of April 14, 1999 Certificate of Land Use Restriction (# 99-BCBOA-007-A), for Mark and Susan Ingram, Property Owners.

The following conditions will apply: (1): That the owners apply and comply with site plan approval.

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

described in: DEED BOOK 168

PAGE NO. 17

Group No. 2019