

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

RECEIVED
DEC 14 1999
BOONE COUNTY
PLANNING COMMISSION

(See Boone County Zoning Regulations)
SECTION A (To be completed by applicant)

- 1. Name of Project Enterprise Five Industrial Park
- 2. Location of Project Toeppen Drive, Boone County
- 3. Total Acreage of Site ~~201 acres~~ 202.2 Acres
- 4. Current Zoning of Site Industrial One I-1
- 5. Proposed Zoning (Classification being requested) Industrial Two I-2
- 6. Proposed Uses (please specify each use) Industrial Park

- 7. Names of Applicant(s) Toeppen Limited (Bill Toeppen)
- Phone Number 331-1560 Fax No. 331-9702

- 8. Address of Applicant(s) 541 Buttermilk Pike, Suite 104
- Crescent Springs, KY 41017
- City State Zip

- 9. Name of Property Owner(s) Toeppen Limited
- Phone Number 331-1560 Fax No. 331-9702

- 10. Address of Property Owner(s) 541 Buttermilk Pike, Suite 104
- Crescent Springs, KY 41017
- City State Zip

- 11. Proposed Building Intensities (please specify) Equal or less than zoning regulations

- 12. Are there any existing buildings on the site? NO
- How many? _____

- 13. Deed Book _____ Page No. _____ Group No. _____

- 14. Are you also applying for:
- NO Conditional Use Permit
- NO Dimensional Variance

- 15. Have you submitted a Concept Development Plan? YES

- 16. Have you had a pre-application meeting with BCPC Staff? YES

- 17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- Boone County Water and Sewer District
- Florence Water and Sewer Commission
- Union Light Heat and Power
- Cincinnati Bell
- Owen County Rural Electric
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- City of Florence Public Services Department
- Boone County Building Department

DB	P	Group*
361	5	2058
✓ 414	85	2058
✓ 602	13	76
211	512	2058
120	490	(Kenton County)
616/278		2058

(over)

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

- Northern Kentucky Health District
- U.S. Soil Conservation Service
- Local School District
- Local Fire District
- Other: _____

18. Project Jurisdiction/Location
- Unincorporated Boone County Walton
 - Florence Union

19. Applicant's Signature _____
 Property Owner's Signature _____

SECTION B (To be completed by BCPC Staff)

1. Date Received 12-14-99
 2. Review Fee 12.00 RA 20724 \$3,226.00 RA 22725
 3. Check what has been submitted:

- Application
- Fee
- Legal Description
- Concept Development Plan
- Address of Adjoining Property Owners
- 5 Number of copies of plan received**

4. Is application complete? _____ Yes _____ No

5. Staff Reviewer MITCH LIGHT

6. Committee Chairman MARK HICKS

7. Scheduled Public Hearing Date _____

8. Boone County Planning Commission Action:

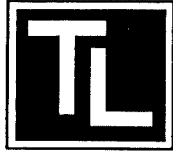
- Approval
- Approval with Conditions See Signed Condition Letter & Committee Report
- Denial

9. Other: _____

**** Five (5) Copies Are Required**

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

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



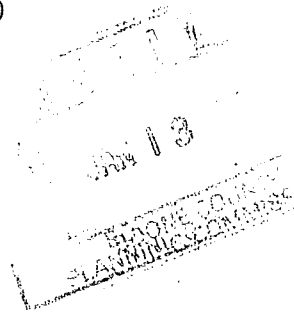
TOEBBEN LTD.

541 Buttermilk Pike
Suite 104
Crescent Springs, KY 41017
(606) 331-1560
FAX: (606) 331-9702
E-mail: toebben@toebben.com

Via Fax: 334-2264

January 12, 2000

Boone County Planning Commission
2995 Washington Street
Burlington, KY 41011
Attention: Mr. Mitchell A. Light



RE: Application of Toebben, Limited for Zoning Map Amendment for
Enterprise 5 Industrial Park (202.2 acres)

Dear Mitch:

This letter is being submitted in support of our recently filed Application, which is referenced above and which is scheduled for a hearing on January 19, 2000.

In addition to the Concept Plan and information contained in our Application, we request that you consider the following:

1. Our proposal involves the logical extension of an existing I-2 park owned by Toebben, Ltd.
2. The property is currently zoned I-1 and has been for a number of years. In addition, most of the adjoining property is zoned either industrial or commercial.
3. The proposed I-2 zoning is consistent with the Comprehensive Plan, which identifies the property as industrial.
4. The existing and impending infrastructure and utilities will adequately support the additional I-2 development. The site is serviced by a 12" water main, an 8" gas main, a 15" sewer line, industrial grade electric service, and rail service. This property has access to Mt. Zion Road and is located only about 1 mile from the I-71/75 and Mt. Zion Road interchange. Improvements to Mt. Zion Road, east of U.S. 25 are scheduled for the year 2000.
5. There is a shortage of available I-2 property in Boone County due primarily to inadequate infrastructure and/or unavailable rail service.

6. The residences on the south side of the site, which have frontage on Maher Road, are located 500 feet or more from the property being proposed for I-2 zoning. In addition, Applicant is proposing the establishment of an 50 ft. buffer yard along the RSE and RS boundaries, to be incorporated into a 150 ft. wide border area to remain in the I-1 zone classification (to, in effect, create an additional buffer between the I-2 and RSE/RS zone).
7. Relative to the above referenced residences, is that the proposed I-2 zone mandates larger lots (3 acres minimum), greater set backs and frontages, and reduced density as compared to the current I-1 zone.
8. The existing RSE zone would prohibit the construction of dwellings in addition to those now in existence; therefore, no future dwelling units can be constructed closer to Applicant's property line.
9. We propose that the following obnoxious I-2 uses be prohibited: asphalt and concrete plants, and commercial stockyards.
10. Since both noise and pollution are highly regulated, neither should be a significant factor in the change from I-1 to I-2 zoning.
11. Refer to the attached photos of existing I-2 uses within the Enterprise Industrial Park showing that such uses are aesthetically appealing.

Hopefully this additional information will be of assistance to you. If you should need anything further, please let me know.

Sincerely,



Robert J. Calvert
General Counsel

EXHIBIT

“A”

STAFF REPORT

Request of Toebben Limited (owner) to consider a Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2) for an approximate 202 acre tract located between the end of Toebben Drive and the Boone/Kenton County line, and to the north of Maher Road, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the I-2 zone.

January 19, 2000

Request

The applicant is requesting a change in the current zoning classification from Industrial One (I-1) to Industrial Two (I-2) for an approximate 202 acre site. The applicant is proposing to leave 150 feet of property zoned I-1 along the southern edge of the property. The 150 feet will include the 50 foot Buffer Yard "D" required when an industrial zone abuts a residential zone.

Site History

In 1993, the Boone County Planning Commission made a recommendation for denial to the Boone County Fiscal Court for a Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2) for an approximate 70 acre site. The request was withdrawn before final action could be taken by the Fiscal Court. The main concerns with the request were certain permitted I-2 uses and their potential impact on the adjacent residential and recreation uses, the condition of Mt. Zion Road in 1993, and the lack of rail access to the 70 acres request area. These issues have worked themselves out with time. The applicant has limited certain uses with this proposal as stated in their request (attached) and the pay lake on the Sigmon property is no longer in operation. A portion of the Sigmon property along Mt. Zion Road has been sold to Bill Butler and development of the remaining property is in discussion. Mt. Zion Road is in the process of reconstruction with a bridge over the railroad, and this proposal added an additional 130 acres which includes rail access.

On January 6, 2000, the Kenton County & Municipal Planning & Zoning Commission made a recommendation for approval with conditions to the Kenton County Fiscal Court for a Zoning Map Amendment from Agriculture One (A-1) to R-1C (RCD) for an approximate 49.5 acre site. This site is bound by Kenton County and Maher Road to the east and south and is adjacent to the Toebben property to the north.

Site Characteristics

This site runs from the Norfolk Southern Railroad and the existing Enterprise V industrial park east to the Boone/Kenton County line. It is adjacent to the Sigmon property to the north and abuts single family residences off Maher Road to the south.

This 202 acres will be accessed by Toeppen Drive, which will extend to the Boone/Kenton County line to access the Toeppen property in Kenton County as shown on the Concept Development Plan. The site has rail access as well as access to all utilities. Mt. Zion Road is about to undergo major reconstruction. KDOT is going to construct a bridge over the rail to eliminate the crossing between Enterprise V and Dixie Highway which will alleviate backups caused by the railroad crossing.

Surrounding Zoning and Land Uses

- North: The Sigmon property zoned Industrial One (I-1)
- East: Kenton County - Toeppen property zoned Industrial One (I-1) and to the southeast, 49.5 acres owned by Bridges under option by Afton Development for a zoning map amendment from Agriculture One (A-1) to R-1C (RCD).
- South: Single-family residences along Maher Road zoned Rural Suburban (RS) and Rural Suburban Estate (RSE).
- West: The existing Enterprise V Industrial Park zoned Industrial Two (I-2) and the Norfolk Southern Railroad.

Relationship to the Boone County Comprehensive Plan

The Future Land Use Map shows the subject property as Industrial (I). These classifications are defined in the adopted Comprehensive Plan as:

Industrial: "Manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses."

The Land Use Element within the 1995 Boone County Comprehensive Plan refers to this area generally by stating:

"Southward expansion of industry should be tempered by important locational factors, such as appropriate access to the interchange and connections to existing or planned industrial parks. Industrial development to the east of U.S. 25 and the railroad must be accompanied by improvements to important access roads, such as East Mt. Zion Road and East Frogtown Road."

"Maher Road should not serve industrial traffic because of its design and its dangerous intersection with U.S. 25. Maher Road should remain an enclave of residential uses, and no industrial access should be provided along this road. Industrial uses abutting this residential area must be planned with adequate buffering for the existing and future residential development."

