

04-UBOA-001-A

APPLICATION FORM

RECEIVED
JUL 30 2001

**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 _____ Florence _____ Walton X Union
- 2. (Check One)
X Conditional Use Permit _____ Variance _____ Appeal
_____ Change in Non-Conforming Use
- 3. Applicant's Name L.A. Properties, Inc., a Kentucky Corporation
Phone Number (859) 384-1313 Fax No. (859) 578-7522
Applicant's Address 1705 Mt. Zion Rd.
Union KY 41091
City State Zip
- 4. Description of Request: See attached
- 5. Name of Development Littlest Angels Learning Center
- 6. Location of Development 1705 Mt. Zion Rd.
Union, KY 41091
- 7. Acreage Under Review 3 Acres
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
Not applicable as not in subdivision
- 9. Owner of Property L.A. Properties, Inc., a Kentucky corporation
Phone Number of Owner (859) 384-1313
- 10. Address of Property Owner 1705 Mt. Zion Rd.
Union KY 41091
City State Zip
- 11. Proposed Use(s) on Site Childcare and Learning Center.
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property RSE - 1.74 acres, SR - 1.26 acres
- 14. Deed Book 636 Page No. 177 Group No. 2056
- 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? 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.

L.A. Properties, Inc.
 Applicant's Signature: By: Janet Beck
 Janet Beck, duly authorized representative
L.A. Properties, Inc.
 Property Owner's Signature: By: Janet Beck
 Janet Beck, duly authorized representative

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2

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

1. Date Received 7-30-04 Fee Received \$697.00 R# 39732
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:

8/25/04 Approved
8/25/04 Approved with Conditions (See #6)

Denial (See #7).
6. Conditions of Approval: SEE 8/25/04 UNION BOARD
OF ADJUSTMENT MEETING MINUTES

7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
www.boonecountyky.org - Web Page

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

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

STAFF REPORT

APPLICANT: L.A. Properties, Inc.

LOCATION: 1705 Mt. Zion Road and on two vacant flag lots which are located immediately to the north of 1836, 1840, and 1844 Willow Brook Court; immediately to the south of 1705 and 1719 Mt. Zion Road; immediately to the east of 1733 Mt. Zion Road; and immediately to the west of 10031 - 10047 Golden Pond Drive, Union, Kentucky

ZONING: Rural Suburban Estates (RSE) & Suburban Residential One (SR-1)

DATE: August 25, 2004

Proposal

The Applicant is requesting a Conditional Use Permit to allow "Littlest Angels Learning Center" to construct a new daycare building, add onto their existing parking lot, and alter Conditions of Approval that were imposed by the Union Board of Adjustment on June 25, 1996.

The submitted Concept Development Plan (see attachments) indicates that the existing day care building (3,402 square feet), infant care building (500 square feet), and 19 parking stalls are to remain on the front half of the site. Phase I expansion will involve the construction of a 4,500 square foot building, 36 parking spaces, and a 3,750 square foot (75' x 50') play area. Phase II expansion will involve the construction of a 1,000 to 4,000 square foot classroom addition onto the newly proposed building and relocating the 3,750 square foot play area elsewhere on site. Ingress and egress to the development will come from an existing driveway which connects to Mt. Zion Road. The Concept Development Plan does not show that a curb cut is being proposed on Willow Brook Court.

The Applicant has also provided a letter (see attachments) which indicates that she is seeking to alter the following conditions that were imposed by the Union Board of Adjustment on June 25, 1996 (see attachments):

1. Alter Condition of Approval #3 which states that the free-standing sign on the property can be no larger than 6 square feet. The Applicant is proposing to increase the square footage of the sign to 24 square feet (4' x 6'). Her letter also indicates that they would like to increase the overall height of the sign to 6 feet.
2. Alter Condition of Approval #5 which required that no more than 80 children could be on the site at any given time. The Applicant's letter explains that the existing structures provide care for 80 children at any given time. Phase I building expansion (4,500 square feet) will provide care for another 100 children. Phase II building expansion (1,000 to 4,000 square feet) will allow care for an additional 20 additional children and the replacement of the existing structures. This might be necessary because the expansion of Mt. Zion Road may require demolition of the existing buildings. The maximum number of children that would be cared for at any given time would be no more than 200.

Site History (1705 Mt. Zion Road only – does not pertain to the two vacant flag lots)

6/25/96 – The Union Board of Adjustment approved a Conditional Use Permit to allow an approximate 3,460 square foot home and garage, located at 1705 Mt. Zion Road, to be converted into a day care facility. The following conditions were imposed on the development by the Union Board of Adjustment:

1. Site Plan Review and approval is required;
2. The lighting on the parking lots will stay on the parking lots and not interfere with anyone else's property;
3. The sign is to be no larger than 6 square feet;
4. The hours of operation are to be 6:30 A.M. to 6:30 P.M.;
5. No more than 80 children are allowed on site. This is the total whether they are drop off or day care.
6. That the parking spaces be moved to the rear of the facility behind the play area and that a turning ability be provided;
7. The plantings on the west side be maintained even though the parking will not be there;
8. The buffer for sound be on the east, west, and south sides around the perimeter of the property. The trees will be a minimum height of 6 feet at planting;
9. The house is not to be enlarged. The only use is to be a day care center and there are not to be any more than 80 children;
10. There is to be no other entrance or exit other than on Mt. Zion Road;
11. A 4' - 5' fence will be installed;
12. The trees, shrubbery, and fence are to be maintained; and
13. That a sign be posted: NO STOPPING OR DROP-OFF IN THE DRIVEWAY

Applicable Regulations

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to grant conditional use permits as specified in the zoning order, with such additional safeguards as will uphold the intent of the order.

Article 6, Section 623 of the Boone County Zoning Regulations permits day care centers or nursery schools as a conditional use within the Agricultural Estates (A-2) zoning district.

Article 9, Section 933 of the Boone County Zoning Regulations permits day care centers or nursery schools as a conditional use within the Suburban Residential One (SR-1) zoning district.

Article 40, Section 4000 of the Boone County Zoning Regulations defines a nursery school or daycare as a "facility or home that cares for more than six unrelated (unrelated to the operator) children or adults on a regular basis for the purpose of child care or adult care."

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a Conditional Use Permit as stated in Sections 262, 623 and 933 of the Boone County Zoning Regulations.

Findings listed in Section 262 (Findings for all Conditional Uses):

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's Comprehensive Plan, a specific corridor plan and/or the zoning order;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area;
3. Will not be hazardous to existing or future neighboring uses;
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately such services;
5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
6. Will not involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, dust, fumes, glare, or odors;
7. Will have vehicular approaches to the property which shall be so designated as not to create an interference with traffic on surrounding public thoroughfares.

Article 6, Section 623 of the Boone County Zoning Regulations permits nursery or day care centers in the A-2 zone as a conditional use if the proposed facility meets these requirements:

- 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, transient 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.

Article 9, Section 933 of the Boone County Zoning Regulations permits nursery or day care centers in the SR-1 zone as a conditional use if the proposed facility meets these requirements:

- a. the activity is an integral and subordinate function of a permitted use; or
- b. the activity will not contradict the low density character of the district; and
- c. the arrangement of uses, buildings, or structures will be compatible with the organization of permitted and accessory uses to be protected in the district.

Relationship to the Comprehensive Plan

The 2000 Boone County Comprehensive Plan's "2025 Future Land Use Plan" designates the site in question for "Suburban Residential" uses. This designation is described as "single family housing of up to four units per acre. This classification also includes any low density or estate residential developed as a formal subdivision."

The following Future Land Use Development Guidelines from the 2000 Boone County Comprehensive Plan applies to the application:

- A. Developments in Boone County must recognize the potential impacts upon adjoining land uses and incorporate a transition of land uses, building setbacks, and/or landscaping to minimize these impacts. Potential impacts include visual, noise or vibrations, odors, dust, smoke, and light. Buffering to mitigate these impacts should be an integral part of the design of proposed projects; existing site features should be used in meeting this guideline. Developments should provide buffering along public roadways, to soften the visual impact. Appropriate wooded areas and stream valleys should remain as greenbelts and open space within developments and between developments. Developments proposed adjacent to planned or established greenbelts should provide pedestrian access where appropriate ("Buffering," pg. 159).
- B. Developments in Boone County must include landscaping to accompany the proposed project. This landscaping should be designed to improve the public view of a development, and should be incorporated into parking lots and other vehicle circulation areas as well as within open spaces and around structures. Landscaping is intended to minimize the visual impacts of the development from adjoining properties and roadways.

Developments along major roadways in Boone County must include landscaping and/or the use of berms between the development and the right-of-way in order to promote the aesthetic appearance from the roads and to facilitate the compatibility of differing land uses ("Landscaping," pg. 159).

- C. Developments in Boone County must recognize the potential impacts of stormwater run off. Developments must design and incorporate adequate provisions for the channelization and control of the rate of stormwater flow on and from the site. Further,

control and mitigation practices for erosion associated with developments must be provided ("Stormwater Management and Erosion Control," pg. 159).

- D. Developments in Boone County must recognize the potential impacts of associated traffic on adjoining properties and transportation systems. The need exists to protect the capacity of the existing roadway network, and to plan improvements to accommodate new development and traffic patterns. Access management provisions include the coordination of curb cuts, adequate corner clearance and site distance for access points, adequate space between access points, shared access points and parking access points, shared access points and parking facilities, and provisions for access connections to adjoining properties, and dedication of public right-of-way ("Access Management," pg. 159).

Site Characteristics

The approximate 3 acre site is comprised of three lots of record. The first parcel is 1.75 acres in area and fronts on Mt. Zion Road. This parcel contains an approximate 3,400 square foot day care building (former single-family residence), a 500 square foot infant care building, a play area, and 19 striped parking stalls. This parcel is heavily wooded along the southern, eastern, and western property lines. The topography of this parcel is relatively flat except for a small portion of the front yard (see attached aerial map).

The second parcel is an undeveloped flag lot which is 0.6877 acres in area. This parcel has road frontage Willow Brook Court. The western property boundary of this lot is heavily wooded. The topography of this parcel is relatively flat.

