

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

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

1. Name of Project George Cosmah Parcel
2. Location of Project 1007 Burlington Pike, Boone County
3. Total Acreage of Site Irregular lot 105' x 352'
4. Current Zoning of Site C-1
5. Proposed Zoning (Classification being requested) C-2
6. Proposed Uses (please specify each use) Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises
7. Names of Applicant(s) George Cosmah
- Phone Number 606-371-3939 Fax No. 606-371-2203
8. Address of Applicant(s) 1780 Timber Lane

<u>Burlington</u>	<u>Kentucky</u>	<u>41005</u>
City	State	Zip

9. Name of Property Owner(s) J. Curtis Bevins
- Phone Number 808-486-3588 Fax No. _____
10. Address of Property Owner(s) 98-402 Koauka Loop, #811

<u>Aiea</u>	<u>Hawaii</u>	<u>96701</u>
City	State	Zip

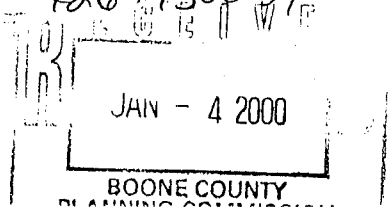
11. Proposed Building Intensities (please specify) Use existing building
12. Are there any existing buildings on the site? Yes
- How many? Main building and shed
13. Deed Book 589 Page No. 311 Group No. 2032
14. Are you also applying for:
 - Yes Conditional Use Permit
 - _____ Dimensional Variance
15. 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

Contact person:

Dave Schneider

426-1300 ext 108



(over)

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

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

19. Applicant's Signature George Casmah

Property Owner's Signature J. Curtis Perkins

SECTION B (To be completed by BCPC Staff)

1. Date Received _____
2. Review Fee _____
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of copies of plan received**
4. Is application complete? Yes No
5. Staff Reviewer _____
6. Committee Chairman _____
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.

EXHIBIT

“A”

STAFF REPORT

Request of George Cosmah (applicant) for J. Curtis Bevins (owners) to consider a Zoning Map Amendment from Commercial One (C-1) to Commercial Two (C-2), and a Conditional Use Permit, for an approximate 0.95 acre tract located at 1007 Burlington Pike, Boone County, Kentucky. The request is for a zone change and Conditional Use Permit to allow sales or leasing of motor vehicles.

February 23, 2000

Request

The applicant's proposal is to change the existing zoning classification from Commercial One (C-1) to Commercial Two (C-2) with a Conditional Use Permit to allow the sales or leasing of a maximum of 50 motor vehicles. The concept development plan shows the existing access point off Burlington Pike (KY 18) to remain. The existing access point on Ridge will be relocated farther south from the intersection to be aligned with the access to Shell. The existing structure will be utilized for offices, but the detached garage will be removed. Site detention is proposed along the western property line. Parking for the display of 50 vehicles and 8 customer spaces are shown on the concept development plan.

Site Characteristics

The site is located on the southwest corner of Burlington Pike (KY 18) and Ridge Road. The property is relatively flat draining to the existing Commercial One (C-1) property to the west. All utilities are available to the site.

This property has been used in the past for the retail sale of landscaping supplies, an antique store and most recently a restaurant.

Surrounding Zoning and Land Uses

North: Jeff Wyler Honda & Mitsubishi (formerly Simon Fisher) zoned Commercial Services (C-3), Ameristop with gas and convenience store zoned Commercial One (C-1) and the Greenview Subdivision zoned Suburban Residential One (SR-1).

East: Shell Gas Station with convenience store and car wash zoned Commercial Two (C-2).

South: 6045 & 6055 Ridge Road owned by Dutch Properties and Aztec Properties currently zoned Commercial One (C-1) and the Whaley's Baby Farm Subdivision zoned Suburban Residential Two (SR-2).

West: 2.61 acre parcel owned by Dutch Properties currently zoned Commercial One (C-1) and Suburban Residential Two (SR-2).

Relationship to the Boone County Comprehensive Plan

The Future Land Use Map shows the subject property as mostly Commercial (C) with small portions of High Suburban Density (HSD) and Suburban Residential (SR). These classifications are defined in the adopted Comprehensive Plan as:

Commercial:	"Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."
High Suburban Density:	"Single-family and/or attached housing up to 8 dwelling units per acre. This classification is typified by townhouse, condominium, and zero-lot line development, and also pertains to mobile home parks."
Suburban Residential:	"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 Land Use Element within the 1995 Boone County Comprehensive Plan refers to this area generally by stating:

"The proposed commercial land uses on KY 18 should be planned with careful Access Management, including continuous parallel roadways. Development should create commercial clusters rather than strip centers which parallel KY 18. These commercial uses must also be designed to be compatible with existing and proposed residential developments along KY 18."

Conditional Use Permit Review

The Boone County Planning Commission and Boone County Fiscal Court must determine if the proposal meets the criteria outlined in Section 262 - General Standards Applicable to All Conditional Uses - of the Boone County Zoning Regulations (attached).

Staff Concerns/Comments

1. Staff is concerned with the distance between the existing access point off Burlington Pike (KY 18) and the signalized intersection. The scaled distance from Ridge and KY 18 is approximately 85 feet. Article 32 of the Boone County Zoning Regulations (Transportation Management) classifies Burlington Pike (KY 18) as an "Arterial Roadway" which requires access points to be a minimum of 230 feet from a signalized intersection.
2. Since proposed renderings of the building elevations were not submitted with the Concept Development Plan, staff is concerned about proposed changes to the building and materials that may be used given its proximity to the established residential neighborhood.

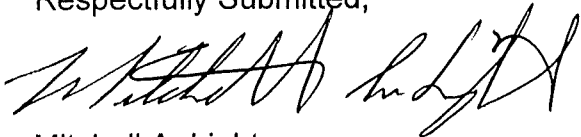
3. With regard to the proximity of this project to the established residential neighborhood, staff is concerned about issues such as site lighting and public address/speaker systems that many auto dealers use as part of their normal operations.
4. If approved, the Future Land Use Map would only require a slight modification as the property is shown mostly as Commercial (C).

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 areas character.