Staff Concerns/Comments

1. The Applicant has indicated the required Buffer Yard "D" (50 feet) will be located adjacent to the residences along Maher Road within the 150 foot strip to remain zoned I-1. The minimum rear yard building setback of 30 feet will be from the I-1/I-2 zoning line for a minimum building setback of 180 feet from the properties along Maher Road.
2. There are twenty-three (23) Principally Permitted Uses in the Industrial Two (I-2) zone not including all Principally Permitted Uses in the Industrial One (I-1) zone. The applicant has indicated in their request (attached) that they are excluding asphalt and concrete plants and commercial stockyards from the Principally Permitted Uses as part of this application.
3. The question of an additional access back out to Mt. Zion Road has been raised by Staff and the Florence Fire Department. As this park continues to grow, we will be faced with the same problem that we have had in other growing subdivisions (residential, commercial and industrial). Staff is concerned that the existing park (approximately 105 acres), this request (approximately 202 acres) and the adjacent industrial property in Kenton County would all be accessed by a single access point off Mt. Zion Road.

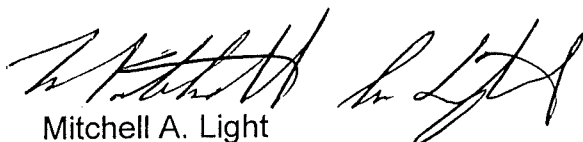
Conclusion

The Boone County Planning Commission and the Boone County Fiscal Court must review this request on the basis of its relationship to the Comprehensive Plan and in terms of the three (3) criteria necessary for a Zoning Map Amendment.

1. The map amendment request is in agreement with the adopted Comprehensive Plan and any specific study designed to further detail the Boone County Comprehensive Plan for the location in question; or,

2. The existing zoning classification is inappropriate; or,
3. There have been major changes of an economic, physical, or social nature not anticipated in the adopted Comprehensive Plan that substantially alter the area's character.

Respectfully Submitted,



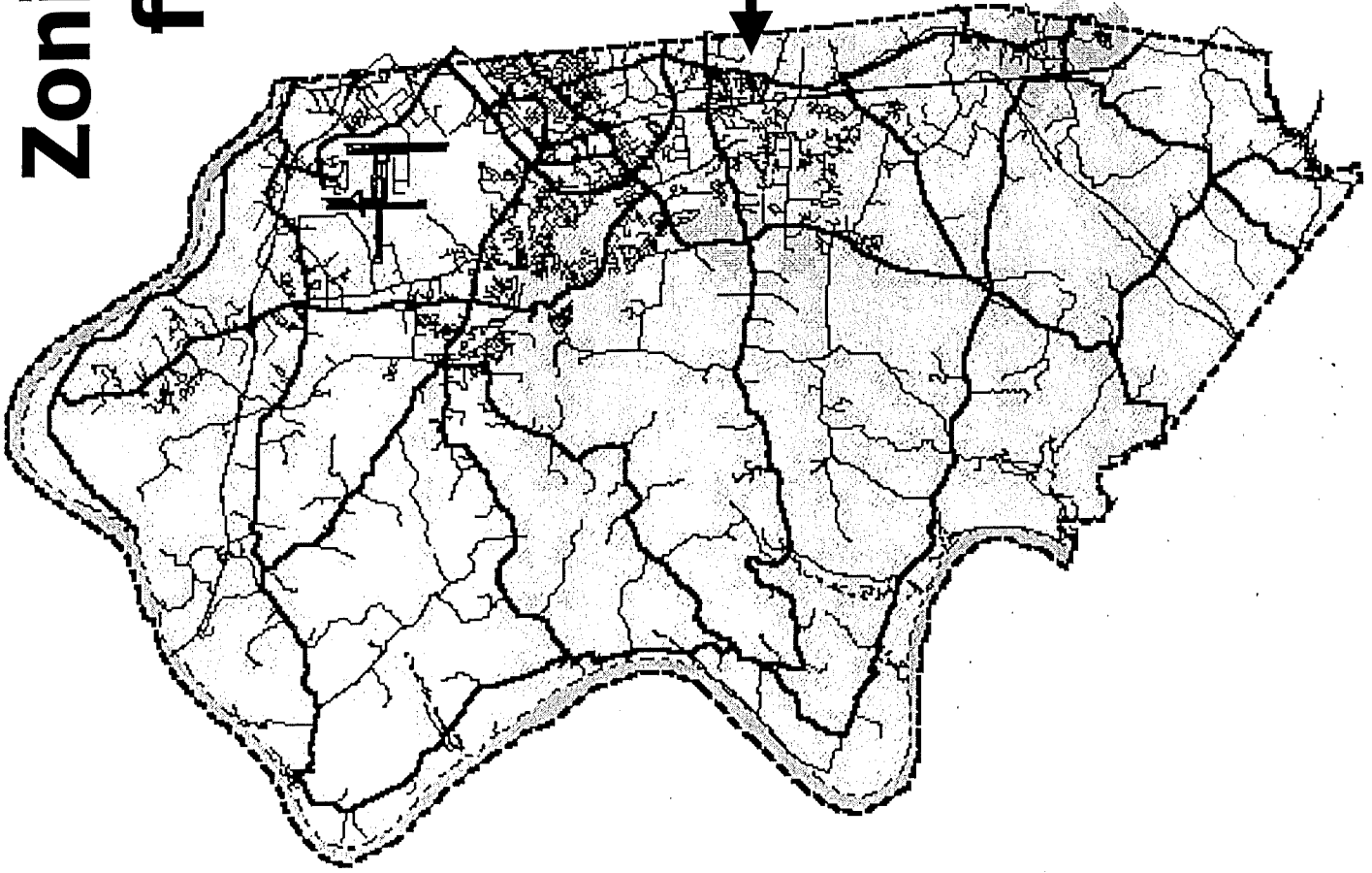
Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

MAL/pr

Attachments:

- Vicinity Map
- Zoning Map
- Concept Development Plan
- Request
- I-2 Zoning Text
- Application

Zoning Map Amendment from I-1 to I-2 for Toebben Limited



SITE

VICINITY MAP



I-1
Kenton
County

ZONING MAP



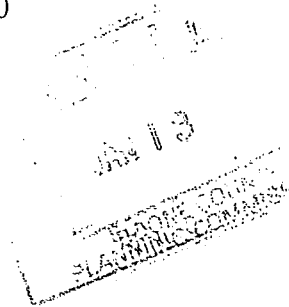
TOEBBEN LTD.

541 Buttermilk Pike
Suite 104
Crescent Springs, KY 41017
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FAX: (606) 331-9702
E-mail: toebben@toebben.com

Via Fax: 334-2264

January 12, 2000

Boone County Planning Commission
2995 Washington Street
Burlington, KY 41011
Attention: Mr. Mitchell A. Light



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In addition to the Concept Plan and information contained in our Application, we request that you consider the following:

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2. The property is currently zoned I-1 and has been for a number of years. In addition, most of the adjoining property is zoned either industrial or commercial.
3. The proposed I-2 zoning is consistent with the Comprehensive Plan, which identifies the property as industrial.
4. The existing and impending infrastructure and utilities will adequately support the additional I-2 development. The site is serviced by a 12" water main, an 8" gas main, a 15" sewer line, industrial grade electric service, and rail service. This property has access to Mt. Zion Road and is located only about 1 mile from the I-71/75 and Mt. Zion Road interchange. Improvements to Mt. Zion Road, east of U.S. 25 are scheduled for the year 2000.
5. There is a shortage of available I-2 property in Boone County due primarily to inadequate infrastructure and/or unavailable rail service.

6. The residences on the south side of the site, which have frontage on Maher Road, are located 500 feet or more from the property being proposed for I-2 zoning. In addition, Applicant is proposing the establishment of an 50 ft. buffer yard along the RSE and RS boundaries, to be incorporated into a 150 ft. wide border area to remain in the I-1 zone classification (to, in effect, create an additional buffer between the I-2 and RSE/RS zone).
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8. The existing RSE zone would prohibit the construction of dwellings in addition to those now in existence; therefore, no future dwelling units can be constructed closer to Applicant's property line.
9. We propose that the following obnoxious I-2 uses be prohibited: asphalt and concrete plants, and commercial stockyards.
10. Since both noise and pollution are highly regulated, neither should be a significant factor in the change from I-1 to I-2 zoning.
11. Refer to the attached photos of existing I-2 uses within the Enterprise Industrial Park showing that such uses are aesthetically appealing.

Hopefully this additional information will be of assistance to you. If you should need anything further, please let me know.

Sincerely,



Robert J. Calvert
General Counsel

11. Commercial recreation such as recreational centers, gymnasium, bowling centers, roller skating rinks, miniature golf courses, golf driving ranges, soccer fields and baseball fields;
12. Wholesale vehicle sales or auctions;
13. Churches, synagogues, temples and other places of religious assembly for worship.

SECTION 1134

Intensity

The maximum intensity of all uses in an Industrial One district shall not exceed 25,000 square feet of gross floor area per acre.

SECTION 1135

Minimum Size

The minimum size and extent of an Industrial One district, including all the contiguous private property so designated, shall not be less than five (5) acres.

SECTION 1136

Performance Standards

Each development in the Industrial One district shall meet the following applicable performance standards pertaining to noise, vibration, air pollution, dust control, heat, lighting and landscaping (See Article 31):

General: No land or structure in an I-1 district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable condition which may affect any other property, including, but not limited to a) noise, b) vibration or shock, c) air pollution, d) dust control, e) heat, f) lighting, g) landscaping & buffering.

SECTION 1140

INDUSTRIAL TWO (I-2)

The purpose of the Industrial Two district is to provide for those types of heavy industrial uses, which are of a warehouse and manufacturing type and such uses are significant in size, which cannot be accommodated in an Industrial One district since they involve heavy equipment, machinery, or other products which requires sufficient infrastructure and results in a substantial economic impact. Such districts will be organized to provide employment opportunities for regional and extra regional labor markets. Districts will be located on lands with direct access to expressways and/or arterials.