The third parcel is an undeveloped flag lot which is 0.5615 acres in area. This parcel has road frontage along Willow Brook Court. This parcel has little to no vegetation within its boundaries. The topography of this parcel is relatively flat.

Surrounding Land Uses and Zoning

North: Single-Family Residential Dwellings Fronting on Mt. Zion Road &(RSE/UTO)

South: Single-Family Residential Dwellings Fronting on Willow Brook Court (SR-1)

East: Single-Family Residential Dwelling Fronting on Golden Pond Drive (SR-1)

West: Single-Family Residential Dwellings & Mobile Home

Staff Comments

1. The Applicant has provided an elevation drawing of the front facade of the proposed building (see attachments). This plan show that front facade will be constructed with stone and aluminum siding and will match the front of the existing buildings.

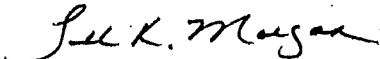
2. Staff is concerned because side and rear elevation drawings have not been submitted for the proposed building. If the application is approved, Staff recommends the Board should analyze if some building material conditions need to be imposed on the rear and side facades.
3. Staff is concerned that the total width of the proposed building and future addition is approximately 177 feet and that there will be a total of 55 parking spaces on the site. Staff believes that the width of building with the future addition and the size of the parking lot will give the parcel an institutional appearance. The Board needs to consider if the building and parking area will be appropriate in appearance with the existing or character of the general vicinity, if they will alter the essential character of the area, or if they are mutually compatible with the organization of permitted and accessory uses to be protected in the district.
4. The minimum parking requirement for a daycare is one space per 250 square feet of office space, two spaces per classroom, and one space for every company vehicle. The maximum number of parking spaces allowed on a site is 30% greater than the required minimum number, unless a parking waiver is approved by the Zoning Administrator. At this time, Staff cannot determine the minimum or maximum parking requirements because office square footage calculations for the existing building have not been provided. It is possible that the Applicant will need a Waiver from the Zoning Administrator to have 55 parking stalls on the site.
5. Staff would like the applicant to explain which age groups will be using the proposed playground. Staff would also like the Applicant to address the maximum number of children that will be playing in this playground at any given time. Based on the Applicant's testimony the Board needs to consider if the playground will be harmonious with the existing character of the general vicinity and if it will be detrimental to any persons or property by reason of excessive production of noise.
6. If the project is approved, Staff recommends a condition which would require any new play ground fencing to be constructed with wood, trex, or a comparable vinyl product.
7. The Applicant's submitted addendum indicates that some parking lot lighting will be installed in the area and that it will be kept at a height below the gutter level of the building. Staff is concerned that parking lot lighting could impact the adjoining residential areas. If the Board grants approval of the request, Staff recommends the following conditions regarding site lighting:
 - A. The maximum height of any proposed light standard shall not exceed 10 feet;
 - B. Cutoff shields must be provided on all light standards;
 - C. A photometric plan will be required during the Site Plan Review process. The average foot candle measurements permitted for the parking lot will be 3.6 or less and along all property lines will be 1.0 or less.

8. If the Board approves the request, Staff recommends a condition which requires 25' wide buffer yards to be installed in the following locations:
 - A. Eastern Property Line – 280 linear feet between the flag lot panhandle and existing outdoor play area;
 - B. Southern Property Line – 241.22 linear feet.
- Staff recommends that 8 evergreen trees (from Plant List D on the Boone County Zoning Regulations) and any 4 deciduous trees (from Plant Lists A, B, or C of the Boone County Zoning Regulations) shall be installed per 100 linear feet.
9. Staff has attached a copy of the preliminary KY 536 relocation plan. The plan shows that a portion of the subject site is located within the project disturb limits. The project is currently not on the state's 6 year plan.
 10. If the Board grants approval of the request, a Major Site Plan application will need to be submitted to the Boone County Planning Commission. This plan will need to be prepared by a licensed Kentucky Professional Engineer.

Conclusion

KRS 100.237 and Sections 260 of the Boone County Zoning Regulations gives the Union Board of Adjustment and Zoning Appeals the authority to grant the Applicant's request for a Conditional Use Permit.

Respectfully submitted,

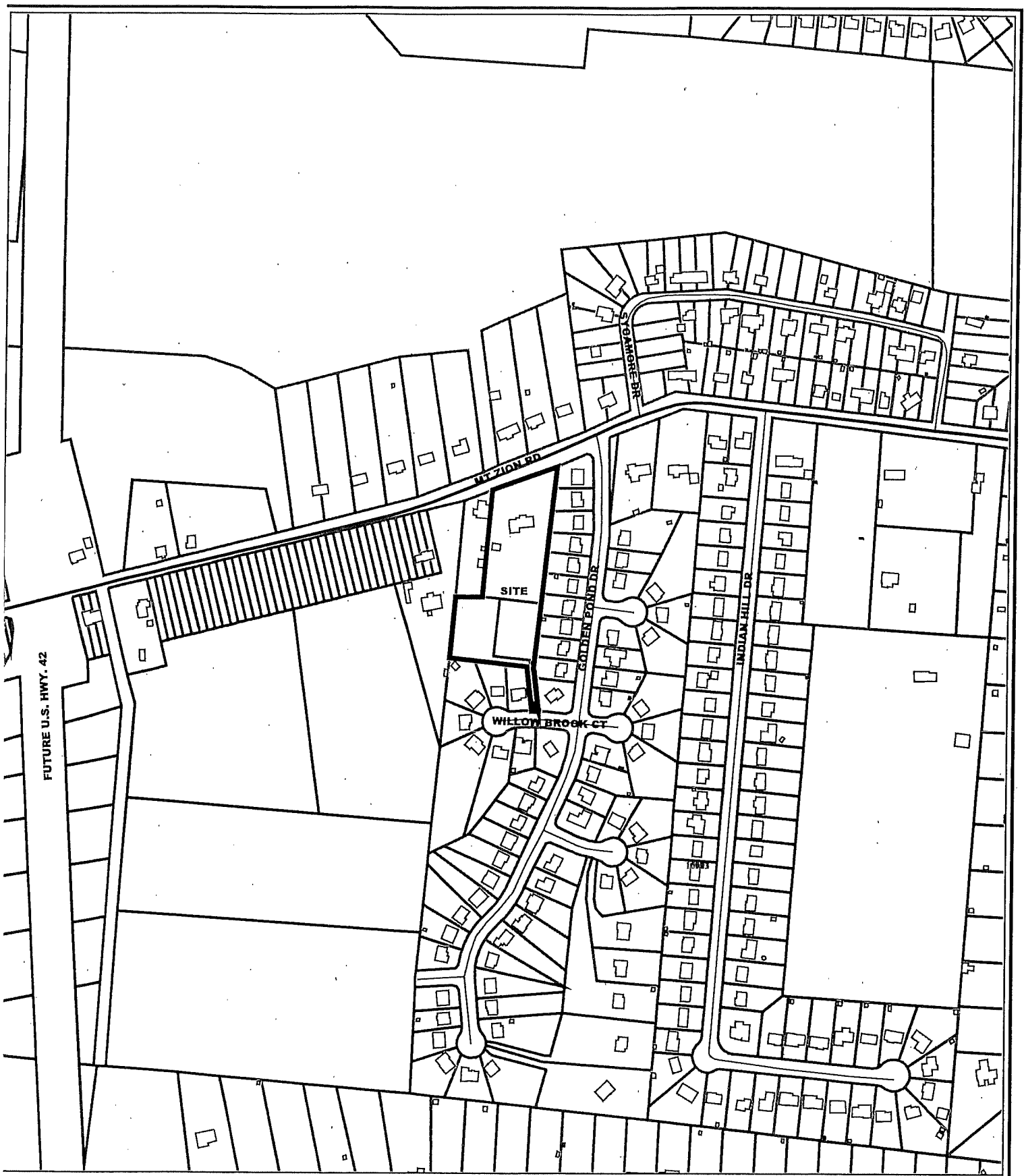


Todd K. Morgan, AICP
Planner, Zoning Services

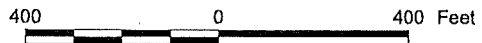
TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Application
- Exhibit C – Addendum (Submitted by Applicant)
- Exhibit D – Letter From Applicant
- Exhibit E – Additional Information (Submitted by Applicant)
- Exhibit F – Concept Development Plan
- Exhibit G – Front Elevation Drawing
- Exhibit H – Zoning Map
- Exhibit I – Future Land Use Map
- Exhibit J – Topographical Map
- Exhibit K – Aerial Map
- Exhibit L – Preliminary KY 536 Relocation Plan
- Exhibit M – 6/25/96 Union Board of Adjustment Meeting Minutes



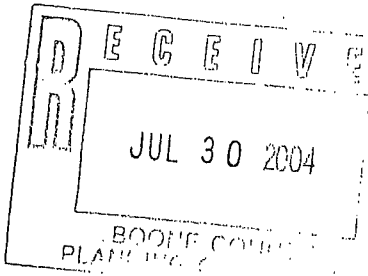
Littlest Angels Site Vicinity Map



1 inch equals 400 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 August 5, 2004



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)

(Check One)

1. Boone Florence Walton X Union

(Check One)

2. X Conditional Use Permit Variance Appeal

Change in Non-Conforming Use

3. Applicant's Name L.A. Properties, Inc., a Kentucky Corporation

Phone Number (859) 384-1313 Fax No. (859) 578-7522

Applicant's Address 1705 Mt. Zion Rd.

Union KY 41091

City State Zip

4. Description of Request: See attached

5. Name of Development Littlest Angels Learning Center

6. Location of Development 1705 Mt. Zion Rd.

Union, KY 41091

7. Acreage Under Review 3 Acres

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

Not applicable as not in subdivision

9. Owner of Property L.A. Properties, Inc., a Kentucky corporation

Phone Number of Owner (859) 384-1313

10. Address of Property Owner 1705 Mt. Zion Rd.

Union KY 41091

City State Zip

11. Proposed Use(s) on Site Childcare and Learning Center.

12. Total Square Footage of Existing and/or Proposed Buildings

13. Current Zoning on Property RSE - 1.74 acres, SR - 1.26 acres

14. Deed Book 636 Page No. 177 Group No. 3255, 2056

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? 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.