Respectfully Submitted,



Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

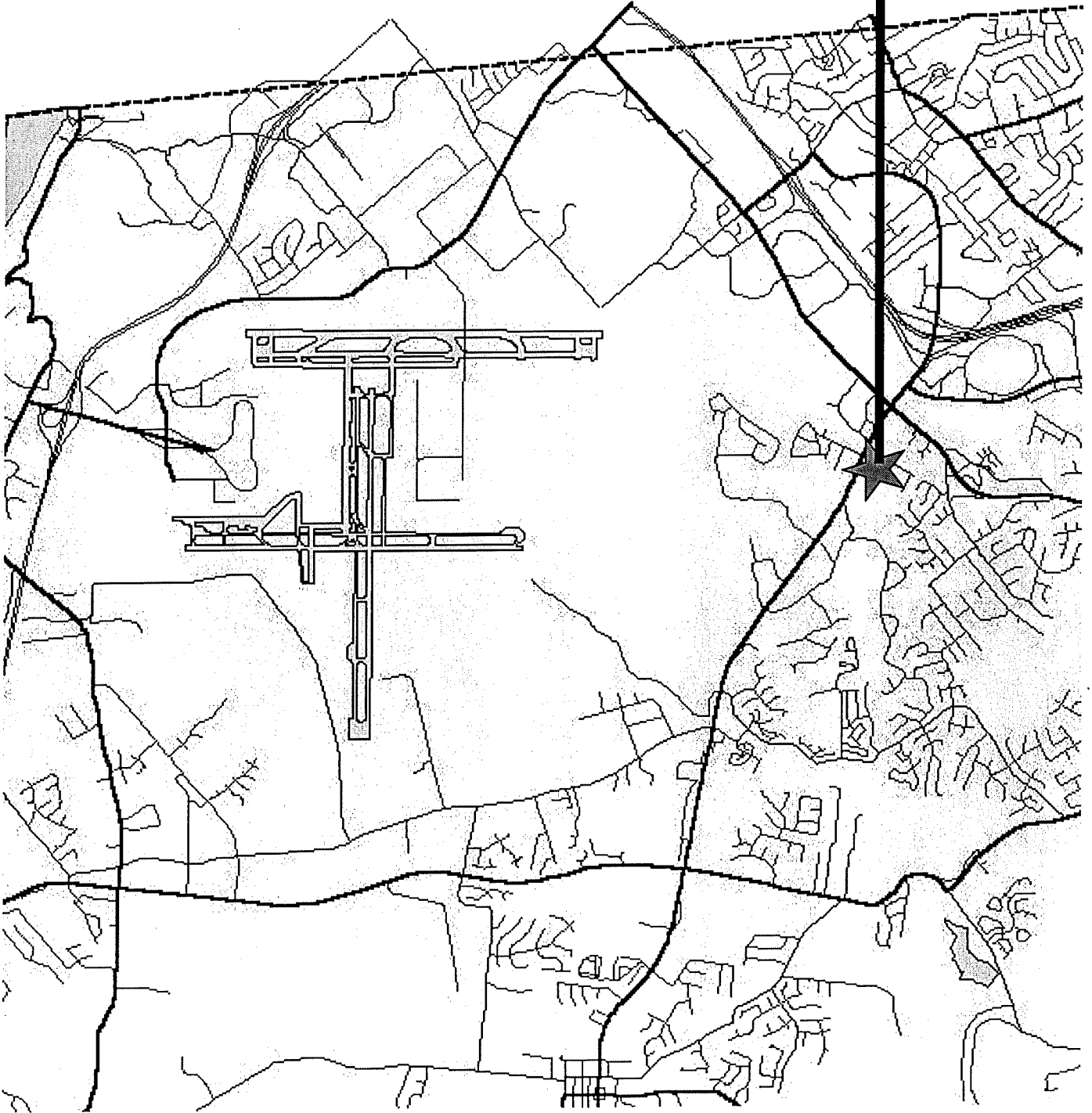
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Attachments:

- Vicinity Map
- Zoning Map
- Existing Topography
- Concept Development Plan
- Section 262
- Application