SECTION 1141

Principally Permitted Uses

The following uses are permitted:

1. Any principally permitted use of an Industrial One (I-1) district.

Also permitted are uses which involve the manufacture, assembly, processing, treatment, or storage of the following:

2. Acids, creosote, or petroleum products;
3. Bag cleaning;

4. Blast furnaces, cupolas, rolling mill, coke oven, forging, foundries, refining, and smelting;
5. Corrosion of aluminum, copper, iron, tin, lead or zinc;
6. Distillation of alcohol, coal, or wood;
7. Electroplating;
8. Enameling, japanning, or lacquering;
9. Grinding, sandblasting, cutting, washing, or other reduction or waterproofing;
10. Poultry and small game products;
11. Sawmills and planing mills, hardwood products and flooring, millwork, veneer and plywood and prefabricated wooden buildings and other lumber and wood products;
12. Stone, clay, and glass products including cement, lime, gypsum, plaster of paris, abrasives, and cut stone excluding extraction;
13. Heavy machinery and transportation vehicles and equipment;
14. Tobacco products;
15. Chemicals and allied products;
16. Petroleum and coal products;
17. Rubber and plastics products;
18. Leather and leather products.

Also permitted are:

19. Wholesale trade of heavy machinery, equipment, and supplies, including transportation and farm equipment;
20. Wholesale trade of paints, varnishes, chemicals, and allied products;
21. Railroad and marine craft rights-of-way including switching and marshaling yards;
22. Electric generating plants and regulating substations and water treatment storage, and distribution plants;
23. Asphalt and concrete plants;
24. Commercial stockyards.

SECTION 1142

Accessory Uses

Accessory uses, buildings and structures customarily incidental and subordinate to the purposes of the district including:

1. Recreation uses or spaces of integral relation to the purposes of the district defined to be:
 - a. Nature preserves, wildlife sanctuaries, open spaces and other natural areas;
 - b. Auditorium exhibition halls and other public or miscellaneous assembly;
 - c. Golf courses and tennis courts;
 - d. Play lots or tot lots, playfields or athletic fields, recreation centers, gymnasiums, clubs and other athletic uses and structures;
 - e. Swimming beaches and swimming pools;
 - f. Picnicking, hiking areas, exercise trails and other recreational uses;
 - g. General, leisure, ornamental and other parks, spaces, trails, bikeway systems and similar uses;
2. The administration, management, stenographic, reproduction, research, sales (including sales exhibit or display) and any related or integral office use or activity of the permitted use;
3. Public transit stations and terminals;
4. Signage (See Article 34);
5. Parking (See Article 33);

SECTION 1143

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is provided primarily in support of and obtains its trade from the employees of the district; or b) the activity is of integral relation to the purpose of the district; c) the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses of the district; and d) provided the arrangement of uses, buildings or structures is mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. Uses involving the use, manufacture, assembly, processing, treatment or storage of acetylene gas, ammonia, explosives or fireworks as permitted under State law;
2. Refuse and solid waste disposal when conducted incidental and subordinate to a principally permitted use;
3. Gas production plants, natural or manufacture gas storage and distribution points, gas pressure control stations;
4. Telephone, telegraph, radio, television or other communication relay, transmitting and receiving uses, centers and equipment of a permitted use provided the structures do not physically or visually overpower, detract or conflict with the buffering provisions specified within and between the district uses and other districts;
5. Gasoline filling stations;

6. Eating and drinking establishments including alcoholic beverages and with drive-thru facilities;
7. Banking and credit union services;
8. Labor unions and similar labor associations;
9. Nursery and day care centers;
10. Sales and service of new and used motor vehicles including tires, batteries and accessories (see Status of Amendments), automobile repair and auto body services including junkyards, wrecking or other storage.

SECTION 1144

Maximum Intensity

The maximum intensity of uses in an Industrial Two district shall not exceed 22,000 square feet of gross floor area per acre.

SECTION 1145

Minimum Size

The minimum size and extent of an Industrial Two district, including all the contiguous private property so designated, shall not be less than ten (10) acres.

SECTION 1146

Minimum Standards

All permitted, accessory and conditional uses, buildings and structures in this district are subject to the following:

1. The supplemental, parking and loading, signage regulations of this ordinance;
2. Resolutions or orders of Boone County, City ordinance, law of the Commonwealth of Kentucky or law of the United States regulating nuisances and environment;
3. Any condition which may be governed by Boone County Health Department;
4. Site plan review required for all permitted uses (See Article 30);
5. See Article 31 for dimensional standards.

SECTION 1150

INDUSTRIAL THREE (I-3)

Surface Mining District

The following regulations shall apply in all Industrial Three (I-3) districts. The intent of this district is to regulate surface mining excavation, extraction, processing, storage, loading, hauling, and unloading of sand, gravel, rock, clay, shale, stone, coal, and similar natural resources and for treatment and processing of such products which may be produced from such raw materials.

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

RECEIVED
DEC 14 1999
BOONE COUNTY
PLANNING COMMISSION

(See Boone County Zoning Regulations)
SECTION A (To be completed by applicant)

1. Name of Project Enterprise Five Industrial Park
 2. Location of Project Toebben Drive, Boone County
 3. Total Acreage of Site ~~201 acres~~ 202.2 Acres
 4. Current Zoning of Site Industrial One I-1
 5. Proposed Zoning (Classification being requested) Industrial Two I-2
 6. Proposed Uses (please specify each use) Industrial Park
-
7. Names of Applicant(s) Toebben Limited (Bill Toebben)
 - Phone Number 331-1560 Fax No. 331-9702
 8. Address of Applicant(s) 541 Buttermilk Pike, Suite 104
 - Crescent Springs, KY 41017
 - City State Zip
 9. Name of Property Owner(s) Toebben Limited
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 NO Dimensional Variance
 15. Have you submitted a Concept Development Plan? YES
 16. Have you had a pre-application meeting with BCPC Staff? YES
 17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- _____ Boone County Water and Sewer District
- _____ Florence Water and Sewer Commission
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- Owen County Rural Electric
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<u>DB</u>	<u>P</u>	<u>Group*</u>
<u>361</u>	<u>5</u>	<u>2058</u>
<u>414</u>	<u>BS</u>	<u>2058</u>
<u>602</u>	<u>13</u>	<u>76</u>
<u>211</u>	<u>512</u>	<u>2058</u>
<u>120</u>	<u>490</u>	<u>(Kenton County)</u>

(over)

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PAGE 2

- _____ Northern Kentucky Health District
- _____ U.S. Soil Conservation Service
- _____ Local School District
- _____ Local Fire District
- _____ Other: _____

18. Project Jurisdiction/Location
- Unincorporated Boone County _____ Walton
- _____ Florence _____ Union

19. Applicant's Signature [Signature]

Property Owner's Signature [Signature]

SECTION B (To be completed by BCPC Staff)

1. Date Received 12-14-99
2. Review Fee 12.00 RA 20724 \$3,226.00 R# 22725
3. Check what has been submitted:
 - _____ Application
 - _____ Fee
 - _____ Legal Discription
 - _____ Concept Development Plan
 - _____ Address of Adjoining Property Owners
 - 5 Number of copies of plan received**
4. Is application complete? _____ Yes _____ No
5. Staff Reviewer MITCH LIGHT
6. Committee Chairman MARK HICKS
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - _____ Approval
 - _____ Approval with Conditions
 - _____ Denial
9. Other: _____

**** Five (5) Copies Are Required**

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

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

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
January 19, 2000
7:30 P.M.**

PUBLIC HEARINGS

Commission Members Present: Mrs. Arnett - Secretary/Treasurer, Mr. Caddell – Chairman, Mr. Chaney – Vice Chairman, Mr. Damstrom, Mr. Hicks – Temporary Presiding Officer, Mr. Knock, Mr. McMillian, Mr. Newman, Ms. Poston, Mr. Ries, Mr. Schwenke, Mr. White, Mrs. Wilson, and Mr. Zimmer.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Jan Hancock, Secretary; Mr. Mitch Light, Assistant Zoning Administrator/ZEO; and Mr. Todd Morgan, Planner.

Legal Counsel Present: Mr. Dale Wilson

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:40 P.M.. Mr. Costello stated that due to anticipated snowfall, the Staff Report will be entered into the record but not presented orally. If there are any items to be addressed by Staff, that can be done following the public portion of the meeting. The Chairman introduced the first item on the Agenda:

1. **Applicant:** Toebben Limited (owner)

Request: Zoning Map Amendment

The request of Toebben Limited (owner) to consider a Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2) for an approximate 202 acre tract located between the end of Toebben Drive and the Boone/Kenton County line, and to the north of Maher Road, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the I-2 zone.

The Chairman asked for the applicant's presentation.

Mr. Robert J. Calvert, 541 Buttermilk Pike, Crescent Springs, stated that he is General Counsel for the Toebben Company. He introduced Mr. Gil Whitacre with Bayer & Becker Engineers, 14 East Eighth Street, Covington, Kentucky, and Mr. Bill Toebben, President of Toebben Construction, 541 Buttermilk Pike, Crescent Springs.

Mr. Calvert stated that they are asking for a map amendment on 202.2 acres of land that is part of the Enterprise V Industrial Park. About one hundred acres of the Park is currently zoned I-2, the majority of which has already been developed. They intend to develop this additional 200+ acres of the Park. This land is a logical extension of the Industrial Park. It is adjacent to current I-2 zoning and surrounded by commercial or industrial zoning. On the south side of the property there is an area of Residential Suburban Estates and Suburban Residential zoning. He stated that normally a 50-foot buffer is required between I-2 and Residential zones, but they are proposing to incorporate the 50-foot buffer into a 150-foot wide border along the property to add additional buffer for the residential uses. He stated that the I-2 zone is consistent with the Comprehensive Plan since the Comprehensive Plan designates this property as Industrial.