L.A. Properties, Inc.

Applicant's Signature: By: Janet Beck, duly authorized representative

L.A. Properties, Inc.

Property Owner's Signature: By: Janet Beck, duly authorized representative

Addendum

4. **Description Request:** The Applicant is requesting a conditional use permit for three parcels of property as evidenced in the legal description attached. The front parcel is zoned RSE and consists of 1.74 acres upon which Applicant has been operating a childcare and learning center for seven (7) years. A conditional use permit was obtained in 1996 permitting the 1.74 acres to be used in this capacity. Due to demands from the community, the Applicant wishes to expand its facility. The expansion will include additional parking spaces in the 1.74 acre parcel. The adjacent parcel is to the rear of the property and is zoned SR-1. It consists of 1.26 acres. A conditional use permit is being sought by the Applicant to place a new building and additional parking areas as well as a turnaround area in that parcel. This parcel has not been the subject of a conditional use permit in the past. The Applicant intends to use the existing building and structures as well as to construct to the rear the new building and parking. The Applicant also intends to keep a green area or buffer area surrounding the property and to plant trees and shrubbery.

Lighting: The plan proposes that some lighting be installed in the area but that the lighting be kept at a height at or below the gutter level of the building. The locations of the lighting are indicated on the sight plan submitted with this application.

Company Vehicles: At present the Applicant has one company van which is a ten (10) person van. It is a white van that is used for transporting children to and from schools in the area. The Applicant does intend, if the expansion is approved, to obtain an additional vehicle but the description and type of vehicle has not yet been determined.

Elevations of Proposed Building: Elevation drawings for the proposed building are attached to the application. The elevations reveal that the residential nature of the development will be maintained.

Sign: The Applicant is requesting permission to increase the size of its sign which is presently placed near Mt. Zion Rd. to the front of the existing building. The previous conditional use mandated the sign be limited to six (6) square feet however patrons of the facility have advised that when they first tried to locate the facility it was difficult to find, and the sign was too small to allow them to easily locate the facility.

Future Expansion: The Applicant requests that the conditional use permits being sought permit additional expansion in the future as evidenced on the site plan submitted. As the area surrounding the Applicant's facility has grown in population, and as more subdivisions have been created, there has been a great demand for this daycare facility. There is constantly a waiting list for the facility and has so been for many years. While the presently planned expansion should allow those on the waiting list to be served, Boone County will continue to grow and the demand for this daycare/learning facility will grow as well.



Learning Center

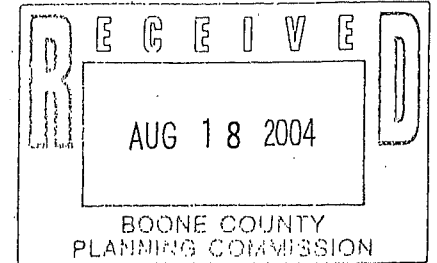
1705 Mount Zion Road / Union, Kentucky 41091 / 606-384-1313

TO: Todd K. Morgan, AICP
Planner
Boone County Planning Commission

FROM: Janet Beck
Co-owner
Littlest Angels' Learning Center

DATE: August 18, 2004

RE: Alterations to original conditional use permit

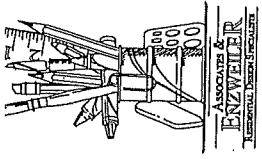


We have reviewed the conditions of approval for the conditional use permit for the existing building and front parcel of Littlest Angels' Learning Center located at 1705 Mount Zion Road. The following conditions listed are the only ones we feel will need to be altered:

- #3 We would like to increase the size of the sign to 4' in height by 6' in width or 24' square feet. It would be erected on posts 2 feet out of the ground for a total height not to exceed 6 feet. This would allow us to continue to landscape around the sign just as we do with the current sign. It will remain in the front yard where the current sign is and will not be affixed to the house.
- #5 The new proposed building is to provide care for 100 children. The existing structures currently allow a total of 80 children at any given time. The proposed future expansion will allow for a growth of 20 additional children and the replacement of the existing structures should the expansion of Mount Zion Road require demolition of those buildings. Thus, the maximum number of children would be no more than 200.

ADDITIONAL INFORMATION

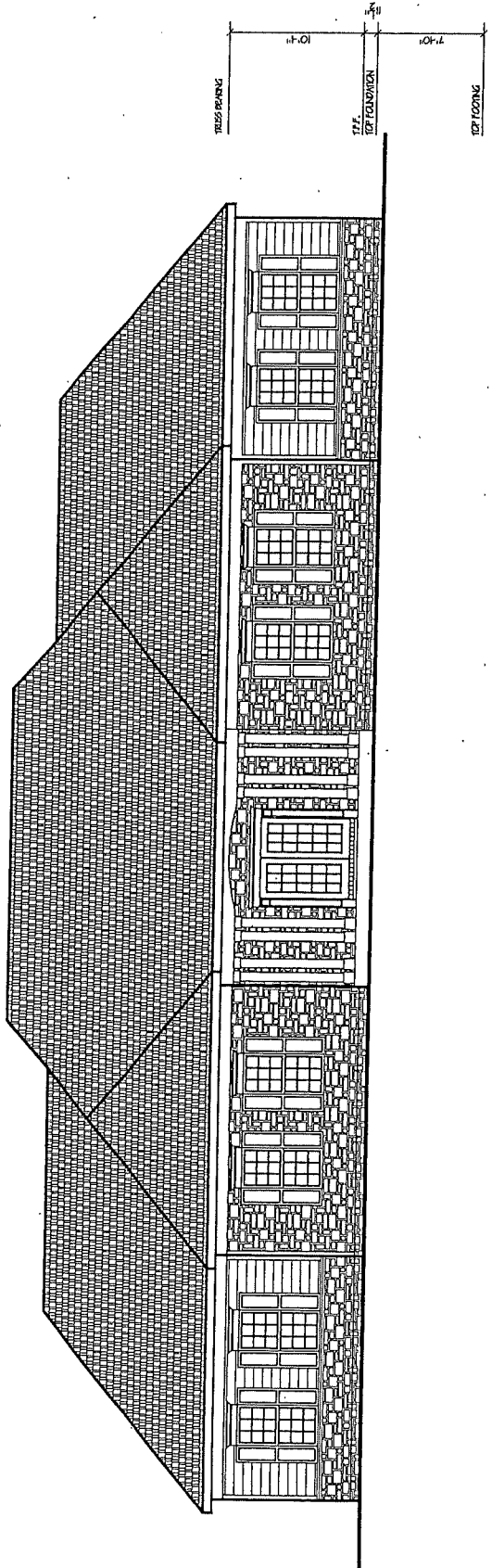
1. There will be six new classrooms in the new building.
2. There are six classrooms in the existing building and two classrooms in the infant room building.
3. The existing building is used for childcare of children ages 1 - 12, which includes structured class activities, and play times for all ages. For example: Introduction to Preschool and Pre-Kindergarten classes are offered to those getting ready for school, as well as structured programs for the younger and older children that are enrolled. In addition, our infant building cares for children six weeks to one year, giving them the love and nurturing that an infant requires.
4. The intended use of the new building will be a way for us to extend the same care offered in the existing buildings, which in turn will enable us to fulfill our waiting list and continue to serve our growing community.
5. The square footage of the existing building is as follows:
 - The large building has approximately 3402 sq. feet.
 - The infant room has 500 sq. feet.
6. The square footage of the new building is as follows:
 - 4500 sq. feet.
7. Our current company vehicle is a Dodge 12-passenger van. We are expecting to purchase a similar van at the completion of the new building.



DATE	DESCRIPTION
02/11/03	PROPOSED DESIGN
07/17/03	REVISED DESIGN
07/17/03	REVISED DESIGN
07/17/03	REVISED DESIGN
07/17/03	REVISED DESIGN

Proposed Design For
 Assoc's & Enzweiler
 Boden Builders
 Littlest Angels Learning Center