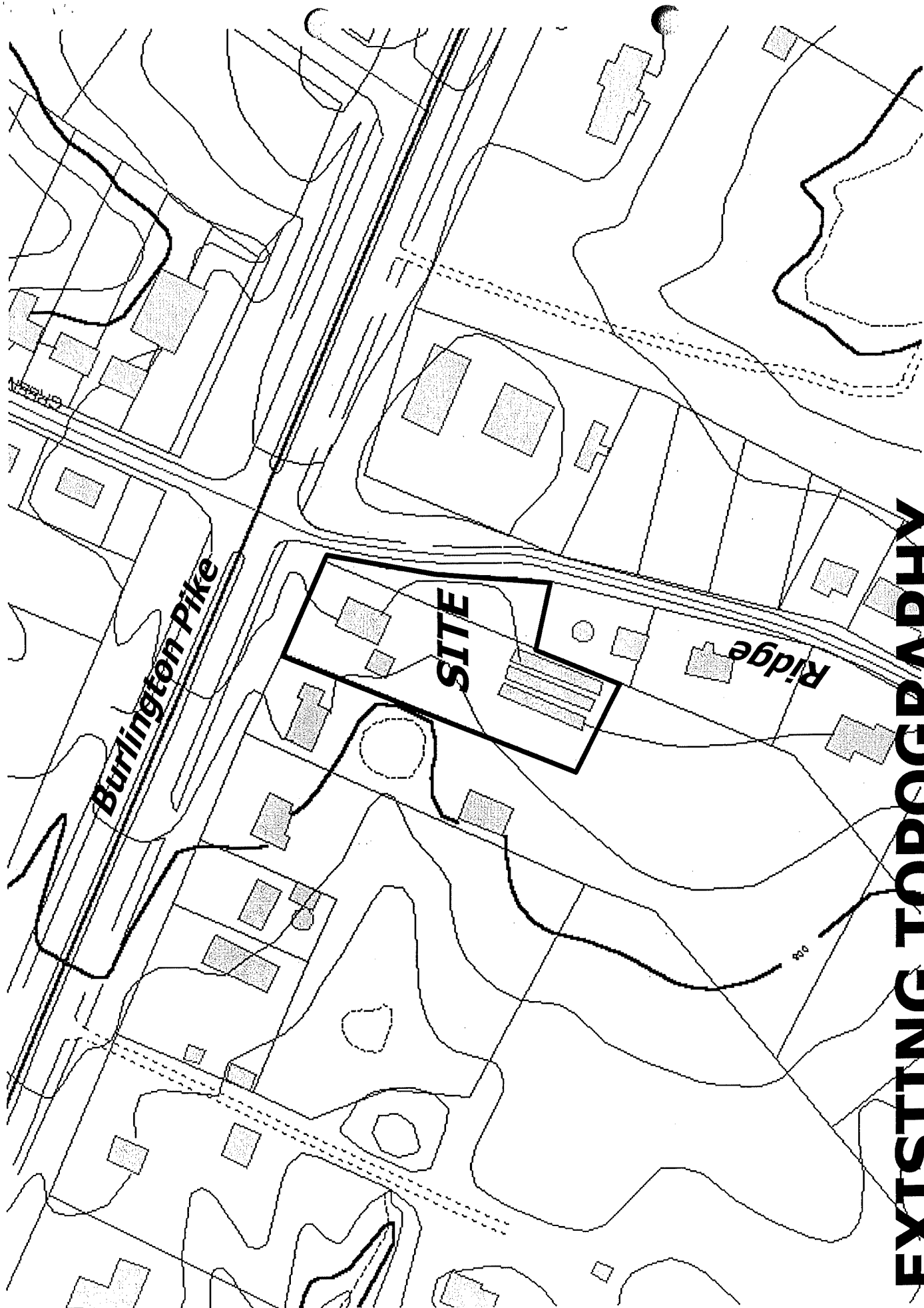
VICINITY MAP

SITE

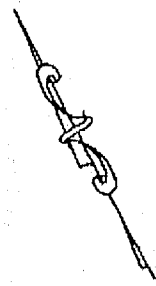
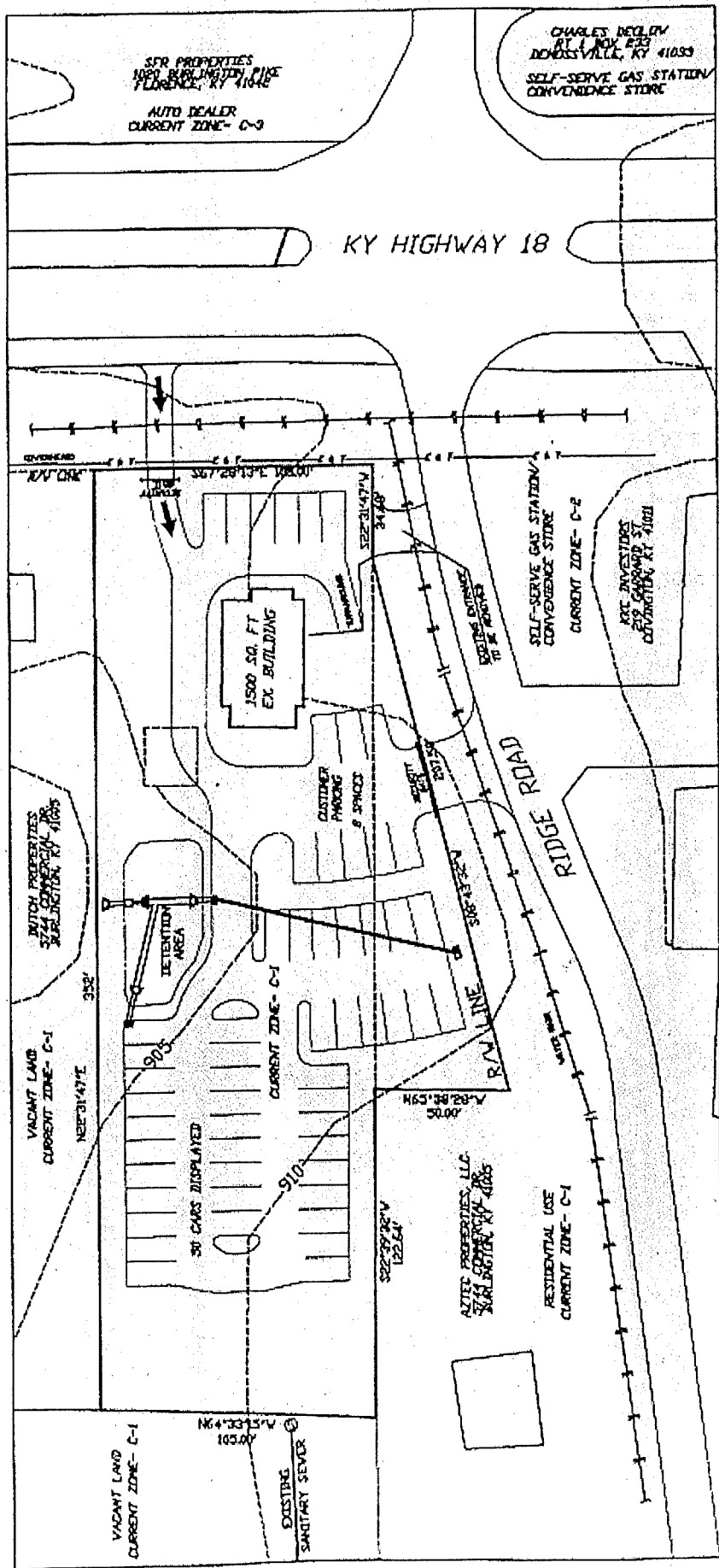




ZONING MAP



EXISTING TOPOGRAPHY



CONCEPT DEVELOPMENT PLAN

SECTION 262

General Standards Applicable to All Conditional Uses

In addition to any specific requirements for conditionally permitted uses deemed appropriate by the Board of Adjustment and Zoning Appeals, the Board shall review the particular facts and circumstances of each proposed use and determine that the use is in fact a conditional use as established under the provisions of this zoning order. The Board may consider whether such use at the proposed location:

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 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 any such services;
5. Will create excessive additional requirements at public cost for public facilities and services and will be detrimental to the economic welfare of the community;
6. Will 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 designed as not to create an interference with traffic on surrounding public thoroughfares.

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BOONE COUNTY PLANNING COMMISSION

(See Boone County Zoning Regulations)
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- Boone County Building Department

Contact person:
Dave Schneider

826-1300 ext 108
BOONE COUNTY
JAN - 4 2000
BOONE COUNTY

(over)

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** 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.

Public Hearing Item No. 2:

Commission Members Present: Mr. Barlow, Mr. Hicks, Mr. Newman, Mrs. Poston, Mr. Reynolds, Mr. Ries –Temporary Presiding Officer, Mr. Schwenke, Mr. White, Mrs. Wilson, and Mr. Zimmer.

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

Legal Counsel Present: Mr. Dale Wilson

Following a short recess, Mr. Ries called the meeting back to order at 8:50 P.M. and introduced the second item on the Agenda:

1. **Applicant:** **George Cosmah for**
J. Curtis Bevins (owner)

Request: **Zoning Map Amendment**

The request of George Cosmah (applicant) for J. Curtis Bevins (owner) to consider a Zoning Map Amendment from Commercial One (C-1) to Commercial Two (C-2) and a Conditional Use Permit for an approximate 0.95 acre tract at 1007 Burlington Pike, Boone County, Kentucky. The request is for a zone change and Conditional Use Permit to allow sales or leasing of motor vehicles.

Staff Member Mitch Light presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Ries asked for the applicant's presentation.

Attorney David Schneider with the law firm of Ziegler & Schneider was present on behalf of Mr. and Mrs. George Cosmah. Mr. and Mrs. Cosmah are not the owners of record, but have a long-term lease. They previously operated Yesterday's on the site. Mr. and Mrs. Cosmah will eventually own the property, but do not at this time because of estate planning. Mr. Schneider asked Bill Viox to explain the proposal.

Mr. Bill Viox with Viox & Viox Consulting Engineers introduced Rodney Crice, a landscape architect with the firm. Mr. Viox stated that Staff did a good job of

explaining the site characteristics. He indicated how the existing entrance slopes down and how the slide slopes down to a middle point and then goes back up. He stated that Ridge Road is the beginning of the ravine system that goes down behind Lipps Pools and the Bank of Kentucky and on down to Boone Aire Road to the valley. He indicated the topography of the site and stated that they tried to situate the car parking forward toward KY 18. He indicated the entrances approved by the Planning Commission for the nursery and for Yesterday's. They will align one of the access points with the Shell entrance. There will be security gates on both ends of the site. The existing building on the site will remain, but the decking will be removed. The building will make an excellent office for the proposed use. He indicated the entrance that will be in-only. All of the utilities are in place. The detention area on the site will also pick up water from Ridge Road.

Mr. Rodney Crice stated that they are sensitive to the adjacent residential uses in C-1 and propose screening along the perimeter of the property. The existing trees adjacent to the property will remain in place. He reviewed the Landscaping Plan noting a berm along Ridge Road and in the rear, as well as shrubs in the front.

Mr. George Cosmah stated that he has been in the automobile business for 35 – 40 years. Two years ago, his wife decided that she wanted to be in the restaurant business and they began Yesterday's, but it did not do well in that location. They entered into a long-term financial arrangement with the owners of the property and now want to operate an automobile sale and leasing facility on the site. The lease cars are late model vehicles and the demand is high for them. He stated that this is a small location that requires limited pavement and lighting. With a fifty-car site, they do not need a PA system. He asked for approval of the application.