Mr. Calvert stated that Staff has some concerns about infrastructure and utilities but, for the most part, they are in place to support I-2 development. There is a 12" water main, an 8" gas main, a 15" sewer line, industrial grade electric service, and rail service. The property has access to Mt. Zion Road and is less than one mile from the I-71/75 and Mt. Zion Road interchange. Improvements will begin this year on U.S. 25 and a bridge will be built over the railroad tracks. He stated that Staff had a concern about the access from Mt. Zion Road – but that concern exists now. The I-2 zoning will involve less density, which may be an improvement. The I-2 zone has larger setback requirements. He noted that the Staff Report indicates that there will be about a 180-foot setback when you consider the 150-foot strip of border they propose. He stated that there are always concerns about noise and environment, but they are highly regulated by the federal, state, and county governments. He commented that there are businesses there now that make noise inside, but there is soundproofing to eliminate noise on the outside. He stated that they have a user that incinerates the exhaust which eliminates that concern. They feel that the rest of the park when zoned I-2 will develop similar to what is there now. There are some uses in I-2 they would like prohibited, including #23 Asphalt and concrete plants and #24 Commercial stockyards. He stated that there is a shortage of I-2 zoning, especially I-2 zoning that has access to rail service. The existing development is of good quality and is beneficial to Boone County. He stated that Section 3.01 of the Boone County Zoning Regulations states that Amendments are justified when there is a public necessity, a convenience, general welfare, or good zoning practices. They believe they meet at least three, if not all four, of these requirements. Section 3.08 requires the Planning Commission to make certain findings which are outlined in the Staff Report. They feel that the request is in agreement with the Comprehensive Plan.



Mr. Calvert asked for approval of the request and offered to answer any questions. (Note: Mr. Calvert's letter of January 12, 2000 to Mr. Light regarding this application is attached to the Staff Report).

This concluded the applicant's presentation.

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

The Chairman asked if there were any comments or questions from the Commissioners.

At the request of Mr. Costello, Mr. Light presented a summary of the Staff Report and slides of the site and surrounding area (see Staff Report). He explained that Maher Road will be redone at the railroad crossing and there will be a bridge over it. The state will have to raise the entrance to the Park. Florence Fire Department raised the issue of the railroad crossing since they could not get out of the Park to get back to the Fire Station because of a train. Once the Fire Department was told about the overpass, they said "no problem". They just want to be able to get in and out of there.

Mr. Chaney asked if the requested zone change is a market driven decision and if they have a user in mind.

Mr. Toebben responded that they are working with some prospects for the property in the area of the amendment and they are usually owner-occupied manufacturing facilities.

Chairman Caddell questioned the Principally Permitted Uses in I-2 that they have agreed to eliminate. Mr. Toebben responded that they are #23 Asphalt and concrete plants and #24 Commercial stockyards.

Mr. Damstrom asked the Committee to look carefully at the uses in I-2 from the standpoint that the applicant has indicated that he will eliminate some of the uses that are obnoxious – and a lot of them seem to be obnoxious in relation to the residences. He stated that noise and pollution are highly regulated, but pollution could occur regardless of the regulations depending on the uses there.

Mr. Chaney questioned the difference between I-1 and I-2 zoning. Mr. Light gave two examples of I-1 Zoning: Commercial Park West which has one- and two-acre lots and small manufacturing and industrial users; and the Hemmer development with warehousing and light trucks coming in and out. He explained that I-2 uses are uses like Georgia Pacific – basically large lot users that need the rail – not users that have a nice clean yard. Mr. Costello explained that I-2 is

basically the heavy industrial zone. Foundries are a Conditional Use. There can be processing of raw materials, or raw materials can be brought in for manufacturing. It is the "dirty industries". He stated that there is a big difference between light industrial uses, like those Mr. Light mentioned, and the heavy industrial uses.

Mr. McMillian questioned the railroad bridge. Mr. Light responded that the railroad bridge will be just north of where the Mt. Zion Road crossing is now. The state will reconstruct Mt. Zion Road. Mr. Costello stated that it is a funded project, it's a "go". Mr. McMillian questioned building a bridge over the railroad. Mr. Light responded that it is cheaper to go over the railroad than to go under. He stated that there will be basically a new Mt. Zion Road from KY 25 to beyond the county line.

Mr. McMillian stated that poultry and small game are smelly things. He would like those uses and others obnoxious uses eliminated.

Mr. Schwenke stated that a lot of hazardous materials are used in manufacturing, which should be looked at with the housing being so close to the site.

Mr. Zimmer questioned the timing of the bridge construction relative to the timing of tenants taking possession of space on the site, if the request is approved.

Mr. Toebben responded that their last conversation with the State Engineer's Office was that the bridge was in the final engineering stage and the goal was to have it out for construction bids in mid-February – but that is going to be delayed thirty days due to completion of the right-of-way acquisition and slowness in getting the engineering drawings. He stated that they anticipate construction in the year 2000.

Mr. Zimmer asked the Committee to look at the timing issue so that construction of the bridge is not going on while industrial users are trying to get in and out of this site. He questioned the land use planned for the parcel in Kenton County. Mr. Light responded that the site under consideration tonight is owned by Toebben. The Sigmund property is under option by Berling and Mechlin. He stated that Toebben changed their property in Kenton County from Agricultural to I-1. He stated that the Boone County Future Land Use was for Industrial, but the property in Kenton County was still zoned Agricultural, which he believes was their argument when they went for the zone change. Mr. Zimmer asked that the information from Kenton County be made available to the Committee. He asked if this is all the land the applicant has. He stated that they are not showing any road development or any interior development of the parcel.

Mr. Light stated that there is a road stubbed to Kenton County and there is a cul-de-sac. Mr. Zimmer asked if the applicant intends to do anything with the rail



access piece. He stated that he is uncomfortable that there is not more development of the concept, particularly in the area contiguous to the residential zone. He asked the applicant to provide this information to the Committee. He commented that there could be a building to the north from the edge of the 100-foot buffer. Mr. Light explained that they will leave the 150 feet as I-1. He stated that when Industrial touches Residential, the requirement is Buffer Yard D, which is 50 feet. Fifty feet of the 150-foot buffer has to be used for Buffer Yard D. There is a 30-foot rear yard setback in I-2. If a building backs up to the Residential zone, it is 30 feet from the I-1/I-2 zoning line, not 30 feet from the Buffer yard. He stated that it would be 180 feet from the Residential line to where the building could be constructed. He stated that the homes sit on the high point and vary in distance from their rear property lines. The homes set far back from Maher Road. Mr. Zimmer responded that the house on the second parcel is within 100 feet and so is the one next to it. He stated that the topography is steep in the 100-foot area and questioned if it is wooded. Mr. Light responded that he believes it is "scrubby" and not heavily wooded. Mr. Zimmer stated that there is a clear sight line and the people in the RSE zone will see the ridge. He is concerned that we are not seeing what the intent is on the ridge and the area adjacent to the railroad spur. He would like to know what their intention is there.

Mr. Calvert responded that he believes the closest residence to the I-2 zone would be 340 feet away. Mr. Zimmer questioned the house on the second parcel. Mr. Norm Kusel, stated that his house is 50 feet from the I-1 zone. He stated that he purchased the property at 10486 Dixie Highway, which has about 250 feet of frontage on Maher Road. There is about fifteen acres there with a pond, a house, and outbuildings. The house is closest to the I-1 zone. He stated that he is a retired schoolteacher and he has race horses. He intends to have brood mares and race at Turfway and Keeneland. He stated that the applicant is not saying how many pieces of property will be there or how large they will be. If he knew what uses would be there, he would have a better idea of what is going to happen there. At this time, he does not know if he is for or against the request. He questioned maintenance of the buffer zone.

Mr. Newman questioned the reason why they originally zoned the property I-1 instead of I-2. Mr. Light reviewed the Site History section of the Staff Report. Mr. Costello stated that this will have to be researched, but he recalls that when we did one of the previous Updates (1986 or 1991), we looked at the Dixie Highway corridor from a Future Land Use standpoint because of the rail access and the natural extension of the Northern Kentucky Industrial Park. At that time, Toeppen may have purchased the original tract and asked for I-2 through the Update, which was either in 1986 or 1991 (which will be verified for the Committee). The remaining property was I-1 as part of an Update or back to the 1980 KZF Update which showed this whole corridor as I-1.

Mr. Newman asked if the 49+ acres to the east in Kenton County is also owned by Toebben. Mr. Light responded that Toebben owns the forty or fifty acres to the east adjacent to this site, and they have no problem showing a road connection. They stated in Kenton County that the property would be accessed through Boone County. Mr. Newman questioned when the zone change in Kenton County occurred. Mr. Light responded that the applicant is saying that it occurred in 1996. Mr. Newman asked if they will go back to Kenton County and change the fifty acres to I-2.

Mr. Toebben responded that they do not have any plans to go back before Kenton County at this time.

Mr. Newman commented that if Boone County approves this change to I-2, it would seem that they could get I-2 in Kenton County because they have access to the railroad. He asked if the rail system is large enough for the 202 acres and the fifty acres if they are all zoned I-2.

Mr. Toebben responded that the spur would only go as far as the users go. If there is not a spur user on that portion of the property, there would be no need for a spur there. Mr. Newman responded that there could be a spur on the property in Kenton County. Mr. Toebben responded that it may not be feasible to run a spur that distance.

Mr. McMillian questioned the size of the lots planned for this property. Mr. Toebben responded that in the existing I-2, the minimum is three acres and they will carry that on through. At this time, the smallest lot is 3.3 acres and the largest is 45 acres.