Sheet 1
 Elevations



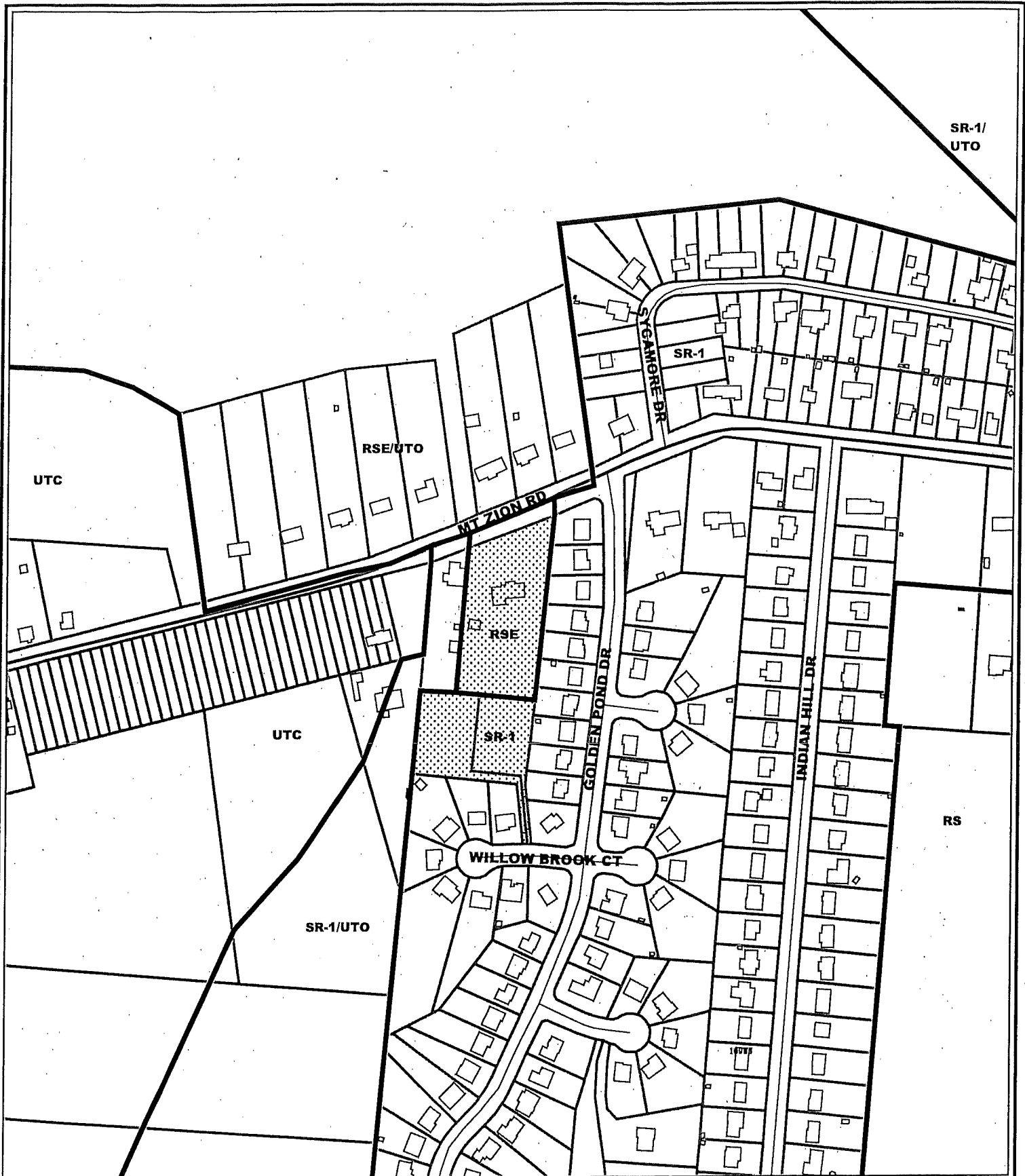
FRONT ELEVATION

Scale: 1/4" = 1'-0"

