

EXHIBIT
“A”

STAFF REPORT

Request of Hilltop Basic Resources, Inc. (applicant) for Hilltop Basic Resources, Inc., Addison G. Stevens, Myrna Stevens, Rodney Woods, Sandra Woods, Donald Gene Hodges, Niki Carol Hodges, Robert G. Kippler, William E. Kippler, Carl Taabar and Cynthia Taabar (owners) to consider a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Recreation/Industrial Four/Planned Development (A-1/R/I-4/PD) for an approximate 534 acre area located north of I-275 and the I-275/Petersburg (KY 8) interchange at the terminus of Garrison Creek Road, and along the south side of the Ohio River, Boone County, Kentucky. The request is for a zone change to allow underground extraction, processing, river barging of materials, and other activities pertaining to subsurface mining operations, and outdoor park/recreation and agricultural uses.

January 24, 2000

PROPOSAL

This application is for a zone change from Agriculture (A-1) to Agriculture/Recreation/Industrial Four/Planned (A-1/R/I-4/PD) for an approximate 534 acre site generally located at the end of Garrison Creek Road and along the Ohio River. The following basic land uses are proposed in this request (refer to Volume 1, page 24 of the application materials for a land use map):

- A. A park area that is mostly located on the west side of Garrison Creek and along the Ohio River is proposed to encompass approximately 113 acres (subsurface mining would occur in 101 acres of this area; the remaining 12 acres is proposed to retain its current A-1 zone). A boat ramp, parking area, picnic area, playground, and open play field are proposed in the flatter, open area that is near the river and immediately west of Garrison Creek. This area is proposed to be accessed by an extension of Garrison Creek Road into the site. A trail system (8' wide paved trail is proposed), shelters, observation deck, and sand/gravel beach areas are proposed in the western part of the site, where steeper, wooded hillsides adjoin the river itself. A trail easement is proposed to link this area to the River Road area to the east (easement would run past the surface operations area to the property to the east; there is another tract in between the Hillside property and River Road). The 113 acre park area is proposed to be dedicated to Boone County after the initial mining development has been completed.
- B. A 12 acre surface operations area is proposed to be located on the east side of Garrison Creek Road near the Ohio River, just above the 100 year flood plain. This area is proposed to be accessed from Garrison Creek Road via a paved access road and bridge (arched bridge faced with stone) which cross the Garrison Creek

valley in an east/west manner. This area would include offices, garage, supply storage, fuel tanks, settling ponds, and two subsurface portals; no handling or processing of aggregate product is proposed to occur in this area or elsewhere on the surface. The trail link mentioned above is proposed to run in between this area and the river. Upon completion of mining activity, this area is proposed to be reclaimed and dedicated to Boone County as an addition to the park. Landscape screening comprised of mixed tree species is proposed around the perimeter of the surface operations area.

- C. The majority of the eastern part of the site (421 acres that is located east and southeast of the surface operations area) is proposed for underground extraction and processing of product, and the surface area is proposed generically for "agriculture" (no specific agricultural activities have been stated). All processing is proposed to occur in this underground area (crushing, sorting, screening, etc.) and the finished product is proposed to be conveyed from this area to the barge mooring area along the shoreline. A total of 216 acres that are in the extreme east and southeast portions of the site that are owned/controlled by the applicant are not part of this zone change request and will retain the current A-1 zone (no mining or related activities are proposed for these two areas).
- D. Subsurface mining is proposed to occur in an approximately 170 acre area located underneath the Ohio River (between the subject property and the thread of the river). An approximate 1,500 foot long barge mooring area is proposed along the shoreline.

Vehicular access to all proposed land uses would occur on Garrison Creek Road. All product is proposed to be shipped by barge (i.e., no trucking of aggregate products). Product will be transported from the subsurface area to the mooring area by a hooded conveyor (the "outdoor" section of the conveyor is approximately 315' long). Because trucking of product is not a part of the request, the applicant has requested that Section 1189 "Geographic Requirements," Subsection 1, of the I-4 zone requirements be waived. This section requires, in part, that an I-4 zone shall be located within 1,500 feet of an existing interchange ramp. Such requirements can be waived through the provisions of the Planned Development overlay zone.