Mr. Schneider submitted written evidence to support the zone change (see Exhibit 1) and stated that Staff had basically the same recommendations. He stated that the request is in agreement with the Land Use Map and with a number of Goals and Objectives and the Business Activity Element of the Comprehensive Plan. The impact on traffic from this business will be minimal. There will be no impact on morning rush hour as people do not lease vehicles at that time. The majority of the traffic will be on Saturday and sometimes in the evening. He stated that the people in the area looking for cars are already in the area. He stated that nearly 60% to 70% of all new cars are leased and for some models it is 80%. This is due to the high depreciation of expensive cars and, when a person buys a car, sales tax has to be paid on the entire amount. When you lease a vehicle, the 6% sales tax is paid in the lease payments and that money is not paid out at the beginning. The majority of leases are 24 to 36 months and there is a large volume of automobiles that come back in from leasing and are available for sale. There is not enough profit in junkers and those types of automobiles to handle them on this type of lot. The Development Plan shows a maximum of six cars parked along the road (KY 18). The majority of the cars will be in the rear of the property and the house will

block the visual impact. The site will look the same as a restaurant doing well. The property is currently zoned C-1 and they are going to C-2 since this is a Conditional Use in C-2. The ordinance clearly says a maximum of fifty cars. He stated that there are other Permitted Uses on the property, including drive-thru restaurant, supermarket, convenience store, liquor store, drug store, bank, and video store and those uses would have a greater impact on traffic than the proposed use.

This concluded the applicant's presentation.

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

Dr. Richard Broeg, 1029 Burlington Pike, stated that he has been in his present location on Burlington Pike for fifteen years. His property is adjacent to the Dutch properties. He is opposed to the proposed zone change. He spoke before the Planning Commission about a year ago in opposition to a nearly identical proposal for a used car lot. He stated that the applicant talked about leasing and the cost of vehicles, but what they are talking about is a used car lot. He referred to the January 20, 1999 Committee Report and stated that the proposal to allow a used car lot on the Dutch properties was unanimously denied by the Planning Commission and by Fiscal Court. The January 20, 1999 Committee Report stated that a used car lot was not an appropriate use for the property and did not conform to the Comprehensive Plan or Future Land Use designation, it was not compatible with the surrounding uses, and did not enhance the neighborhood. That application failed to meet any of the criteria for a zone change. He questioned what has changed in the last year to justify a change to a used car lot. He does not think this change is consistent with a smart growth philosophy. In the neighborhood is his office, a banking headquarters, an insurance office, a new medical office, and a new pediatric day care center. A used car lot is not consistent with the development the Comprehensive Plan calls for and is not consistent with the neighborhood. He is in the process of expanding his office and a used car lot in the neighborhood would have a serious impact on the expansion of his office, the medical office, or the bank office. He is concerned about access to the site from a safety standpoint. He is concerned about pollutants and run off. He stated that the property drains toward the west and his office is in that direction. There could be gas, oil, and anti-freeze coming from the property. He has aesthetic concerns relative to his office. He objects to the bright lighting, loud speakers, signs, banners, and balloons – which are things that accompany this type of business. He is not aware that leasing a property constitutes ownership and is not sure of the status of the petitioning party. He owns the property where his office is located. He asked that the request be denied.

Mr. Ries asked if there was anyone else present who wished to speak in opposition. There being no response, he asked if there were any comments or questions from the Commissioners.

Mr. Hicks stated that in the Dutch property application, they did not provide a Concept Development Plan and wanted to do repairs on site. They wanted to keep an old barn on the property as a repair garage. They did not have a Landscape Plan. They just wanted to put a car lot there. He stated that it may be good for everyone to see that plan.

Counselor Wilson advised that that prior application can be made a part of this record, unless there is objection. Mr. Schneider responded "I have no objection".

Mr. Schneider stated that Dr. Broeg is well intentioned, but has misled the Planning Commission. Mr. Schneider stated that there is a large parcel between the subject parcel and the doctor's property. He read from the October 16, 1998 zone change application for that parcel which involved automotive repair and resale. They were primarily going for C-3 uses. Their entrance would have been on Ridge Road and going back at least four homes into the residential area. There were also restrictions on getting out on KY 18 that are not involved in this application.

Mr. Ries asked if there would be any on-site repairs. Mr. Schneider responded "no". He stated that there may be washing and cleaning, but he does not think automotive repairs are allowed in this zone. Mr. Reis stated that the only building they will have there is the existing building. Mr. Schneider agreed.

Mr. Zimmer stated that the request is for a change to C-2 and a Conditional Use. He questioned what happens if someone wants to use the property for a C-2 Permitted Use. Mr. Light explained that they would have to come back for a change in Concept Development Plan.

Mr. Zimmer asked if the intention is for the accesses to be open during the day and gated at night. Mr. Viox responded that the gates are for security. Mr. Zimmer stated that the Committee may want additional information about lighting. He asked if there are any regulations regarding effluents and if there is an oil/water separator in the parking lot. Mr. Viox commented in regard to the proposed detention pond and explained that if there were to be a breach of an oil line, they would have the ability to shut the gate and capture anything that would happen on site. Kevin Wall commented that it is common to require a separator to ensure water quality and almost all the gas stations built in Boone County in the last five years have separators.

Mr. White noted that Staff is concerned about the access that is not the minimum distance of 230 feet from the signalized intersection and asked if the applicant

would be willing to give up the in-only access. Mr. Schneider responded that they would prefer to keep that access as someone may want to come in that way.

Mrs. Wilson questioned how close the residential to the back is. Mr. Schneider indicated a house zoned C-1. He stated that the subject property does not touch a residential zone. There is commercial zoning on all four sides. He stated that the house is currently rental property and someone is living there. The house was purchased by Aztec Properties for access on Ridge Road in the middle of residential properties. They bought it for the purpose of getting the zone change. The house is in C-1.

Mrs. Wilson asked if the cars being delivered to the site would come in on 18-wheelers and if there are certain hours when they would come in. Mr. Cosmah responded that they do not use a car carrier to bring in used cars. If there would be a carrier, it would be a three or four car carrier and it could unload on the property. There would not be any nighttime deliveries. He stated that they intend to lease and release late model automobiles purchased from auctions and banks.

Mr. Barlow stated that there seem to be a lot of car dealers in this area and questioned if we can put a limit on the number of cars.

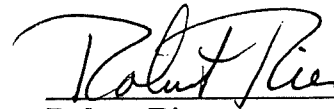
Mr. Costello stated that historically there have been a number of car dealerships concentrated on KY 18 towards Houston Road and Hopeful Road. In 1986, with requests for a several car dealerships, the Planning Commission struggled with the issue of how far the auto dealerships should go. Back then, there was the auto mall and one site was serving three or four models. It turned out that only the Saturn dealership went there. There was emphasis on concentrating the dealerships in that area because that is where the competition was. In the past ten years, the Planning Commission has looked at it as an auto corridor. There was an effort to put some of them on Houston Road, but the Planning Commission turned that down because the Commission felt it was not appropriate in that location. He stated that there are some smaller used car dealerships scattered throughout the county, but the bigger ones are more concentrated. We have found that they create low trip generation and it is not at peak times. We have tried to integrate the dealerships so that people can go car shopping from one to another and have previously required them to connect so that people do not have to go out on KY 18.