BOIRE COUNTY
 PLANNING COMMISSION

RECEIVED

AUG 18 2004



SR-1/
UTO

UTC

RSE/UTO

SR-1

MT ZION RD

RSE

SR-1

UTC

GOLDEN POND DR

INDIAN HILL DR

RS

WILLOW BROOK CT

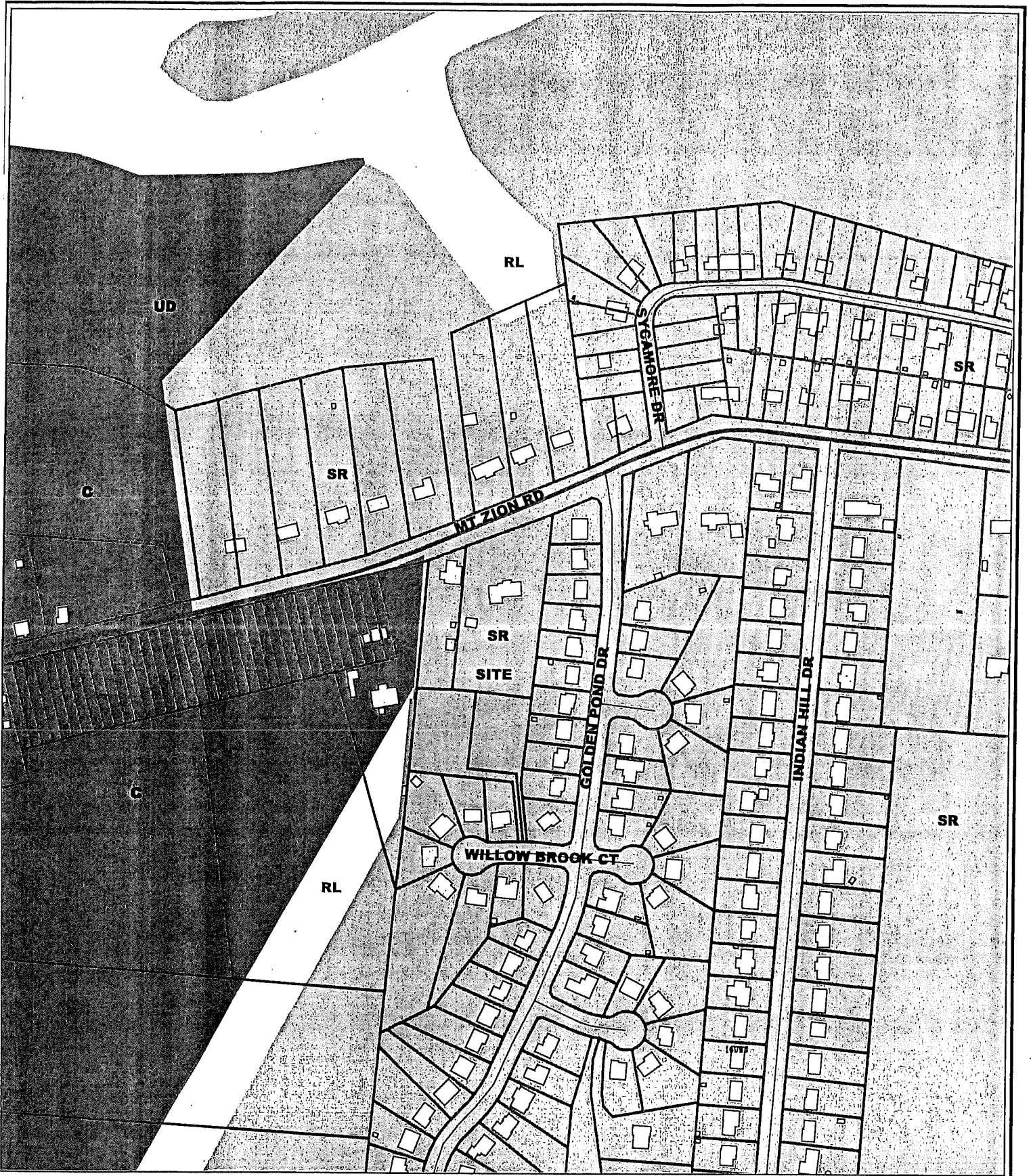
SR-1/UTO

Littlest Angels Zoning Map

300 0 300 Feet

1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
August 5, 2004



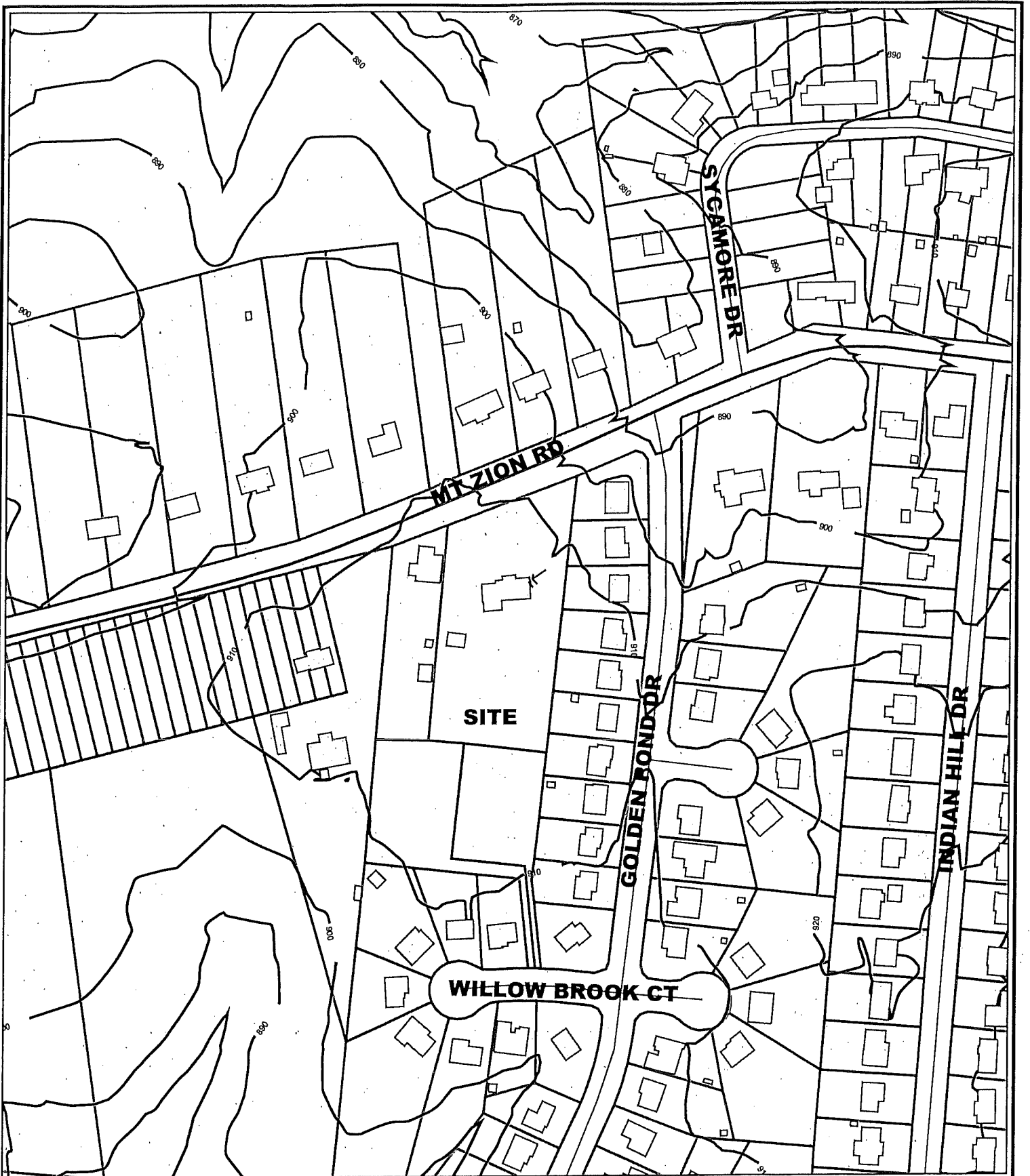


Littlest Angels Future Land Use Map

300 0 300 Feet

1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
August 5, 2004



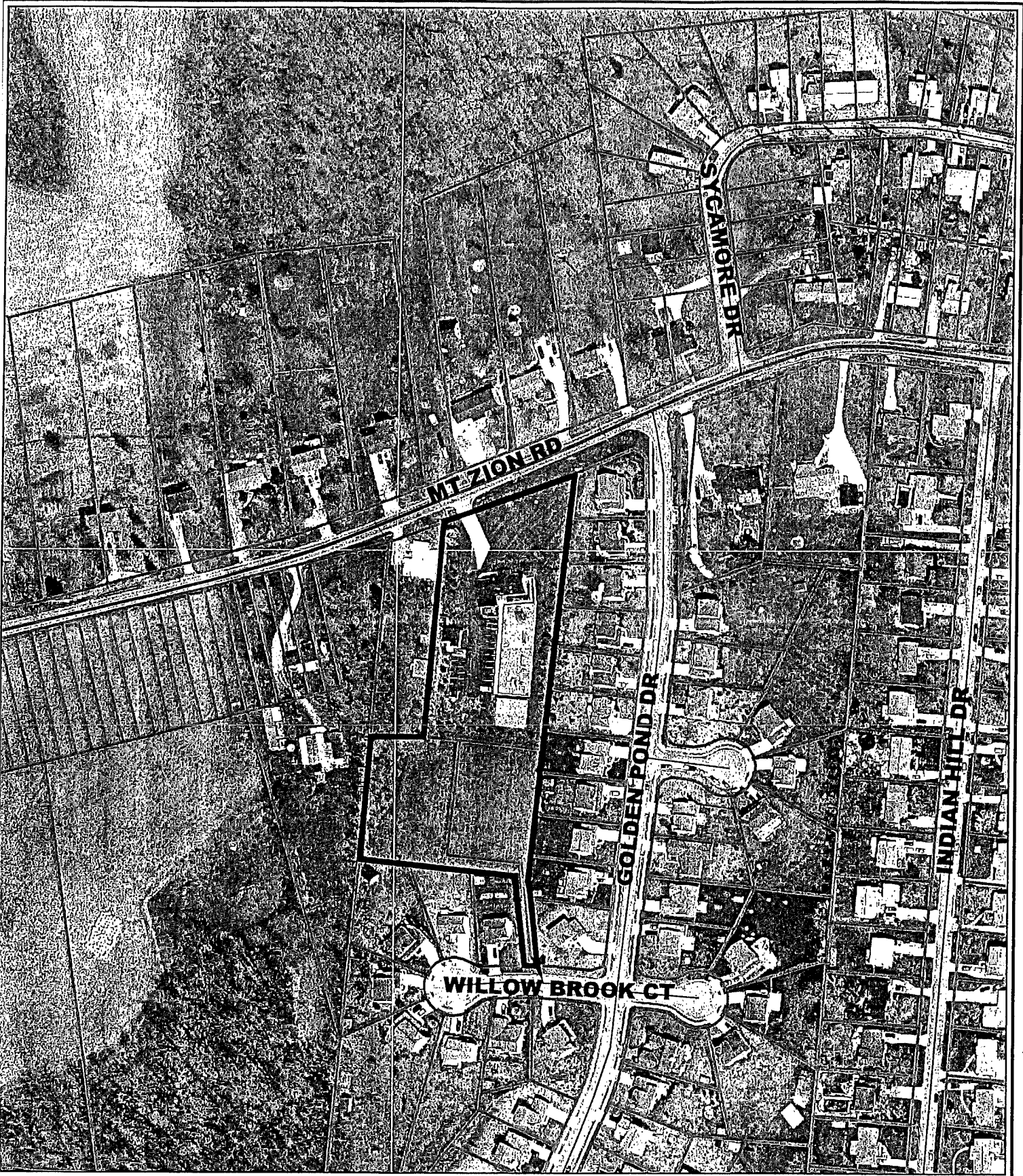


Littlest Angels Topographical Map

200 0 200 Feet

1 inch equals 200 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 August 5, 2004





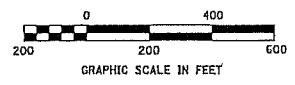
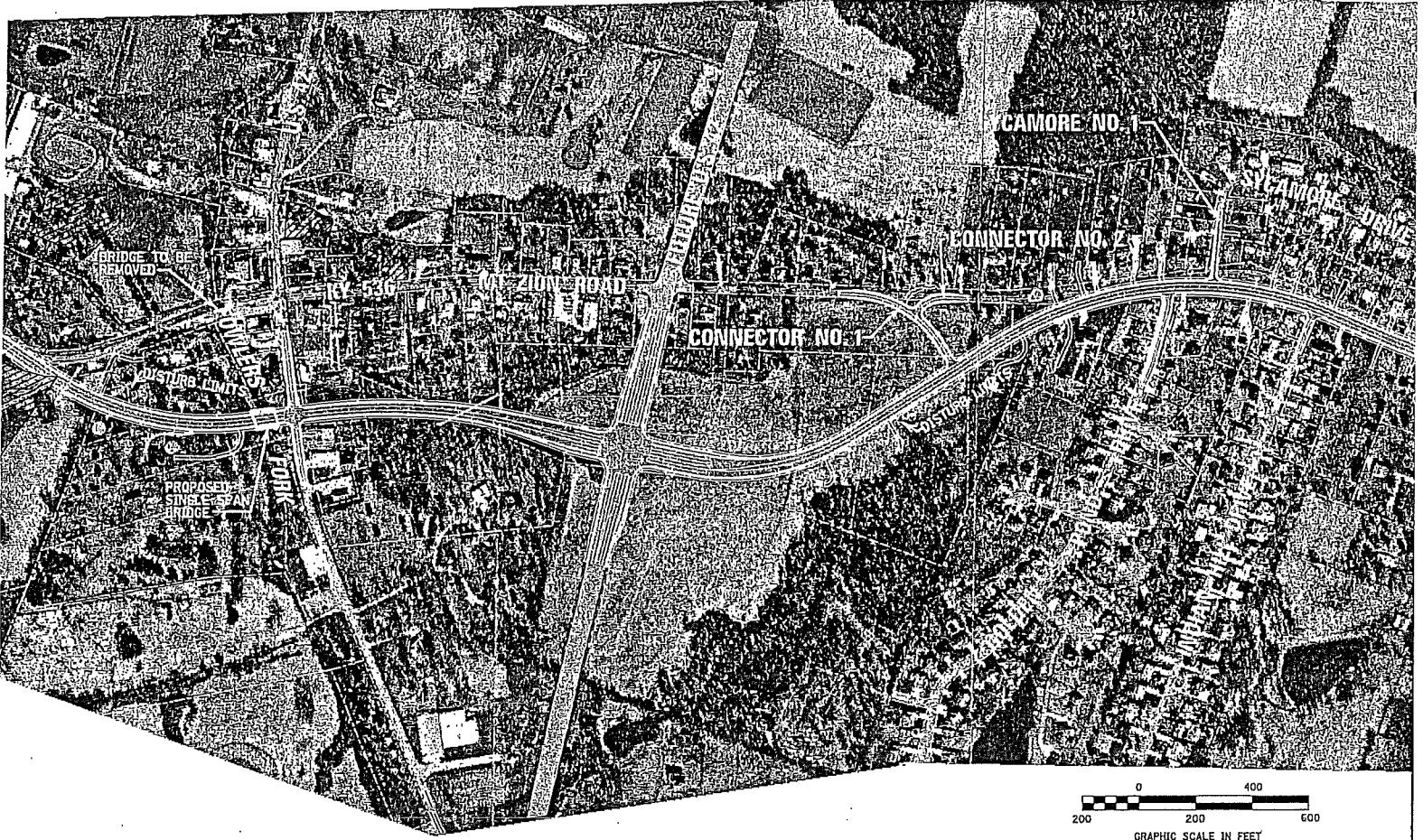
Littlest Angels Aerial Map

200 0 200 Feet



1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
August 5, 2004





**KENTUCKY
TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS**

**KY 536 MT. ZION ROAD
BOONE COUNTY
ITEM NO. 6-158.00**

**HANDOUT EXHIBIT B
KY 536 ALTERNATE 1
WITH AT GRADE**

UNION BOARD OF ADJUSTMENT
UNION CITY BUILDING
BUSINESS MEETING
June 25, 1996
6:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Carl Caudill
Mr. Terry Kidwell, Chairman
Mrs. Amy Lutes

All members were present.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Kidwell called the meeting to order at 6:35 P.M.

ANNOUNCEMENT:

Counselor Wilson advised that an interpreter was present this evening to assist some members of the audience.

Approval of the Minutes:

Mr. Hayes advised that the Minutes of the last meeting were approved by mail.

Agenda Items:

1. The request of Janet Beck for a Conditional Use Permit to allow the development of a day care facility within an existing single-family home. The site is located at 1705 Mt. Zion Road, Union, Kentucky. The property is currently owned by Janet Beck and is zoned Suburban Residential One (SR-1).

Staff Member Jeff Hayes presented the Staff Report, which included a slide presentation.

The Chairman asked for the applicant's presentation.

Attorney Gerry Dusing introduced the applicant, Janet Beck who lives in the house in question. He stated that the owners of the learning center, which will be called "Little Angels Learning Center" will be members of Janet Beck's family and he introduced Carrie Sparks, Maria Sparks, and George Sparks. He also introduced Mr. Jack Gartner with GBBN.

Carrie Sparks stated that she has a degree from Northern Kentucky University in Mental Health and Human Services, with emphasis on early childhood development. She will be the operator of the facility. She has worked in daycare from being a step teacher to a Director.

Carrie Sparks stated that "learning center" is the key phrase. The facility will be a place for children to learn and grow and be more adequately prepared for school. The teachers will be degreed or experienced. There will be six classrooms and the groups will range from infants to five-year olds and before and after school children. The children will not play outside all at one time and outside time will be rotated by classroom. The children will be supervised at all times. The teacher-child ratio will meet the state minimum of 1:6 to 1:15 depending on the age group. The hours of operation will be 6:30 A.M. to 6:30 P.M..

Maria Sparks, who is Mrs. Beck's daughter-in-law, stated that she has a Masters of Business Administration in Marketing from Xavier University and is employed at P & G. She stated that they have looked into the need for daycare in Union. From January 1, 1995 to date there have been 253 building permits for single-family residences. The census figures for 1990 showed a population of 1001 and the current population in Union is 1,500 - 2,000. Boone County births continue to increase. There are three existing and three new subdivisions in Union. The only daycare or learning center in Union is the Union Learning Center at the church, which is set up for children two and older and does not take infants. There are 24 children on the waiting list there. She stated that Wonder Years in Florence will not have any openings until September.