Mr. McMillian questioned maintenance of the buffer. Mr. Toebben responded that maintenance would be the responsibility of the landowner. The buffer will be deeded as part of the lot. All of the lots will be deeded.

Mr. Damstrom asked if the applicant would agree that there would not be one single user for the I-2 tract. Mr. Toebben responded that he could not guarantee that it would not be only one user if someone came in with a Development Plan that was acceptable to them and to the county. He stated that he does not know that the shape of the property would lend itself to one user. It is irregular in shape and people typically look for square or rectangular property that is level. Mr. Damstrom commented that it is a sizable I-2 tract and one user would be a large I-2 use in the middle of Boone County.

Mrs. Wilson asked if the two uses they have agreed to eliminate would be eliminated from the whole tract, including the property in Kenton County. Mr. Toebben responded that those uses are not permissible in Kenton County. The Kenton County portion of the property has the equivalent of Boone County's I-1

zone. Mrs. Wilson asked if the applicant will go back to Kenton County to change that property if this request is granted. Mr. Toebben responded that their goal is to keep the whole park the same whether it is in Boone County or in Kenton County.

Mr. Zimmer asked if the topography shown for the Georgia Pacific site on Dixie Highway is accurate. Mr. Light responded that the topo lines are just overlaid on old photographs. It was not done by GIS. Mr. Costello stated that Staff can give the Committee the elevations of the existing Georgia Pacific site. He stated that the contours have changed since 1985 and we are in the processing of updating them.


Mr. Zimmer stated that he is concerned about the final disposition of the site. How much of the site will be flattened? What will happen to the site as the applicant sees it developed? Mr. Costello asked the applicant to provide a couple of scenarios to the Committee to give an idea of how close the development will be to the south lot line where the buffer area is and show how the land could be divided up based on the contours.

Chairman Caddell stated that he supports the comments made by Mr. Damstrom, Mr. McMillian, and Mr. Schwenke and asked the Committee to carefully review all the Permitted Uses in this zoning district.

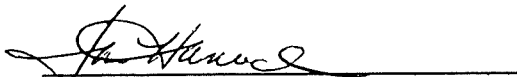
There being no further comments, the Chairman stated that the Committee Meeting for this item will be on February 3, 2000 at 5 P.M. in the Second Floor Conference Room. This item will be on the Agenda for the Business Meeting on February 16, 2000 at 7:30 P.M..

The Chairman closed this Public Hearing at 8:20 P.M..

APPROVED:


Arnold Caddell, Chairman

Attest:


Jan Hancock, Recording Secretary

Public Hearing Item No. 2:

Commission Members Present: Mrs. Arnett - Secretary/Treasurer, Mr. Caddell – Chairman, Mr. Chaney – Vice Chairman, Mr. Damstrom, Mr. Hicks – Temporary Presiding Officer, Mr. Knock, Mr. McMillian, Mr. Newman, Ms. Poston, Mr. Ries, Mr. Schwenke, Mr. White, Mrs. Wilson, and Mr. Zimmer.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Jan Hancock, Secretary; Mr. Mitch Light, Assistant Zoning Administrator/ZEO; and Mr. Todd Morgan, Planner.

Legal Counsel Present: Mr. Dale Wilson

The Chairman introduced the last item on the Agenda:

1. **Applicant:** **David E. Estes Engineering, Inc. for Duke-Weeks Realty Limited Partnership (owner)**
Request: **Zoning Map Amendment**

The request of **David E. Estes Engineering, Inc. for Duke-Weeks Realty Limited Partnership (owner)** to consider a **Zoning Map Amendment from Industrial One (I-1) to Commercial Services (C-3)** for an approximate 3.2 acre tract on the northeast corner of the KY 20/Progress Drive intersection, Boone County, Kentucky. The request is for a zone change to allow a commercial parking lot.

Staff Member Todd Morgan presented the Staff Report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Joe Dillon with Estes Engineering, 7075 Industrial Road, representing the owner Mr. Robert Chavez, stated that this is a simple request. They will look at the berms. The property sets higher than the adjacent Progress Drive and he is sure the owner will look at adding more trees versus interior shrubbery. He stated that there are no planned exits or entrances on Progress Drive or any additional ones on KY 20. This concluded the applicant's presentation.

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

The Chairman asked if there were any comments or questions from the Commissioners.

Mr. Zimmer asked if the existing parking facility was built to the current detention/retention standards. Mr. Costello responded that Staff will research that question.

Mr. Dillon stated that an addition was done in the early 1990's and there is currently an underground detention facility on the Plan, but he does not think that it serves the entire site. Mr. Costello commented that one was required for the addition. Mr. Zimmer stated that if there is a problem in regard to retention/detention, this might be the time to address it. Mr. Costello stated that Staff can contact the County Engineer to see if there is a problem.

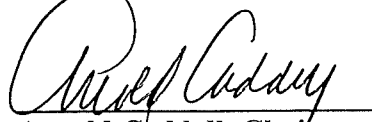
Mr. McMillian asked if this addition is for automobiles only or if it is for trucks too. Mr. Dillon responded that he believes it is strictly for automobiles.

Chairman Caddell referred to the map in regard to property in the center (to the right of the word "Site") and asked if it is the same property owner. Mr. Morgan responded "yes" and stated that it is a portion of Fast Park. Chairman Caddell stated that when driving by there, it is unsightly. He is concerned if this is the same property owner and they intend to buy or lease the site. He stated that Marriott has spent several million dollars building a first class hotel for the county and if this site is to become additional parking of this nature, then the Planning Commission should do everything possible to protect the different uses that are right together at this intersection.

Mr. Newman questioned why the site stops before the road. Mr. Morgan explained that the distance between the site and KY 20 is right-of-way and they cannot develop within the right-of-way. Mr. Newman questioned the little piece of property that is not developed. Mr. Dillon explained that there is a 15-foot drop in that area.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on February 3, 2000 at 5 P.M. in the Second Floor Conference Room. This item will be on the Agenda for the Business Meeting on February 16, 2000 at 7:30 P.M.. The Chairman closed this Public Hearing at 8:35 P.M..

APPROVED:


Arnold Caddell, Chairman

Attest:


Jan Hancock, Recording Secretary

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
February 16, 2000
7:30 P.M.**

Mr. Thomas Chaney, Vice Chairman, called the meeting to order at 7:32 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett, Secretary/Treasurer
Mr. Randy Barlow
Mr. W. Thomas Chaney, Vice Chairman
Mr. Mark Hicks
Mr. Richard Knock
Mr. Don McMillian
Mr. Robert Newman
Mrs. Susan Poston
Mr. Charlie Reynolds
Mr. Robert Ries, Temporary Presiding Officer
Mr. Bob Schwenke
Mr. Earl White
Mrs. Lisa Wilson
Mr. David Zimmer

COMMISSION MEMBERS NOT PRESENT:

Mr. Arnold Caddell, Chairman

LEGAL COUNSEL PRESENT:

Mr. Larry Dillon

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Ms. Jan Hancock, Secretary
Mr. Mitch Light, Assistant Zoning Administrator/ZEO
Mr. Todd Morgan, Planner

Approval of the Minutes:

Mr. Chaney stated that the Commissioners received a copy of the Minutes of the January 24, 2000 Public Hearing. He asked if there were any comments or corrections. There being no changes to the Minutes, Mr. White moved that they be approved as mailed. Mrs. Wilson seconded the motion and it carried unanimously.

Mr. Chaney stated that the Commissioners received a copy of the Minutes of the February 2, 2000 Public Hearing. He asked if there were any comments or corrections. Mr. Hicks stated that on Page 4, Paragraph 4, the second sentence should read, "Mr. Dunn responded that it is *not* a monetary issue." (italicized word added). Mr. White moved to approve the Minutes of the February 2, 2000 Public Hearing as amended. Mr. Schwenke seconded the motion and it carried unanimously.

Mr. Chaney stated that the Commissioners received a copy of the Minutes of the February 2, 2000 Business Meeting. He asked if there were any comments or corrections. There being no changes to the Minutes, Mr. White moved that they be approved as mailed. Mrs. Wilson seconded the motion and it carried unanimously.

ACTION ON PLAN REVIEWS:

Mr. Reynolds stated that he had a conflict of interest in regard to Agenda Item #1 and left the room at this time.

Mr. Chaney introduced the first item on the Agenda:

1. Zoning Map Amendment

The request of Toebben Limited (owner) to consider a Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2) for an approximate 202 acre tract located between the end of Toebben Drive and the Boone/Kenton County line, and to the north of Maher Road, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the I-2 zone.

Staff Member Mitch Light presented the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). The property owner has signed the letter agreeing to the conditions.

Mr. Costello stated that he received a copy of a petition from some of the neighbors in opposition to this development. The petition was not presented as evidence at the Public Hearing, but will be made available to the Fiscal Court members.

Mr. Hicks moved to approve the request based on the Committee Report. Mr. White seconded the motion.

Mr. Chaney asked if there were any comments or discussion.

Mr. McMillian stated that this site is very close to a residential area and with some of these uses, such as rubber and plastic products, there is no way to keep the odors away from the residences. He is opposed to the request.

Mr. Newman questioned the meaning of "multi-lot industrial subdivision" – does that mean two lots? Mr. Light responded that it could be two lots. Mr. Newman asked if it means "two or more lots". Mr. Light responded "yes".