Mr. Schneider stated that the Land Use Map and all other designations of the Comprehensive Plan (see Exhibit 1) and Mr. Costello's comments indicate that the application is in agreement with the Comprehensive Plan. He requested approval.

There being no further comments, Mr. Ries stated that the Committee Meeting for this item will be on March 2, 2000 at 5 P.M. in the second floor conference room of the Administration Building. This item will be on the Agenda for the Business Meeting on March 15, 2000 at 7:30 P.M..

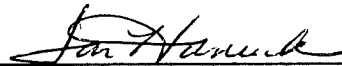
Mr. Ries closed this Public Hearing at 9:35 P.M..

APPROVED:



Robert Ries
Temporary Presiding Officer

Attest:



Jan Hancock, Recording Secretary

SUBMITTED BY
DAVE SCHNODER

EXHIBIT 1
2/23/2000
ITEM # 2

The present zoning of C-1 and the proposed change to C-2 are both in agreement with the 1995 Boone County Comprehensive Plan as shown by the following references:

Relationship to the Comprehensive Plan

The Future Land Use Map of this plan classifies the site as Commercial. The Commercial designation is described as: "Retail, corporate and professional office, interchange commercial, indoor commercial recreation, restaurants, services, etc."

The Land Use Element of the Boone County Comprehensive Plan states the following regarding the Camp Ernst Area (Area C-4, pg. 222):

"The proposed commercial land uses of KY 18 should be planned with careful Access Management, including continuous parallel roadways. Development should create commercial clusters rather than strip centers which parallel KY 18. These commercial uses must also be designed to be compatible with existing and proposed residential developments along KY 18." (Pg. 222).

The Business Activity Element of the Boone County Comprehensive Plan states under Areas of Future Commercial Activity on page 82 that:

"Many problems with the location and arrangement of commercial uses have emerged, especially along KY 18 and U.S. 42 corridors. Commercial developments along KY 18 and U.S. 42 west of Mall Road should not be regionally oriented nor should they attract additional traffic, but rather be served by the existing or future population of the area. The mix of commercial, office and residential uses, along with limited access, should be encouraged along KY 18. Along KY 18 in the I-75-Mall Road-Houston Road area, there are some traffic congestion problems that can be worsened by adding commercial access points."

The Goals and Objectives section for Business Activity states (pg. 7):

"Goal:

Appropriate locations for businesses compatible with the surrounding area are provided in Boone County."

The Goals and Objectives section for Business Activity, regarding commercial uses states (pg. 7):

"1. Commercial uses shall be limited to strategic locations serving trade area and neighborhood needs and shall have safe and effective access and ample parking."

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
March 15, 2000
7:30 P.M.**

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:30 P.M..

COMMISSION MEMBERS PRESENT:

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

COMMISSION MEMBERS NOT PRESENT:

Mr. Charlie Reynolds

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Ms. Jan Hancock, Secretary
Mr. Mike Homer, Planner
Mr. Mitch Light, Assistant Zoning Administrator/ZEO
Mr. Todd Morgan, Planner
Mr. Kevin Wall, AICP, CDT – Director, Zoning Services

There being no further discussion, Mr. Chaney asked for a vote on the motion made by Mr. Hicks to deny the request which found Mrs. Arnett, Mr. Chaney, Mr. Hicks, Mr. Knock, Mr. McMillian, Mr. Newman, Mr. Ries, Mr. Schwenke, Mr. White, Mrs. Wilson, and Mr. Zimmer in favor. Mr. Barlow and Mrs. Poston were opposed. The motion carried by a vote of 11 to 2 with 1 abstention. Mr. Costello stated that the Planning Commission's action is a recommendation to Fiscal Court for their final action.

Chairman Caddell returned to the meeting room at this time and chaired the rest of the meeting:

2. Zoning Map Amendment

The request of George Cosmah (applicant) for J. Curtis Bevins (owner) to consider a Zoning Map Amendment from Commercial One (C-1) to Commercial Two (C-2), and a Conditional Use Permit, for an approximate 0.95 acre tract at 1007 Burlington Pike, Boone County, Kentucky. The request is for a zone change and Conditional Use Permit to allow sales or leasing of motor vehicles.

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.

There being no discussion, Mr. Ries moved by resolution to Boone County Fiscal Court to approve the request based on the Committee Report. Mr. White seconded the motion and it carried unanimously.

3. Change in Concept Development Plan

The request of Carlson Consulting Engineers (applicant) for Benenson Capitol Company (owner) to consider a Change in Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 14.65 acre lot at 4949 Houston Road, Florence, Kentucky. The request is for a change in an approved Concept Development plan to allow an expansion of the existing Sam's Club store.

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

Mr. White moved by resolution to the City of Florence to approve the request based on the Committee Report. Mr. Zimmer seconded the motion.

EXHIBIT
"B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Mark Hicks, Chairman

DATE: March 15, 2000

RE: Request of **George Cosmah (applicant)** for **J. Curtis Bevins (owners)** to consider a Zoning Map Amendment from Commercial One (C-1) to Commercial Two (C-2), and a Conditional Use Permit, for an approximate 0.95 acre tract located at 1007 Burlington Pike, Boone County, Kentucky. The request is for a zone change and Conditional Use Permit to allow sales or leasing of motor vehicles.

REMARKS:

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

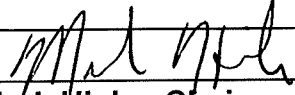
Findings of Fact

1. The Committee has concluded that the applicant has adequately demonstrated that the existing zoning classification of Commercial One (C-1) is inappropriate and that the proposed zoning classification of Commercial Two (C-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

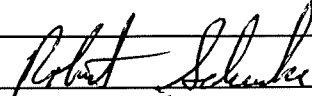
1. There will be no vehicle repairs, including the changing of fluid(s), on this property.
2. There will be no public address system used on this property.
3. Site improvements will be submitted for review as a Major Site Plan following the *Boone County Zoning Regulations* and Concept Development Plan regarding landscaping, berming, and storm water detention, etc.

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.



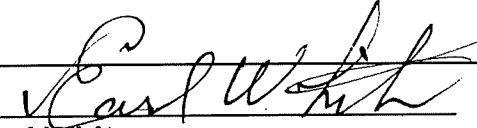
Mark Hicks, Chairman

For Against _____
Abstain _____ Absent _____




Bob Schwenke

For Against _____
Abstain _____ Absent _____




Earl White

For Against _____
Abstain _____ Absent _____



Lisa Wilson

For Against _____
Abstain _____ Absent _____



David Zimmer

For Against _____
Abstain _____ Absent _____

TOTAL: 5 FOR 0 AGAINST 0 ABSTAIN 0 ABSENT

Public Hearing Item No. 2:

Commission Members Present: Mr. Barlow, Mr. Hicks, Mr. Newman, Mrs. Poston, Mr. Reynolds, Mr. Ries –Temporary Presiding Officer, Mr. Schwenke, Mr. White, Mrs. Wilson, and Mr. Zimmer.