Maria Sparks stated that their target market will be Union. They will have child care for infants up through pre-school. They do not feel that they will be taking business away from the Union Learning Center and their rates will be comparable. She stated that they want to continue the facility as long as possible and will look for other areas for additional learning centers.

Mr. Jack Gartner, with GBBN architects in Florence, presented an exhibit of the proposed facility and the site. He stated that the existing residence would retain its present character. They do not intend to change the architectural character except for changes to the garage and the use of that space for a classroom. He reviewed the vicinity map, noting the location of the site in relation to I-75 and U.S. 42. He stated that the facility is needed in the community and is permitted within this zone as a Conditional Use. He stated that Zoning Ordinances are written as a result of the recognized needs in residential areas and areas serviced by this type of use. He stated that the site is about 1.8 acres. The side yards separate the neighbors from the facility and the noise which may come from the children when they are playing. The main

driveway will be widened and redirected. Employee parking will be to the rear. The children will be separated by a fence-like material that will be used. He indicated the buffering shown on the plan, which is deciduous and evergreen. He noted the open space remaining around the facility, which will enhance the site. He stated that there is a slight problem with water retention, which can be corrected. The natural swale needs to be corrected to allow the water to flow better. There is currently lighting around the building, which is movement sensitized. They will retain those lights for security and add lights in the rear parking area. The lighting will be directed onto the parking lot surface, which is within the landscaped area and would be blocked from view. He stated that people coming to the site will be destination oriented -- they will leave their homes and drop off their children and go to work. He stated that the use is needed -- a young community with growing families needs daycare. He stated that this site and this building fit the Conditional Use criteria.

Mr. Jim Soper, Secretary/Treasurer for Ivy Pond Homeowners Association, stated that missing from the drawing is a 15-foot piece of platted property to the rear of the 1.8 acres which could be used for an access road. He is concerned about a traffic problem for the homeowners in Ivy Pond Subdivision.

Mr. Dusing advised that there is no access from Ivy Pond Subdivision. He stated that they will agree to a condition that there be no access through Ivy Pond -- and that condition would run with the land and be enforceable.

Counselor Wilson advised that if the Board approves the Conditional Use Permit, reasonable conditions can be imposed. Conditions run with the land and to remove them an applicant would have to come back before the Board and request a change.

Mr. Dusing displayed a copy of the plat of the property, which is attached to the deed at the courthouse. He indicated Parcel A and Parcel B. He stated that Janet Beck deeded a portion of her property to herself. There is a 20.2-foot driveway access to allow access to two residential lots. She will sell off those two lots as part of Ivy Pond Subdivision.

Mrs. Lutes stated that the driveway is on two separate parcels and not included in the 1.8 acres. Mr. Dusing agreed.

Scott Sparks, Janet Beck's son, and owner of Lot #9, which backs up to the two residential lots, stated that he is not aware of a homeowners association in Ivy Pond. Mr. Soper advised that "they did not use that word".

Scott Sparks stated that he personally would not want something on the property which would negatively affect the value of his house or the rest of Ivy Pond Subdivision -- and his mother is not going to do anything that would negatively affect his property. He stated that in talking to people around him, he does not find that what will be done with the lots is of concern.

Mr. Dusing stated that they do not penetrate or impact the subdivision. He noted that buffering is mentioned as a condition and the applicant is willing to spend a substantial amount in this regard. He stated that GBBN did the 5/3rd Building at KY 18 and Houston Road, and the \$45 million addition to the Cincinnati Library. They do not put their name on things that are not first class. He stated that they are willing to put the concerns into conditions. He stated that it is basically existing traffic. Using 80 children, there is a maximum of 160 trips in the morning and 160 in the evening (using the ITE manual definition of a "trip"), for a total of 320. If there is a rush hour in Union, it is 7 AM - 9 AM with people going to work via U.S. 42 or Mt. Zion Road to I-75 and the facility is in between there. He stated that they are talking about 65 trips in the morning rush hour, which is 33 cars in a two-hour period. They checked to see if there is safe ingress/egress with the sight distance and the speed limit, and they found that it is safe. He stated that the signage is a safety issue. They have a drawing of the sign, which they did not bring. He stated that some businesses are destination businesses -- which means people go there on purpose. Some businesses are impulse businesses -- such as McDonald's or a car wash -- where people see the sign and go in on impulse, which is not the case with the learning center. He stated that they need a safe identification sign and he is not sure six square feet is big enough. They do not want a pole sign or anything gaudy. They do not want people to drive past the site when going there for the first time. He suggested a 4' x 8' or a 4' x 6' sign.

Mr. Dusing addressed the seven criteria for a Conditional Use Permit (copy attached) in Section 262 of the Boone County Zoning Regulations (Article 2, Section 7) and stated that 1) The Comprehensive Plan is silent on this and there is no specific overall plan; 2) This test is passed. The building will look like the residence it is from all four directions. He showed the Board a sample of the vinyl fence which will be used and submitted a picture of the fence. He reviewed the plan and indicated where the fence will be, noting that it will be separated from the neighbors by the yard and the buffering; 3) No -- there will not be smoke stacks or noxious fumes; 4) This test is passed -- they have public water and sewer and it is a state highway. The driveway will be about twice as wide as it is now; 5) No -- and possibly some of the children will go to this pre-school rather than the public one which is overcrowded; 6) This does not apply; and 7) They will have vehicular approaches to the property so as not to create interference with traffic or public thoroughfares. He referred to Page 42 of the ordinance, Article 9, Conditional Use and Criteria in an SR-1 Zone, and stated that these three criteria are in the Staff Report. He addressed the three criteria and stated that a) the activity is an integral part of a Permitted Use -- families have children and this is for children -- and today a lot of families have both the mother and father working during the day; b) the only taking back of green space is for the play field; and c) it is the same house and physical structure, with the garage door being replaced, and buffering and screening for outside activities.

Mr. Dusing stated that there will not be 80 kids outside at once. He stated that the market is there and the learning center will fill up quickly. They would like to figure out signage -- they want an identification sign, but not a big pylon sign. They agree to beefed up

buffering. In regard to the capacity condition of 80 children, the 80 is based on the square footage. He stated that the state may say they can have 75 or 83 children. They do not want to turn away 3 people because they did not know they could have them. He stated that there will be no access to Ivy Pond Subdivision.

The Chairman asked if there were any questions or comments.

Counselor Wilson asked those who would be speaking to speak one at a time as a record is being made. Mr. Hayes asked that they give their name and address for the record.

Mr. Mike Jarmon, 10027 Golden Pond, stated that his property adjoins the back of the site and indicated the location of his property on the exhibit. He has talked to Janet Beck and is okay with the use. He is concerned about the number of kids, and wants a buffer between the properties. He works shifts and is worried about the noise. He would like the height of the lights on the back parking lot limited. He questioned the size of the employee parking lot and how far back it will extend.

Mr. Gartner reviewed the drawing with Mr. Jarmon. He advised that the lighting will be on the two corners and functionally directed.

Mr. Jarmon asked how many days per week the facility will operate. Carrie Sparks advised that they will be open from 6:30 AM to 6:30 PM Monday thru Friday.

Janet Beck advised that the playground area is controlled by the state. There has to be one child per 55 square feet of space outside. There is a limit on the number of children that could be outside at a time. The three playgrounds are separated for safety purposes and never at any time would there be a large number of children outside.

Carrie Sparks stated that probably only one classroom would go out in each play area at a time. She stated that they are licensed for 1 - 15 five-year olds, so there could be 15 children on that playground. Not all the playgrounds are used at one time. She stated that there could be 15 - 30 children outside at a time.

Mr. Jarmon stated that he is concerned that the view and the noise be blocked.

Mr. Dusing stated that the state regulation is a 4' or 5' fence. Janet Beck stated that the fence could be 4' to 6' high, but 6-foot high would require another bar, which would be less safe, so they will keep the fence between 4' and 5' high.

Mr. Jarmon asked if this is as big as the facility will get. Carrie Sparks responded "yes". Janet Beck also responded "yes".

Carol Bord, 1704 Mt. Zion Road, stated that she lives directly across the street from the site. They have lived there for about three years and are concerned about safety. She stated that there should be traffic signs saying "Children" or "Slow". She has to look back and forth twice when coming out of her driveway and there have been numerous accidents in this area of the road. She is concerned about people pulling in and out of the driveway.

Bob Albers, 1719 Mt. Zion Road, stated that there is not a 400-foot area where they can see clearly and after school, the kids come over that road very fast.

Vicki Raymer, 1680 Mt. Zion Road, stated that she has a hard time getting out of her driveway because of the ramp and Ivy Pond being across the street. When she moved there 21 years ago, it was rural -- but now there is a subdivision across the street and there will be a business. She is concerned that everyone will start turning their property into businesses.

Mr. Dusing stated that their customers will go in front-ways and go out front-ways. The residents sometimes have to back out, but they will not have that situation.

Jackie Newman, 1692 Mt. Zion Road, stated that she lives catercorner to Janet Beck's house. She is concerned about the traffic and the congestion with people trying to get into the site, get their children, and turn around. She is a nurse and works odd hours, and she has to sleep. She is concerned about how many other people will want to develop businesses in the area. Once the use is in, will it stay as planned?

The Chairman advised that it can only be changed if they come back before the Board and make that request. Mr. Dusing advised that a violation of the conditions is a criminal offense.

Mr. Scott Sparks, 10019 Golden Pond Drive, stated that he has a four-year old and he bought in Union because it is a growing city. It would be to his advantage to have a child care center there and not have to travel miles and miles to find a good day care center.

George Sparks, stated that the children will not be playing in the front. The fence would keep the children from getting out to the front yard. A lot of the traffic people are dealing with now is what they will use to fill the daycare. They are not looking to create additional traffic.

Mr. Jarmon stated that he backed out of Janet Beck's driveway today and he does not see any problem with the line of sight.