Mr. Newman referred to **Condition #4. No outside storage of discarded material, junk, miscellaneous debris or salvage material will be permitted along the residentially zoned property to the south.** He questioned if these items will be allowed in other areas of the site. Mr. Light explained that this condition was added because Mr. Toebben stated to the Committee that there are deed restrictions and covenants which do not allow this. He reviewed the plat and noted the residences along Maher Road. With this condition, a resident can call and say that a junk car has been left there that does not belong to the company, and Staff can move more quickly on it that Mr. Toebben could because there are legal procedures to go through. The regulations do not allow outside storage. Mr. Newman questioned if Staff could have the item moved if the outside storage were to occur on the north, east, or west sides of the site. Mr. Light responded that the idea was to emphasize it on the south side. Mr. Costello explained that the area to the south is zoned Residential. The Future Land Use Map indicates Industrial to the north and it is zoned I-1, which may be the difference. The property to the east is also zoned I-1. The main concern is to protect the residential uses to the south.

Mr. Newman questioned the location of the railroad spur. Mr. Light indicated the spur line, which does not exist at this time. He added that another reason why the applicant is requesting I-2 is that I-2 users are more likely to need rail access than I-1 users.

Mr. Knock stated that the comments made in Condition #4 are better left silent. If we now control outside storage, why address it and beg the question of perhaps we do not have the authority to control it in other areas.

Mr. Zimmer stated that he was on the Committee. He stated that it is not an "outside storage" issue. It is a "junk" issue. He agreed that Condition #4 may diminish what is already stated in the ordinance that we control outside storage. Mr. Light commented that "outside storage" has to be in a kept manner.

Mr. Chaney asked if the word **south** creates the problem. Mr. Knock responded that Condition #4 may diminish what is already in place.

Mr. Newman suggested changing Condition #4 to read **No outside storage of discarded material, junk, miscellaneous debris or salvage material will be permitted.**

Mr. McMillian questioned defining "storage". How long is something stored? If it is going to be moved tomorrow, is it stored?

Mr. White stated that it was not the Committee's intention to say that it is okay to store junk in other areas of the property. He has no problem with changing Condition #4 as suggested by Mr. Newman. He stated that the condition came from concern for the residents and what is fair to them. The whole Committee Meeting was about concern for the residents.

Mr. Chaney asked Mr. Knock if he wished to suggest alternate language for Condition #4. Mr. Knock responded that we have the authority today to regulate storage – but it has to be orderly storage and not a junk pile. Mr. Light explained that we do not have total authority to go out and tell someone that they have to clean up their yard. If there is garbage in their yard, that is a Public Works issue.

Mr. Zimmer stated that in this zone, there could be a large piece of earth moving equipment rusting in the back yard. The Committee was trying to give a neighbor who has to look at that piece of junk something more than calling the applicant. The neighbor would be able to contact a county agency and get some action.

Mr. Costello explained that there is a city/county ordinance that deals with debris. Section 3151 deals with required trash areas. The idea is that trash builds up and is supposed to then be removed regularly. We are trying to prevent the build up of items that may be there for some time. Mr. Zimmer commented that it may not be "trash". He noted that on Limaburg Road there is someone who has things that may look like junk, but to that gentleman they are usable if he can get them operational. He stated that in I-2, there could be a blast furnace sitting out there until they can find a way to fix it.

Mr. McMillian asked if the property to the east has been rezoned Residential. Mr. Light responded that the property to the southeast was rezoned Residential by Kenton County. Mr. Knock asked if we have a responsibility to discuss this with Kenton County. Mr. Light responded that Kenton County did not call us and ask for our input on their rezoning and we did not request their input on ours. Mr. Knock asked Mr. Light if he would want Kenton County to call him. Mr. Light responded that it does not bother him that Kenton County did not call him prior to their zone change.

Mr. Chaney asked if there was a proposal from the Committee to change Condition #4. Mr. Newman suggested deleting the condition entirely or deleting the last section of the condition so that it reads: **No outside storage of discarded material, junk, miscellaneous debris or salvage material will be permitted.** Mr. McMillian commented that "junk" is a matter of opinion.

Mr. Chaney questioned how the Committee feels about deleting Condition #4 based on the discussion. Mr. Zimmer responded that if we already have the authority, why have Condition #4. We may be shooting ourselves in the foot.

Mr. Ries asked if there are deed restrictions to prevent junk from being outside. He stated that if he was a property owner and there was junk outside, he would call the Judge Executive and they would call Staff to get it cleaned up.

The applicant stated that there are deed restrictions that limit outside storage. Outside storage has to be screened from the adjoining property. They do not want neighbors within the park or outside the park to look at anything stored outside. He stated that this piece of property does not have deed restrictions yet because it has not been platted as industrial, but will have the covenants when it is platted.

Mr. Knock questioned saying "no less restrictions than what the deed restrictions require". Mr. Costello responded that the Planning Commission cannot enforce deed restrictions. Mr. Knock replied that we can enforce them if they are incorporated in the approval. Mr. Costello noted that it is the lot owners in the subdivision who know about the covenants, not the residents. He asked the applicant if he had a copy of the deed restrictions. The applicant responded "no".

Mr. Ries stated that the deed restrictions are probably more enforceable than the Zoning Regulations. If he were a resident, he would go after the problem as a violation of the deed restrictions.

Mr. Zimmer explained that it was the Committee's intent to preclude a resident from having to obtain an attorney to enforce a deed restriction and put the burden back on the county to enforce the regulations. Including it as a condition makes it solely a function of zoning and gives a resident the ability to call Planning & Zoning and get a response. He stated that there is no guarantee that the current applicant will be the property owner five years from now and there could be a property owner that would give a resident the run-around. He stated that if the description in the zoning law takes care of this, then he would agree to strike Condition #4.

Mr. Newman asked if screening is addressed by the regulations. Mr. Costello responded "yes" and recommended leaving Condition #4 in to emphasize the concern and give us more authority to enforce it, but possibly deleting the last part

as suggested by Mr. Newman. In response to comments by Mr. Newman, he explained that the regulations addressing screening come into play during the Site Plan and say **"No outside placement of equipment, junk, miscellaneous debris, or material will be permitted on the property"**

Committee members Mr. Hicks, Mr. Zimmer, and Mr. White stated that they had no problem with changing the wording of Condition #4 as stated by Mr. Costello.

The applicant stated a condition that equipment cannot be placed outside could be a problem. Mr. Hicks commented that there is equipment outside now. Mr. Chaney suggested saying **salvaged equipment** instead of equipment.

Mrs. Arnett stated that if she were a homeowner in the area, she would find some of these uses to be obnoxious, such as **#6 Distillation of alcohol** and **#15 Chemicals and allied products**.

The applicant stated that he is agreeable to the change in Condition #4.

Mr. Barlow referred to **Condition #1 - The entire 202 acre parcel will not be developed for one (1) development/user, but will be developed as a multi-lot industrial subdivision**. He asked if there could be one ten-acre user and one user for the remaining 192 acres. Mr. Hicks responded "yes". Mr. Light stated that this was discussed at the Committee Meeting. At the Public Hearing, the applicant was not ready to commit to this and said everything else – but they did agree to the condition. At the Public Hearing the applicant said that the topography did not lay well for one user and they have someone who wants seven acres. At the Committee Meeting, the applicant did not have an answer as to how many users there would be. Mr. White agreed that the applicant was not able to address this question.

Mr. Zimmer stated that the Committee worked on trying to minimize the impact on the residents and went through the list of Permitted Uses four or five times. He stated that the manufacture of plastic products is permitted in I-1 and they could have that use in the zone they have. The Committee went through the list and considered what is allowed in I-1 so as not to impact the neighbors more than they are already impacted.

Mr. Chaney asked the applicant to speak to Mrs. Arnett's concerns regarding the Permitted Uses.

The applicant responded that they went through the list of Permitted Uses one by one and attempted to remove those they felt would possibly create a problem for the residents. They did not come to the conclusion that alcohol distillation was a problem.

Mr. Zimmer stated that at the Public Hearing, no one spoke for or against the application, but now there is a petition. He asked if this was something he should be considering. Mr. Costello stated that the petition was just received about a half an hour ago. Counselor Dillon advised that the Commissioners are basically limited to what they heard at the Public Hearing. After the Public Hearing stage, most of what happens has to be considered by Fiscal Court after receiving the Planning Commission's recommendation. Mr. McMillian asked if the people signing the petition were notified. Mr. Light responded that all adjoining property owners were notified by letters.

Mr. Knock asked Counselor Dillon if he agreed with the change to Condition #4. Counselor Dillon responded that he does not see any problem with the change. He explained that the change does not affect the enforcement powers. Any condition can only be an addition to those powers and does not take away from those powers even by implication.

Mr. Newman commented that the original purpose of having the I-1 was to have a buffer for the residential uses. Mr. Light stated that the existing I-2 was originally the Hess property. Mr. Costello explained that the Hess property was rezoned from I-1 to I-2 as part of the zoning update. The Planning Commission felt that the zone change was appropriate given the limitations of the site and access to the railroad line. At that time, Northern Kentucky Industrial Park was filling up and there was no I-2 in the area. The applicant has now acquired additional property and wants to have one zone for the Industrial Park.

Mr. Hicks stated that the I-1 is between the I-2 and the residences to give more distance with the 150 feet and the thirty-foot buffer creating a distance of 180 feet from the buildings to the property line. The buildings are all buffered and there is no storage or concrete. The closest building is 526 feet from the closest house. Mr. Light stated that it may be about 520 feet. Mr. Hicks stated that there is a fifty-foot landscape berm behind the buildings. The landscape berm was moved behind the buildings to give the homeowners more buffer.

Mr. Zimmer asked if there has been clarification by Staff or the applicant as to the number of potential lots that could be developed in I-1 versus I-2. Mr. Light reviewed Exhibit D with Mr. Zimmer. Mr. Newman questioned the minimum size for I-2 lots. The applicant responded that it is 250 feet of frontage and 100,000 square feet. Mr. Light stated that it is about 20,000 square feet for I-1.