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

Legal Counsel Present: Mr. Dale Wilson

Following a short recess, Mr. Ries called the meeting back to order at 8:50 P.M. and introduced the second item on the Agenda:

1. Applicant: **George Cosmah for J. Curtis Bevins (owner)**

Request: **Zoning Map Amendment**

The request of **George Cosmah (applicant) for J. Curtis Bevins (owner)** to consider a Zoning Map Amendment from Commercial One (C-1) to Commercial Two (C-2) and a Conditional Use Permit for an approximate 0.95 acre tract at 1007 Burlington Pike, Boone County, Kentucky. The request is for a zone change and Conditional Use Permit to allow sales or leasing of motor vehicles.

Staff Member Mitch Light presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Ries asked for the applicant's presentation.

Attorney David Schneider with the law firm of Ziegler & Schneider was present on behalf of Mr. and Mrs. George Cosmah. Mr. and Mrs. Cosmah are not the owners of record, but have a long-term lease. They previously operated Yesterday's on the site. Mr. and Mrs. Cosmah will eventually own the property, but do not at this time because of estate planning. Mr. Schneider asked Bill Viox to explain the proposal.

Mr. Bill Viox with Viox & Viox Consulting Engineers introduced Rodney Crice, a landscape architect with the firm. Mr. Viox stated that Staff did a good job of

explaining the site characteristics. He indicated how the existing entrance slopes down and how the slide slopes down to a middle point and then goes back up. He stated that Ridge Road is the beginning of the ravine system that goes down behind Lipps Pools and the Bank of Kentucky and on down to Boone Aire Road to the valley. He indicated the topography of the site and stated that they tried to situate the car parking forward toward KY 18. He indicated the entrances approved by the Planning Commission for the nursery and for Yesterday's. They will align one of the access points with the Shell entrance. There will be security gates on both ends of the site. The existing building on the site will remain, but the decking will be removed. The building will make an excellent office for the proposed use. He indicated the entrance that will be in-only. All of the utilities are in place. The detention area on the site will also pick up water from Ridge Road.

Mr. Rodney Crice stated that they are sensitive to the adjacent residential uses in C-1 and propose screening along the perimeter of the property. The existing trees adjacent to the property will remain in place. He reviewed the Landscaping Plan noting a berm along Ridge Road and in the rear, as well as shrubs in the front.

Mr. George Cosmah stated that he has been in the automobile business for 35 – 40 years. Two years ago, his wife decided that she wanted to be in the restaurant business and they began Yesterday's, but it did not do well in that location. They entered into a long-term financial arrangement with the owners of the property and now want to operate an automobile sale and leasing facility on the site. The lease cars are late model vehicles and the demand is high for them. He stated that this is a small location that requires limited pavement and lighting. With a fifty-car site, they do not need a PA system. He asked for approval of the application.

Mr. Schneider submitted written evidence to support the zone change (see Exhibit 1) and stated that Staff had basically the same recommendations. He stated that the request is in agreement with the Land Use Map and with a number of Goals and Objectives and the Business Activity Element of the Comprehensive Plan. The impact on traffic from this business will be minimal. There will be no impact on morning rush hour as people do not lease vehicles at that time. The majority of the traffic will be on Saturday and sometimes in the evening. He stated that the people in the area looking for cars are already in the area. He stated that nearly 60% to 70% of all new cars are leased and for some models it is 80%. This is due to the high depreciation of expensive cars and, when a person buys a car, sales tax has to be paid on the entire amount. When you lease a vehicle, the 6% sales tax is paid in the lease payments and that money is not paid out at the beginning. The majority of leases are 24 to 36 months and there is a large volume of automobiles that come back in from leasing and are available for sale. There is not enough profit in junkers and those types of automobiles to handle them on this type of lot. The Development Plan shows a maximum of six cars parked along the road (KY 18). The majority of the cars will be in the rear of the property and the house will

block the visual impact. The site will look the same as a restaurant doing well. The property is currently zoned C-1 and they are going to C-2 since this is a Conditional Use in C-2. The ordinance clearly says a maximum of fifty cars. He stated that there are other Permitted Uses on the property, including drive-thru restaurant, supermarket, convenience store, liquor store, drug store, bank, and video store and those uses would have a greater impact on traffic than the proposed use.

This concluded the applicant's presentation.

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

Dr. Richard Broeg, 1029 Burlington Pike, stated that he has been in his present location on Burlington Pike for fifteen years. His property is adjacent to the Dutch properties. He is opposed to the proposed zone change. He spoke before the Planning Commission about a year ago in opposition to a nearly identical proposal for a used car lot. He stated that the applicant talked about leasing and the cost of vehicles, but what they are talking about is a used car lot. He referred to the January 20, 1999 Committee Report and stated that the proposal to allow a used car lot on the Dutch properties was unanimously denied by the Planning Commission and by Fiscal Court. The January 20, 1999 Committee Report stated that a used car lot was not an appropriate use for the property and did not conform to the Comprehensive Plan or Future Land Use designation, it was not compatible with the surrounding uses, and did not enhance the neighborhood. That application failed to meet any of the criteria for a zone change. He questioned what has changed in the last year to justify a change to a used car lot. He does not think this change is consistent with a smart growth philosophy. In the neighborhood is his office, a banking headquarters, an insurance office, a new medical office, and a new pediatric day care center. A used car lot is not consistent with the development the Comprehensive Plan calls for and is not consistent with the neighborhood. He is in the process of expanding his office and a used car lot in the neighborhood would have a serious impact on the expansion of his office, the medical office, or the bank office. He is concerned about access to the site from a safety standpoint. He is concerned about pollutants and run off. He stated that the property drains toward the west and his office is in that direction. There could be gas, oil, and anti-freeze coming from the property. He has aesthetic concerns relative to his office. He objects to the bright lighting, loud speakers, signs, banners, and balloons – which are things that accompany this type of business. He is not aware that leasing a property constitutes ownership and is not sure of the status of the petitioning party. He owns the property where his office is located. He asked that the request be denied.

Mr. Ries asked if there was anyone else present who wished to speak in opposition. There being no response, he asked if there were any comments or questions from the Commissioners.

Mr. Hicks stated that in the Dutch property application, they did not provide a Concept Development Plan and wanted to do repairs on site. They wanted to keep an old barn on the property as a repair garage. They did not have a Landscape Plan. They just wanted to put a car lot there. He stated that it may be good for everyone to see that plan.

Counselor Wilson advised that that prior application can be made a part of this record, unless there is objection. Mr. Schneider responded "I have no objection".

Mr. Schneider stated that Dr. Broeg is well intentioned, but has misled the Planning Commission. Mr. Schneider stated that there is a large parcel between the subject parcel and the doctor's property. He read from the October 16, 1998 zone change application for that parcel which involved automotive repair and resale. They were primarily going for C-3 uses. Their entrance would have been on Ridge Road and going back at least four homes into the residential area. There were also restrictions on getting out on KY 18 that are not involved in this application.

Mr. Ries asked if there would be any on-site repairs. Mr. Schneider responded "no". He stated that there may be washing and cleaning, but he does not think automotive repairs are allowed in this zone. Mr. Reis stated that the only building they will have there is the existing building. Mr. Schneider agreed.