Russell Daug, 1733 Mt. Zion Road, has lived there for 35 years. He is concerned about the traffic. He stated that something needs to be done about the road before we talk about rezoning property to create more traffic.

The Chairman stated that he has lived on Suzanne Drive since 1972 and has watched the city grow. He stated that the daycare will possibly create a little more traffic, but he believes Mt. Zion Road will eventually be widened. He stated that the traffic is there now.

Helen Strauss, Janet Beck's mother, stated that she lives on Lot #3 in Ivy Pond Subdivision, which is right in back of this site. She stated that this will benefit the surrounding areas. She stated that there are airplanes and other things that make noise -- but what is better heard than children at play?

Janet Beck stated that her parents own Lot #3, her son owns Lot #9, and she owns two residential lots. She stated that whatever they do with the learning center will be very professional.

Chairman Kidwell asked if anyone else wished to speak.

Mayor Warren Moore stated that he has been contacted by several citizens who are not in favor. He agrees with 99% of what Mr. Dusing and the Beck family are saying. He stated that the 1970 population was only 500, and it has quadrupled. Union is the fastest growing city in the state and has the highest education and lowest poverty levels. There are a lot of children in the city who need a facility like this. Such a facility was needed earlier this year on U.S. 42 and it was turned down. The objections he has heard center primarily on safety and traffic. He stated that it has been the position of the City Commission to try and control the growth and keep what most people want -- a bedroom community and residential area. We do need businesses, but we do not want Dream Street, a McDonald's, or things of that nature. We want small businesses of the nature being proposed. He stated that the question is "is this the right location"? He stated that Mt. Zion Road is not in the state plan to be improved and it will remain a 22-foot wide country road for some time. Traffic is getting worse all the time and it will not get any better. 60% to 70% of Union is still undeveloped, but it is going to be homes, and homes will have kids and cause traffic. The traffic is being dumped on a 22-foot wide road. He questioned "should a business be in a residential area"? "Is this the proper location"? "Should it be along U.S. 42"? He stated that another problem is that no one knows where U.S. 42 will be in five years. He stated that he is concerned about safety for people on Mt. Zion Road and people pulling in and out of the driveway. The sight distance there is fine if cars are traveling 35 MPH, but people on the road do not do 35 MPH.

Alma Fowler, 1780 Mt. Zion Road, speaking through the interpreter, stated that the road is not safe for the people driving on it. Her daughter had an accident right in front of her house because the road slopes down and you cannot see people coming. She questioned changing the road to make it safer. She has lived there 21 years. She is concerned about the traffic. People who visit her house will not park in her driveway because they do not want to back out onto the road because there is too much traffic. She lives across the street from the Beck property.

Janet Beck stated that there is a clear view in both directions from her driveway. The driveway will be widened with a turnaround area in the back so that no one has to back out.

Mr. Dusing referred to Page 3 of the Staff Report and quoted "Therefore, the new traffic impact to Mt. Zion Road would be less than the numbers indicated above.". He stated that this is basically existing traffic. He stated that this is an asset to the community because people want to pick up and drop off children as close to home as possible. They can avoid getting stuck in the Florence traffic and adding to that concern. He stated that a daycare center is allowed under the compatibility conditions and it meets the criteria. He stated that a daycare center would not be put in Ivy Pond or an existing subdivision because it would bring people from other subdivisions onto that street. He questioned putting a day care center on U.S. 42 where the speed limit is 35 MPH and people go 50 MPH -- or do you put it on the state highway that is close to where the people are going to be. He stated that the road is a corridor between Union and Gunpowder and I-75. It is a major throughway and the logical place for this use.

Mr. Ron Sharpe, a Commissioner in Union, agreed with the Mayor. He stated that there are no plans for improvements to Mt. Zion Road in the Ten-Year Plan. He lives on Mt. Zion Road, and there is a serious traffic problem there now. He suggested, if the use is permitted, that they provide signs on their property to eliminate backing out into the road. He stated that he does not know if there is enough room in their parking lots for people to turn around. He recommended that their sign be attached to the building -- that it be tasteful and small, but effective. He stated that the Board may want to stipulate the size of the plantings in the buffer. He suggested a privacy fence.

Mr. Dusing displayed the vinyl material for the fence.

Mr. Sharpe noted that chainlink fencing is shown on the drawing. Janet Beck advised that the chainlink fencing is only to divide the playgrounds, and they may use another style of the vinyl fencing for this purpose. They want the teachers to be able to see one playground from the other.

Mr. Sharpe stated that Union needs a day care center, but questioned if this is the place for it.

Chairman Kidwell thanked the applicants for a good presentation that was informative. He stated that he is concerned about the traffic and noted that there have been accidents in that area. A traffic study is needed on Mt. Zion Road. He stated that we have to be concerned with future impact -- there are some developments which are not yet completed that will add to the traffic and the traffic will get heavier and heavier. He is also concerned about the sound. He stated that the three residents who live across the street have legitimate concerns about the traffic going in and out. In the winter it is dark at 6:30 AM and 6:30 PM and there will be a lot of lights going in and out. He asked if the applicant wished to address this.

Mr. Dusing stated that the hours need to be 6:30 AM to 6:30 PM due to working hours. He stated that the amount of traffic this use will generate is miniscule compared to what Mt. Zion Road will generate in the next few years. He stated that they are not causing a safety hazard. There will be thousands of homes in the future between here and Gunpowder and their traffic is a drop in the bucket. They agree to put up a sign that says "NO BACKING ONTO MT. ZION ROAD". They prefer having an identification sign out front rather than on the building because it is safer -- the sooner a person sees an identification sign, the better the decel is. He stated that all of the activity will be in the back.

Chairman Kidwell stated that there is a problem with drainage now. He questioned drainage onto Mt. Zion Road with the additional parking areas.

Mr. Gartner stated that they need to identify the runoff that will occur and the detention they can provide for it.

The Chairman questioned the play areas.

Mr. Gartner stated that they could be rubberized compounds. George Sparks stated that they will be mulch or shredded rubber.

The Chairman stated that Sycamore does not have sewers. If we have another season like we have had this year (excessive rainfall), this use could create a real problem. It will create a lot of water that will go towards Mt. Zion Road.

Mr. Hayes advised that the additional water that is created when the site is developed has to be detained on site and released at a rate equal to when the site was undeveloped. When they go through Site Plan Review, the engineer will look at the plan and tell them how much water they have to detain on the property. He stated that there will not be any additional water coming off the site.

Mrs. Lutes questioned the smallest number of children they could serve to make this cost effective.

George Sparks responded "70".

Counselor Wilson advised that the Board has the authority to set a limit and the applicant would have to comply with that limit, as well as the state's.

The Board reviewed the Site Plan at this time. The Chairman stated that he is concerned about the traffic, that the sound barriers be of a certain height, and about the buffer for the residential areas to the rear of the property.

Mrs. Lutes stated that the distance from the property line is about 40 feet and questioned a berm. Mr. Dusing stated that a berm is expensive and hard to maintain.

The Chairman stated that there needs to be a condition in regard to drainage. Mr. Hayes advised that this would be addressed by a professional engineer at Site Plan Review. Chairman Kidwell stated that he is concerned about the water and the traffic. He would not be concerned about the water if there were city sewers. He questioned where the water will go. He noted that there is constant flooding on a lot at Ivy Pond.

Mr. Dusing stated that they have to keep the water on site. A pond or enclosed facility will hold the water so that it only goes out in the same location, velocity, and volume as if the property were all yard.

The Chairman stated that he is also concerned about the drop-off parking lot.

Mr. Gartner stated that they put the lot back far enough so that people would not get the idea of backing out, and there is a turn around capability. Mr. Dusing stated that there is new sidewalk all the way back through the playground and the back of the house.

Mrs. Lutes stated that there are only 8 parking spaces and most of the people will arrive at the same time. She is concerned that people will just stop in the driveway.

George Sparks advised that there is an overflow lot in the back and they can post "NO PARKING" signs along the side.

Mr. Hayes advised that the amount of parking can be addressed at Site Plan Review when there is a floor plan showing how many classrooms they will have. The number of parking spaces required is based on the number of classrooms.

Counselor Wilson advised that parking is not something the Board should ignore if the Board feels it is important. If the Board sees an area where they do not want parking, they can indicate that. The Board has regulatory authority.

The Chairman questioned the location of the fence.

Mr. Gartner reviewed the plan and stated that the fence is not around the perimeter of the property. He indicated the vinyl fencing and the chainlink fence. He stated that the interior fencing is open so as not to block the view. Janet Beck advised that the fencing is also on the side so that if the children come out of the lower level, they will be within the fenced area.

Chairman Kidwell asked "How far do we move downtown Union up Mt. Zion Road?". He stated that this is supposed to be a residential area.

Mr. Dusing stated that they are asking for a Conditional Use. There are only four Conditional Uses in the residential zone: a duplex, a church, a cemetery, and a daycare center. He stated that they are not moving downtown Union this way -- this is supposed to be a residential area. He stated that there are totally different rules and zone change procedures for a Quik Mart -- and City Council, not the Board of Adjustment, would have the final say for a zone change.

The Chairman asked if there was anyone else present who wished to speak. There was no response.

Mrs. Lutes stated that the driveway is being widened to two lanes. Mr. Gartner responded "yes". Janet Beck stated that the driveway is double-wide now and you can park two cars side by side. The driveway would not be widened to double what it currently is.

Counselor Wilson advised that although the Board is familiar with the site, they do have the right to visit the site before making a decision.

Mrs. Lutes asked if the Board members had been to the driveway and looked both ways. The Chairman responded "no", but he has traveled the road for 24 years. He knows what it is like to get in and out of Sycamore, but not that particular driveway.

Mr. Hayes presented the slides regarding the sight distance again. He stated that he sat where someone would be pulling out and looked both directions. There is enough sight distance to meet the regulations -- but if someone is driving faster than the speed limit, that could be a problem.

Chairman Kidwell stated that this is a great idea and the applicants have done their homework, but he is concerned about the people around there. He is concerned about the traffic and the neighborhood kids -- he has heard the tires screech and seen the ambulances on Mt. Zion Road. He stated that irregardless of what the Board does in regard to this application, there will be more traffic -- there will be subdivisions going up and more traffic. He stated that a daycare center is needed, but this may not be the ideal location. It is a business in a residential area. He is concerned about the water, the lighting, potential problems on Mt. Zion Road, and that the use not grow larger.