There being no further discussion, Mr. Hicks amended his motion. Mr. Hicks moved by resolution to approve the request based on the Committee Report with Condition #4 amended to read: **No outside placement of salvaged equipment, junk, miscellaneous debris, or salvaged material will be permitted on the property.** Mr. White seconded the amended motion. A roll call vote on the amended motion found Mr. Chaney, Mr. Hicks, Mr. Knock, Mr. Newman, Mrs.

Poston, Mr. Ries, Mr. Schwenke, Mr. White, Mrs. Wilson, and Mr. Zimmer in favor. Mrs. Arnett, Mr. Barlow, and Mr. McMillian were opposed. The motion carried by a vote of 10 to 3.

Mr. Reynolds returned to the meeting at this time.

2. **Zoning Map Amendment**

The request of **David E. Estes Engineering, Inc. (applicant)** for **Duke-Weeks Realty Limited Partnership (owner)** to consider a **Zoning Map Amendment from Industrial One (I-1) to Commercial Services (C-3)** for an approximate 3.2 acre tract on the northeast corner of the KY 20/Progress Drive intersection, Boone County, Kentucky. The request is for a zone change to allow a commercial parking lot.

Staff Member Todd Morgan presented the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). The property owner and the owner of Fast Park have signed letters agreeing to the conditions.

Mr. Ries moved by resolution that the request be approved based on the Staff and Committee Reports. Mr. White seconded the motion.

Mrs. Poston referred to Condition #1 and asked if there is a timeframe for improving the condition of the garage/maintenance facility. Mr. Morgan responded that that building will have to be improved when a new parking lot is put in, but they are now doing a new ATM kiosk and a new sign is going up and he believes they will improve that building more quickly than the parking lot.

There being no further comments, Mr. Chaney asked for a vote on the motion made by Mr. Ries and it carried unanimously.

3. **Wireless Communications Facility**

The request of **Ameritech (applicant)** to consider an application for a **Wireless Communications Facility at 7500 Turfway Road, Boone County, Kentucky**. The request is for the construction of a 147-foot monopole communication tower.

Mr. Chaney stated that this item is recommended for deferral to the March 15, 2000 Business Meeting at 7:30 P.M.. Mr. McMillian so moved. Mr. Ries seconded the motion and it carried unanimously.

EXHIBIT
“B”

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Mark Hicks, Chairman

DATE: February 16, 2000

RE: Request of Toebben Limited (owner) to consider a Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2) for an approximate 202 acre tract located between the end of Toebben Drive and the Boone/Kenton County line, and to the north of Maher Road, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the I-2 zone.

REMARKS:

We, the Committee, recommend approval of this request based upon the following findings of fact and with the following conditions:

Findings of Fact

1. The Committee has concluded that the applicant has adequately demonstrated that the existing zoning classification of Industrial One (I-1) is inappropriate and that the proposed zoning classification of Industrial Two (I-2) is appropriate.
2. The Committee has concluded that the map amendment request is in agreement with the adopted Comprehensive Plan and its Future Land Use Map.
3. The Committee has concluded that the attached conditions are necessary to mitigate any foreseeable impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

Conditions

1. The entire 202 acre parcel will not be developed for one (1) development/user, but will be developed as a multi-lot industrial subdivision.
2. The required 50 foot Buffer Yard "D" will be installed on or along the relocated ridge as each site develops and will be submitted as part of the Landscape Plan during the Site Plan review.
3. No impervious surfaces (asphalt, concrete, or structure) will encroach within the 150 foot Industrial One (I-1) area.

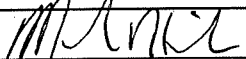
4. No outside placement of salvaged equipment, junk, miscellaneous debris or salvage material will be permitted on the property. (*Amended at the 2/16/2000 Business Meeting.)
5. The owner agrees to limit the Principally Permitted Uses in the Industrial Two (I-2) zone to the following:
 1. Any principally permitted use of an Industrial One (I-1) district.
 3. Bag cleaning;
 6. Distillation of alcohol;
 7. Electroplating;
 8. Enameling, japanning, or lacquering;
 9. Grinding, sandblasting, cutting, washing, or other reduction or waterproofing;
 11. Sawmills and planing mills, hardwood products and flooring, millwork, veneer and plywood and prefabricated wooden buildings and other lumber and wood products;
 12. Stone, clay, and glass products including plaster of paris, abrasives, and cut stone excluding extraction;
 13. Heavy machinery and transportation vehicles and equipment;
 14. Tobacco products;
 15. Chemicals and allied products;
 17. Rubber and plastics products;
 18. Leather and leather products **excluding tanning**.
 19. Wholesale trade of heavy machinery, equipment, and supplies, including transportation and farm equipment;
 20. Wholesale trade of paints, varnishes, chemicals, and allied products;
 21. Railroad and marine craft rights-of-way including switching and marshaling yards;

The following uses are only permitted if they are accessory or ancillary to a Principally Permitted Use:

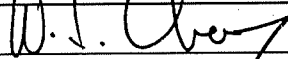
- 2. Acids, creosote, or petroleum products;
- 4. Blast furnaces, rolling mill, forging, foundries, and refining;
- 5. Corrosion of aluminum, copper, iron, tin, lead or zinc;
- 12. Cement, lime, gypsum;

The Conditional Uses in the Industrial Two (I-2) zone have not been limited and therefore still require approval by the Boone County Board of Adjustment.

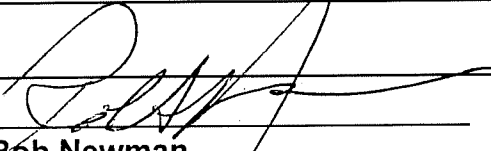
A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request.



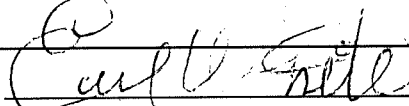
Mark Hicks, Chairman
For Against _____
Abstain _____ Absent _____




Thomas W. Chaney
For _____ Against _____
Abstain _____ Absent



Bob Newman
For _____ Against _____
Abstain Absent



Earl White
For Against _____
Abstain _____ Absent _____



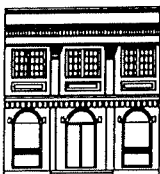
David Zimmer
For Against _____
Abstain _____ Absent _____

TOTAL: 3 FOR 0 AGAINST 0 ABSTAIN 2 ABSENT

SUPPORTING INFORMATION

RECEIVED FEB 11 2000

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005

606-334-2196

FAX 606-334-2264

E-Mail plancom@one.net

February 7, 2000

Mr. Bill Toebben
541 Buttermilk Pike
Suite 104
Crescent Springs, KY 41017

RE: Conditions of Approval for the request of **Toebben Limited (owner)** to consider a Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2) for an approximate 202 acre tract located between the end of Toebben Drive and the Boone/Kenton County line, and to the north of Maher Road, Boone County, Kentucky. The request is for a zone change to allow uses permitted in the I-2 zone.

Dear Mr. Toebben:

The following represents the conditions of approval for the above referenced application as agreed by the Boone County Planning Commission's Zone Change/Concept Plan Committee. If you agree to these conditions, please indicate so by providing your signature on the agreement stated at the end of this letter.

Conditions

1. The entire 202 acre parcel will not be developed for one (1) development/user, but will be developed as a multi-lot industrial subdivision.
2. The required 50 foot Buffer Yard "D" will be installed on or along the relocated ridge as each site develops and will be submitted as part of the Landscape Plan during the Site Plan review.
3. No impervious surfaces (asphalt, concrete, or structure) will encroach within the 150 foot Industrial One (I-1) area.
4. No outside ~~storage of discarded material~~ ^{Placement salvaged equipment}, junk, miscellaneous debris or salvage material will be permitted ~~along the residentially zoned property to the south.~~

on the property.

2-18-00

5. The owner agrees to limit the Principally Permitted Uses in the Industrial Two (I-2) zone to the following:
 1. Any principally permitted use of an Industrial One (I-1) district.
 3. Bag cleaning;
 6. Distillation of alcohol;
 7. Electroplating;
 8. Enameling, japanning, or lacquering;
 9. Grinding, sandblasting, cutting, washing, or other reduction or waterproofing;
 11. Sawmills and planing mills, hardwood products and flooring, millwork, veneer and plywood and prefabricated wooden buildings and other lumber and wood products;
 12. Stone, clay, and glass products including plaster of paris, abrasives, and cut stone excluding extraction;
 13. Heavy machinery and transportation vehicles and equipment;
 14. Tobacco products;
 15. Chemicals and allied products;
 17. Rubber and plastics products;
 18. Leather and leather products **excluding tanning**.
 19. Wholesale trade of heavy machinery, equipment, and supplies, including transportation and farm equipment;
 20. Wholesale trade of paints, varnishes, chemicals, and allied products;
 21. Railroad and marine craft rights-of-way including switching and marshaling yards;


Mr. Bill Toebben
February 7, 2000
Page 3

The following uses are only permitted if they are accessory or ancillary to a Principally Permitted Use:

2. Acids, creosote, or petroleum products;
4. Blast furnaces, rolling mill, forging, foundries, and refining;
5. Corrosion of aluminum, copper, iron, tin, lead or zinc;
12. Cement, lime, gypsum;

The Conditional Uses in the Industrial Two (I-2) zone have not been limited and therefore still require approval by the Boone County Board of Adjustment.

Sincerely,




Mitchell A. Light
Asst. Zoning Administrator/Enf. Officer

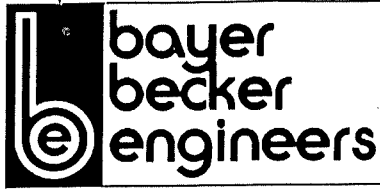
MAL\pr

Agreement

I, Bill Toebben, do hereby agree to the conditions of approval stated above for the Zoning Map Amendment from Industrial One (I-1) to Industrial Two (I-2) for an approximate 202 acre site located between the end of Toebben Drive and the Boone/Kenton County line, and to the north of Maher Road, Boone County, Kentucky.