Mr. Zimmer stated that the request is for a change to C-2 and a Conditional Use. He questioned what happens if someone wants to use the property for a C-2 Permitted Use. Mr. Light explained that they would have to come back for a change in Concept Development Plan.

Mr. Zimmer asked if the intention is for the accesses to be open during the day and gated at night. Mr. Viox responded that the gates are for security. Mr. Zimmer stated that the Committee may want additional information about lighting. He asked if there are any regulations regarding effluents and if there is an oil/water separator in the parking lot. Mr. Viox commented in regard to the proposed detention pond and explained that if there were to be a breach of an oil line, they would have the ability to shut the gate and capture anything that would happen on site. Kevin Wall commented that it is common to require a separator to ensure water quality and almost all the gas stations built in Boone County in the last five years have separators.

Mr. White noted that Staff is concerned about the access that is not the minimum distance of 230 feet from the signalized intersection and asked if the applicant

would be willing to give up the in-only access. Mr. Schneider responded that they would prefer to keep that access as someone may want to come in that way.

Mrs. Wilson questioned how close the residential to the back is. Mr. Schneider indicated a house zoned C-1. He stated that the subject property does not touch a residential zone. There is commercial zoning on all four sides. He stated that the house is currently rental property and someone is living there. The house was purchased by Aztec Properties for access on Ridge Road in the middle of residential properties. They bought it for the purpose of getting the zone change. The house is in C-1.

Mrs. Wilson asked if the cars being delivered to the site would come in on 18-wheelers and if there are certain hours when they would come in. Mr. Cosmah responded that they do not use a car carrier to bring in used cars. If there would be a carrier, it would be a three or four car carrier and it could unload on the property. There would not be any nighttime deliveries. He stated that they intend to lease and release late model automobiles purchased from auctions and banks.

Mr. Barlow stated that there seem to be a lot of car dealers in this area and questioned if we can put a limit on the number of cars.

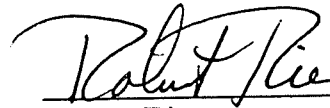
Mr. Costello stated that historically there have been a number of car dealerships concentrated on KY 18 towards Houston Road and Hopeful Road. In 1986, with requests for a several car dealerships, the Planning Commission struggled with the issue of how far the auto dealerships should go. Back then, there was the auto mall and one site was serving three or four models. It turned out that only the Saturn dealership went there. There was emphasis on concentrating the dealerships in that area because that is where the competition was. In the past ten years, the Planning Commission has looked at it as an auto corridor. There was an effort to put some of them on Houston Road, but the Planning Commission turned that down because the Commission felt it was not appropriate in that location. He stated that there are some smaller used car dealerships scattered throughout the county, but the bigger ones are more concentrated. We have found that they create low trip generation and it is not at peak times. We have tried to integrate the dealerships so that people can go car shopping from one to another and have previously required them to connect so that people do not have to go out on KY 18.

Mr. Schneider stated that the Land Use Map and all other designations of the Comprehensive Plan (see Exhibit 1) and Mr. Costello's comments indicate that the application is in agreement with the Comprehensive Plan. He requested approval.

There being no further comments, Mr. Ries stated that the Committee Meeting for this item will be on March 2, 2000 at 5 P.M. in the second floor conference room of the Administration Building. This item will be on the Agenda for the Business Meeting on March 15, 2000 at 7:30 P.M..

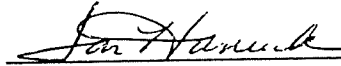
Mr. Ries closed this Public Hearing at 9:35 P.M..

APPROVED:



Robert Ries
Temporary Presiding Officer

Attest:


Jan Hancock, Recording Secretary

SUPPORTING INFORMATION

MAR 13 '00 13:27 FR SMITH BARNEY INC. 808 521 3423 TO 16064260222
MAR. -07'00 (TUE) 11:00 BOONE COUNTY PLANNING COMM TOWNE MOTORS TEL:606 334 2264

BOONE COUNTY PLANNING COMMISSION

2995 Washington Street, Burlington, KY 41005



606-394-2196
FAX 606-394-2264
E-Mail plancom@one.net

March 7, 2000

Mr. David Schneider
Ziegler & Schneider PSC
541 Buttermilk Pike
Covington, KY 41017

RE: Conditions of Approval for the request of George Cosmah (applicant) for J. Curtis Baylins (owners) to consider a Zoning Map Amendment from Commercial One (C-1) to Commercial Two (C-2), and a Conditional Use Permit, for an approximate 0.95 acre tract located at 1007 Burlington Pike, Boone County, Kentucky. The request is for a zone change and Conditional Use Permit to allow sales or leasing of motor vehicles.

Dear Mr. Schneider:

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 the signature of the property owner on the agreement stated at the end of this letter.

Conditions

1. There will be no vehicle repairs, including the changing of fluids, on this property.
2. There will be no public address system used on this property.
3. Site improvements will be submitted for review as a Major Site Plan following the *Boone County Zoning Regulations* and Concept Development Plan regarding landscaping, berming, and storm water detention, etc.

Sincerely,

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

MAL/pr

MAR 13 '00 13:28 FR SMITH BARNEY INC. 808 521 3423 TO 16054260222
03/12/2000 05:09 6063/12203
AR. -07'00(TUE) 11:00 BOONE COUNTY PLANNING COMM

Mr. David Schneider
March 7, 2000
Page 2

Agreement

I, J. Curtis Bevins, do hereby agree to the conditions of approval stated above for the Zoning Map Amendment and a Conditional Use Permit, for an approximate 0.95 acre tract located at 1007 Burlington Pike, Boone County, Kentucky, to allow sales or leasing of motor vehicles.

J. Curtis Bevins, 03-13-00
Curtis Bevins (Owner) (date)



VIOX & VIOX, INC.