Chairman Kidwell suggested that the application be approved subject to the following conditions:

1. Site Plan Review and approval.
2. That the lighting on the parking lots stay on the parking lots and not interfere with anyone else's property.
3. The sign is to be no larger than 6 square feet and can be out in the front yard and not affixed to the house. (Mr. Dusing agreed to a six square foot unlit sign.)
4. The hours of operation are to be 6:30 AM to 6:30 PM.

Mrs. Lutes suggested a limit of 70 children. Mr. Dusing advised that that limit would cause them to raise their per-child costs. He stated that they need 80 children. Mrs. Lutes suggested a compromise of 75 children. Janet Beck stated that some cars bring more than one child -- some families have 2 or 3 children. She stated that some children might be pre-school from 9 AM to noon. George Sparks stated that some of the children are bus drop offs in the after-school program.

Chairman Kidwell suggested a condition of:

5. No more than 80 children -- which is the total whether they are drop off or daycare.

Mrs. Lutes stated that she does not want the cars lined up in the driveway and having to back out. Chairman Kidwell stated that the children will be dropped off from 6:30 AM to 7 AM, which is when the buses are there. In the summer time in the evening there is a problem with the kids playing and riding bikes. Mrs. Lutes stated that it does not look like there is enough room in the parking area to maneuver. Mr. Gartner stated that if there is more blacktop, there is more runoff and they are trying to maintain the natural environment. They do not want to impact the front yard and that is why they put the drop-off where they did. Chairman Kidwell asked what they will do if they have 35 - 40 cars and only 8 spaces. Mr. Gartner stated that the cars would have to wait until one moves out. They believe 8 is a reasonable number of parking spaces. He stated that people are not there for a long time -- they drop the kids off and move on. He stated that there is sufficient space to stack 6 - 8 cars in a waiting pattern. Mrs. Lutes stated that the people will not wait -- they will get out of their cars in the driveway.

Mr. Dusing stated that Mrs. Lutes makes an excellent point -- but they do not want to redesign the site on the spot. They will agree to a condition that they be required to satisfy the Staff this regard. Counselor Wilson stated that that would be delegating the Board's authority to the Staff.

Mrs. Lutes questioned the people on Mt. Zion Road who are waiting to go in -- they could be waiting and stopping the traffic. The Chairman stated that that would be a problem if someone comes over the hill. Mr. Hayes stated that they have enough room to add parking spaces. He stated that the parking is in the path of the cars coming in and out. He indicated how the customer parking lot could be moved into the open space.

Chairman Kidwell suggested additional conditions:

6. That the parking spaces be moved to the rear of the facility behind the play area and a turning ability be provided. (Mr. Dusing agreed to move the 8 parking spaces to the rear of the building.)
7. That the plantings on the west side be maintained even though the parking will not be there.

8. That the buffer for the sound be on the east, west, and south sides around the perimeter of the facility -- the south side being the two residential lots when they are sold for residential. The trees would be a minimum height of six feet at planting -- including trees on the back of the property for a buffer on the parking lot area.
9. The house is not to be enlarged. The only use is to be a daycare center and there are not to be any more than 80 children.
10. There is to be no other entrance or exit other than on Mt. Zion Road.
11. They will put in a 4' - 5' fence.
12. The trees, shrubbery, and fence are to be maintained.

Mrs. Lutes stated that she wants to be sure people are aware that they cannot park in the driveway or remove their children from the car in the driveway. She does not want cars blocking the access. The Chairman suggested a sign that children have to be dropped off in the rear at the parking lot. Mrs. Beck stated that there will be times when some of the employee parking spaces will be open. Mr. Dusing stated that he understands the condition to be no stopping or drop-off in the driveway.

Chairman Kidwell suggested another condition:

13. That a sign be posted: NO STOPPING OR DROP-OFF IN THE DRIVEWAY.

George Sparks suggested yellow striping. Mr. Dusing stated that they will do a sign or striping.

The Chairman asked if the original parking lot will be eliminated. Mr. Gartner responded "yes".

Mr. Dusing stated that they will be an existing facility when the two residential lots are sold and they are already protected with the buffering (Condition #8). He stated that this is the only condition they take issue with. He stated that they will be existing when those lots are sold and the buyers will know what they are getting into. He questioned having another set of trees there. The Chairman so amended this condition.

Chairman Kidwell moved to approve the request with the following conditions as stated and amended:

1. Site Plan Review and approval is required.
2. That the lighting on the parking lots stay on the parking lots and not interfere with anyone else's property.
3. The sign is to be no larger than six square feet and can be out in the front yard and not affixed to the house.
4. The hours of operation are to be 6:30 AM to 6:30 PM.
5. No more than 80 (eighty) children -- which is the total whether they are drop off or daycare.

6. That the parking spaces be moved to the rear of the facility behind the play area and a turning ability be provided.
7. That the plantings on the west side be maintained even though the parking will not be there.
8. That the buffer for the sound be on the east, west, and south sides around the perimeter of the facility. The trees would be a minimum height of six feet at planting.
9. The house is not to be enlarged. The only use is to be a daycare center and there are not to be any more than 80 children.
10. There is to be no other entrance or exit other than on Mt. Zion Road.
11. They will put in a 4' - 5' fence.
12. The trees, shrubbery, and fence are to be maintained.
13. That a sign be posted: NO STOPPING OR DROP-OFF IN THE DRIVEWAY.

Mrs. Lutes seconded the motion. A roll call vote on the motion found Chairman Kidwell and Mrs. Lutes in favor. Mr. Caudill was opposed. The motion carried by a vote of 2 to 1.

2. The request of James and Sherri Wright for a Conditional Use Permit to allow the development of a dentist office and a shaved ice stand on a .5-acre site located on the northeast corner of Mt. Zion Road and U.S. 42, Union, Kentucky. The property is currently owned by James and Sherri Wright and is zoned Rural Suburban/Small Community (RS/SC).

Staff Member Jeff Hayes presented the Staff Report which included a slide presentation (see Staff Report). He advised that the applicant is removing the shaved ice stand from the application.

The Chairman asked for the applicant's comments.

Dr. Wright stated that the more he has gotten into this, the more expensive it is. If he cannot make the septic tank system better, it will be difficult to have a reservoir large enough to hold the water. He stated that shrubbery around the parking lot might block the view of people coming down U.S. 42.

Mr. Hayes advised that the view of people coming down U.S. 42 cannot be obstructed.

Dr. Wright stated that he sold his office in Ludlow. He bought this property when they were allowed to have an office on it. He stated that his biggest concern is the septic system and the water runoff.

Mr. Hayes advised that those issues can be addressed at Site Plan Review.

Mr. Caudill asked if this will be a one-man operation. Dr. Wright responded "yes", but added that Jane from the beauty shop may want to move into the building. He stated that they may not build the 3,000 square feet and may put a roof on and come out enough for a business office and a

COPY

CLUR #04-UBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
L.A. Properties, Inc.
1705 Mt. Zion Road
Union, KY 41091

2. ADDRESS OF PROPERTY
1705 Mt. Zion Road
Union, KY 41091

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Littlest Angels Learning Center

4. DEED BOOK 636 PAGE NO. 177 GROUP NO. 2056

5. TYPE OF RESTRICTION(S) (Check all that apply)
 Zoning Map Amendment:
From To Conditional Use Permit
 Development Plan Conditional Zoning
 Subdivision Plat
(Not Recorded) Other:
 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
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005

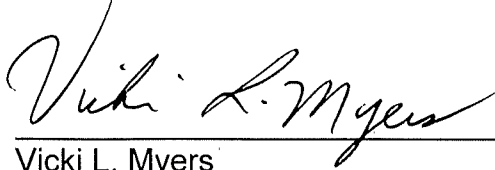
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

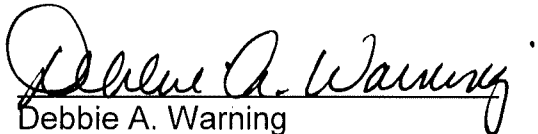
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 2 day of September, 2004.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2007

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

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

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Conditional Use Permit approved by the Union Board of Adjustments and in accordance with the current zoning in effect as of August 26, 2004 Certificate of Land Use Restriction (#04-UBOA-001-A), for L.A. Properties, Inc., Property Owner(s).

The following conditions will apply:

- 1) The sign is to remain as is.
- 2) The approval is only applicable to Phase I and if the primary building is lost, the applicant must come back before the board.
- 3) The sides and rear of the building are to be a minimum of 25% masonry.
- 4) The front of the building is to be as presented in the front elevation exhibit.
- 5) To minimize water runoff, there are to be no more than 44 parking spaces, unless the Zoning Regulations require a greater number.
- 6) There is to be no negative impact on surrounding properties due to water runoff.
- 7) If the state takes the property (existing buildings), the applicant is to provide a 25-foot wide buffer for the entire length of the front property line along Mt. Zion Road, except for the curb cut, in order to prevent the site from looking institutional and to screen the play yard and parking lot. The buffer must contain 8 evergreen trees (Plant List D of the Zoning Regulations) and any 4 deciduous trees (Plant List A, B, or C of the Zoning Regulations) per 100 linear feet.
- 8) There is to be a 25 foot wide buffer on the south property line and on the east property line. The buffer must contain 8 evergreen trees from Plant List D and 4 deciduous trees from Plant Lists A, B, or C of the *Boone County Zoning Regulations* per 100 linear feet.
- 9) Lighting is to be wall packs only and they are to face the parking lot, and a Photometric Plan is to be submitted that meets the standards of the *Boone County Zoning Regulations*.

- 10) Any additional fencing that is visible to the neighbors is to match the existing white vinyl fence.
- 11) The Willow Brook Court property line is not to be used for ingress or egress to the daycare.
- 12) Major Site Plan Review is required.
- 13) There is to be a maximum of 180 children on site at any given time.
- 14) All previous conditions not specifically affected by this motion will continue in full force and effect.

The approved Conditional Use Permit as well as the preceding conditions apply to the property described in:

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