Bill Toebben (Owner) 2-14-00
(date)



engineers
planners
architects
surveyors

14 East Eighth Street
Covington, Kentucky 41011
p.606.261.1113
f.606.261.1710
covington@bayerbecker.com

DESCRIPTION: Rezone Parcel
LOCATION: Toebben Drive
DATE: December 9, 1999

Situated in the County of Boone, Commonwealth of Kentucky, lying at the Eastern terminus of Toebben Drive is now constructed, and being part of the property conveyed in D.B. 361, Pg. 5; D.B. 414, Pg. 85; D.B. 602, Pg. 13 and D.B. 211, Pg. 512 of the Boone County Clerk's Records at Burlington and D.B. 120, Pg. 490 of the Kenton County Clerk's Records at Independence and more particularly described as follows:

Begin at the centerline intersection of Mt. Zion Road (Ky. Hwy. 536) and Toebben Drive; thence with the centerline of Toebben Drive South 13°10'32" West, 1839.48 feet to a found nail; thence along a curve to the left having a radius of 2788.99, an arc length of 199.91 feet and a chord bearing South 11°07'19" West, 199.87 feet to a found nail; thence South 09°04'07" West 1038.74 feet; thence South 09°05'04" West, 314.66 feet; thence along a curve to the left having a radius of 300.00 feet, an arc length of 498.64 feet and a chord bearing South 38°31'56" East, and chord distance of 443.19 feet; thence South 86°08'56" East, 330.25 feet; thence leaving said centerline North 04°30'42" East, 26.88 feet to the Southeast corner of Lot 15, Enterprise V Park, Section 4, said point also being in the North right-of-way of Toebben Drive and the TRUE POINT OF BEGINNING.

thence from the TRUE POINT OF BEGINNING and with the East line of said Lot 15 North 04°31'38" East, 580.09 feet to the Northeast corner of said Lot 15;

thence with the South line of Sigmon (D.B. 154, Pg. 458) South 85°30'00" East, 1805.42 feet;

thence South 06°22'30" West, 341.88 feet;

thence South 80°48'29" East, 406.36 feet to a point in the Boone County/Kenton County line;

thence with said County line and through Lawson (D.B. 120, Pg. 490) South 05°54'01" East, 2721.79 feet;

thence with a proposed zone line South 81°52'21" West, 196.43 feet;

thence North 85°34'26" West, 290.79 feet;

thence South 38°38'00" West, 79.41 feet;

thence North 47°04'51" West, 1076.71 feet;

thence North 78°54'10" West, 135.84 feet;

95k72/650

Description: Rezone Parcel
Location: Toeppen Drive
Date: December 9, 1999
Page 2 of 2

thence South 37°27'13" West, 135.84 feet;

thence South 05°37'54" West, 933.01 feet;

thence North 67°20'59" West, 2813.41 feet to a point in the East right-of-way of the Norfolk & Southern Railroad and West line of Toeppen (D.B. 602, Pg. 13);

thence with said right-of-way North 15°04'50" East, 858.26 feet to a found iron pin at the Southwest corner of Lot 17, Enterprise V Park, Section 4;

thence with the South line of said Lot 17 South 85°00'00" East, 623.34 feet to a found iron pin;

thence North 05°14'18" East, 69.30 feet to a found iron pin;

thence South 84°45'00" East, passing the Southeast corner of said Lot 17 at 555.89 feet, a total distance of 945.13 feet to a found iron pin at the Southeast corner of Lot 29, Enterprise V Park, Section 4;

thence with the East line of said Lot 29 North 05°19'41" East, 1121.62 feet to the Northeast corner of said Lot 29;

thence with the North line of said Lot 29 and the proposed South right-of-way of Toeppen Drive North 85°29'18" West, 162.63 feet;

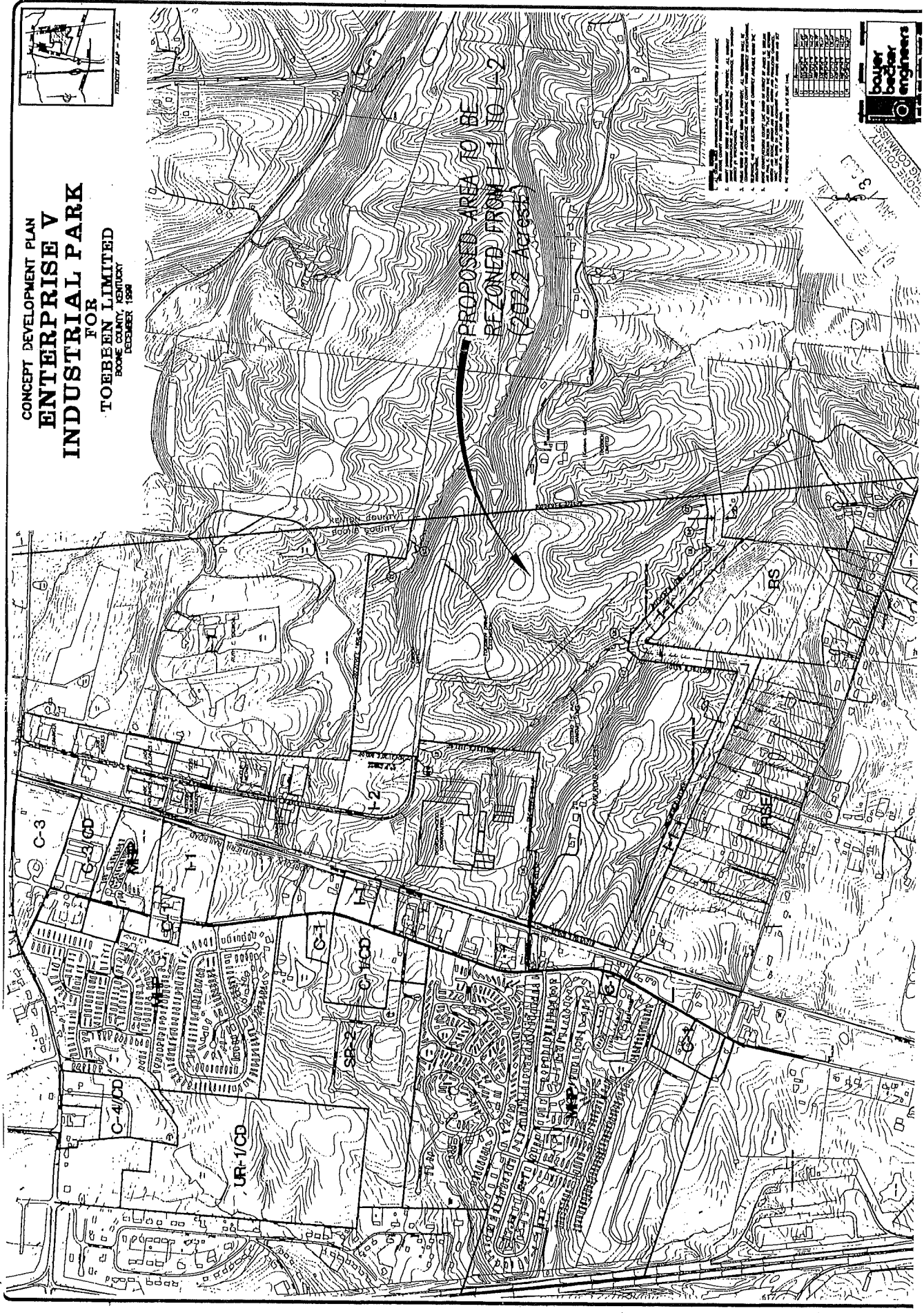
thence with the East terminus of dedicated Toeppen Drive North 04°30'42" East, 50.00 feet to the TRUE POINT OF BEGINNING.

Containing 202.2 acres of land and subject to all easements and rights-of-way of record. The reference meridian of record is Plat Slide 144B. The Boone County/Kenton County line is based on a survey by James W. Berling and Paul R. Berling titled "Plat Book showing the dividing line between Kenton and Boone, Kenton and Grant, Kenton and Pendleton Counties, 1996." Line based on existing monument No. 17 at Maher Road and set monument No. 15 at Mt. Zion Road.

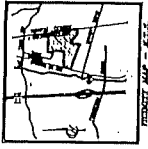
The above description was prepared for zoning purposes only by Chris R. Gephart, Licensed Professional Surveyor #3292 in the Commonwealth of Kentucky, December, 1999.

CONCEPT DEVELOPMENT PLAN
ENTERPRISE V
INDUSTRIAL PARK

FOR
TOEBEEN LIMITED
 BOONE COUNTY, MISSOURI
 DECEMBER, 1984



PROPOSED AREA TO BE
 REZONED FROM L1 TO L2
 (209.2 Acres)



- NOTES:
1. THIS PLAN IS A CONCEPT DEVELOPMENT PLAN AND IS NOT A FINAL ENGINEERING PLAN.
 2. THE PROPOSED AREA TO BE REZONED FROM L1 TO L2 IS SHOWN BY A CURVED ARROW.
 3. THE PROPOSED AREA TO BE REZONED FROM L1 TO L2 IS 209.2 ACRES.
 4. THE PROPOSED AREA TO BE REZONED FROM L1 TO L2 IS SHOWN BY A CURVED ARROW.
 5. THE PROPOSED AREA TO BE REZONED FROM L1 TO L2 IS 209.2 ACRES.
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 9. THE PROPOSED AREA TO BE REZONED FROM L1 TO L2 IS 209.2 ACRES.
 10. THE PROPOSED AREA TO BE REZONED FROM L1 TO L2 IS SHOWN BY A CURVED ARROW.

NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAN	12/1/84
2	CONCEPT DEVELOPMENT PLAN	12/1/84
3	FINAL ENGINEERING PLAN	12/1/84



BOUYER
 BOUYER &
 BOUYER
 ENGINEERS