Consulting Engineers & Surveyors

DESCRIPTION Parcel To Be Rezoned

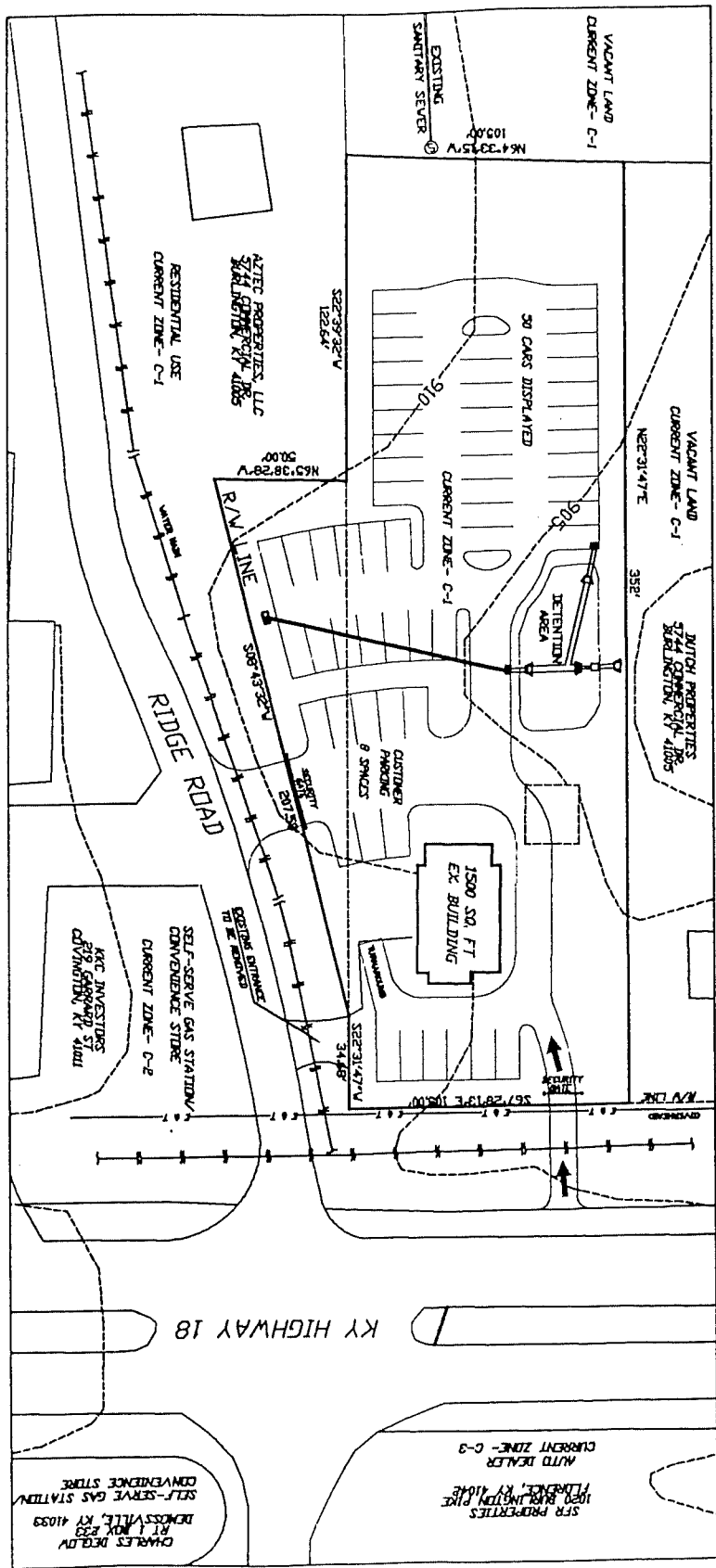
- Planning

Located at the southwest intersection of Kentucky Highway 18 and Ridge Road and is more particularly described as follows:

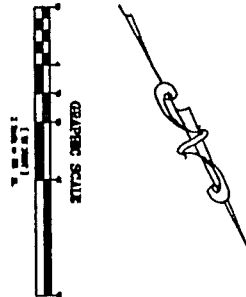
Beginning at a point at the southwest right-of-way intersection of Kentucky Highway 18 and Ridge Road; thence with the right-of-way line of Ridge Road S 22-31-47 W 34.68 feet to a point; thence S 08-43-32 W 207.59 feet to a point; thence leaving said right-of-way line N 65-38-28 W 50.00 feet to a point; thence S 22-39-32 W 122.64 feet to a point; thence N 64-33-15 W 105.00 feet to a point; thence N 22-31-47 E 352.00 feet to a point in the southerly right-of-way line of Kentucky Highway 18; thence with said right-of-way line S 67-28-13 E 105.00 feet to the point of beginning containing 0.95 acre more or less.

- Design

- Surveying



ENGINEERING
 CONSULTANTS
 F-018-000



ALL RIGHTS RESERVED
 CLIENT: GEORGE COSMAH, ET AL.
 PROJECT: 1500 SQ FT EC BUILDING
 PREPARED FOR: GEORGE COSMAH, ET AL.
 DATE: 12-30-99
 DRAWN BY: [Name]
 CHECKED BY: [Name]

**CONCEPT DEVELOPMENT PLAN
 FOR
 GEORGE COSMAH**



12-30-99	GALL	1" = 20'
12-30-99	GALL	1" = 20'
12-30-99	GALL	1" = 20'
12-30-99	GALL	1" = 20'

Ordinance
Of
The Boone County Fiscal Court

Ordinance No. 2000-08

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT RECOMMENDING APPROVAL WITH CONDITIONS, FOR A REQUEST OF GEORGE COSMAH (APPLICANT) FOR J. CURTIS BEVINS (OWNER) FOR A ZONING MAP AMENDMENT AND CONDITIONAL USE PERMIT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM COMMERCIAL ONE (C-1) TO COMMERCIAL TWO (C-2) FOR AN APPROXIMATE 0.95 ACRE SITE LOCATED AT 1007 BURLINGTON PIKE, BOONE COUNTY, KENTUCKY, AS RECOMMENDED UNANIMOUSLY BY THE BOONE COUNTY PLANNING COMMISSION VIA RESOLUTION NO. R-00-006-A.

WHEREAS, the Boone County Fiscal Court received a request for a Zoning Map Amendment to the Boone County Zoning Map and a Conditional Use Permit, and such Zoning Map Amendment being a zone change from Commercial One (C-1) to Commercial Two (C-2) for an approximate 0.95 acre site located at 107 Burlington Pike, Boone County, Kentucky, which is more particularly described below; and,

WHEREAS, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval, with conditions, for the Zoning Map Amendment and Conditional Use Permit.

NOW, THEREFORE, BE IT ORDAINED BY THE BOONE COUNTY FISCAL COURT AS FOLLOWS:

SECTION I

That the request for a Zoning Map Amendment and Conditional Use Permit for the real estate which is more particularly described below shall be and is hereby recommended for approval, with conditions, this Zoning Map Amendment being a zone change from Commercial One (C-1) to Commercial Two (C-2) for an approximate 0.95 acre site located at 1007 Burlington Pike, Boone County Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in a Commercial One (C-1) zone and a Conditional Use Permit is more particularly described in DEED BOOK 589, PAGE NO. 311 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

SECTION II

That as a basis for the recommendation of approval for a Zoning Map Amendment and Conditional Use Permit request are the findings of fact and conditions of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby

Ordinance
Of
The Boone County Fiscal Court

Ordinance No. 2000-08

incorporated by reference as if fully set out in this Ordinance and marked as "Exhibit A".

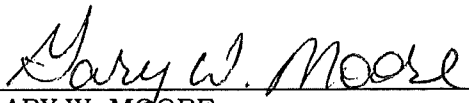
The committee recommended approval for this request based on the findings of fact and conditions as set forth in the Committee Report and marked as "Exhibit B".

SECTION III


That this Ordinance shall take effect and be in full force when passed, published and recorded according to law.

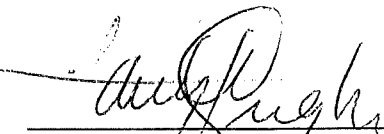
Introduced and given First Reading on the 2nd day of May, 2000.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the 11th day of May, 2000, and on the same occasion signed in open session by the County Judge-Executive as evidence of his approval, attested by the County Fiscal Court Clerk and declared to be in full force and effect.


GARY W. MOORE
BOONE COUNTY JUDGE-EXECUTIVE

ATTEST:


ROBYN R. COBB
FISCAL COURT CLERK


LARRY CRIGLER
BOONE COUNTY ATTORNEY

5-25-00
DATE PUBLISHED