Centralized water and sanitary disposal systems are not proposed. Water supply and sanitary disposal are discussed in the application materials. Volume 1 of the application materials includes a more detailed description of the proposal as well as an explanation of how the applicant contends the various zoning requirements and standards have been fulfilled. Volume 2 of the application materials include various technical reports, including an archaeological overview, a preliminary hydrogeologic assessment, blasting report, noise study, traffic impact analysis, etc.

SITE CHARACTERISTICS

The zone change area contains approximately 534 acres and is located at the end of Garrison Creek Road, which is basically a one lane road with an approximate 12 foot pavement width. The site has no other road frontage. The site also has approximately 1.8 miles of shoreline along the Ohio River. Garrison Creek runs across the southern part of the eastern section of the site and also enters the Ohio River through the subject site near the end of Garrison Creek Road; a relatively large flood plain area exists at the mouth of Garrison Creek. The site also has several intermittent blue line streams which feed into Garrison Creek and at least one pond. Most of the site contains relatively steep topography, with the steepest being in the Ohio River valley per se. The majority of the site is wooded, although much of this vegetation is second generation growth. The site contains two cemeteries: Barnard Cemetery is located at the end of Garrison Creek Road and contains visible headstones; McMurry Cemetery is located on the east side of Garrison Creek near the proposed surface operations area and is marked only by an old barb wire fence. There are several existing structures on the property, including residences (some are abandoned and dilapidated), farm structures, overhead utility lines, and a telecommunications monopole on the bluff that overlooks the river valley. Public water and sanitary sewer service are not currently in the vicinity.

ADJOINING LAND USES AND ZONING

- A. The Ohio River is located to the immediate north and the Miami Fort power plant is located further to the north across the river.
- B. Wooded hillside areas are located to the west and southwest (A-1), and I-275 and the I-275 bridge between Boone County and Lawrenceburg, Indiana are located further to the west and southwest.
- C. Several residences are located to the south along the north/south section of Garrison Creek Road that is near the subject site (A-1). The areas adjoining this section of Garrison Creek Road are largely wooded hillsides (A-1).
- D. The area along the east/west section of Garrison Creek Road contains a few single family residences (including the historic Delph House), pasture and wooded hillside areas (all are zoned A-1), and the Baptist Association church camp (R). Garrison Creek itself parallels the road in this area. I-275 is located to the south of the church camp.

- E. The area located between the eastern part of the subject site and the Petersburg/I-275 interchange includes farmland, several residences (including the historic Gaines House), the historic Bullitsburg Baptist Church, a telecommunications monopole, and wooded hillsides (A-1, A-2, RSE, C-3, and PF)
- F. Wooded hillsides are located immediately to the east (A-1). The western terminus of River Road is located further to the east/northeast along the Ohio River (A-1). The Williams Road/Merrell Road area is located further to the east and east/southeast and includes farms, wooded areas, residences, and a golf course (A-1, A-2 and R).

HISTORY OF SUBSURFACE MINING ISSUE AND SITE

- 1980 The current A-1 zoning for the site was adopted in 1980 as part of the Official Zoning Map and Zoning Regulations that were prepared by KZF, Inc.
- 1995 On March 15, a staff report on the Feasibility of a Text Amendment to the Boone County Zoning Regulations was presented to the Boone County Planning Commission to evaluate subsurface mining as a permitted use. This report was subsequently revised by the Planning Commission's Long Range Planning Committee. The amended report was presented to the Boone County Fiscal Court on May 9.
- 1996 Draft regulations to permit subsurface mining in Boone County were considered through the 1996 Zoning Update, but were not included in the Zoning Regulations that were recommended for approval by the Planning Commission and subsequently adopted by the legislative bodies.
- 1997 On October 29, the Planning Commission conducted a Public Hearing for a Zoning Text Amendment which would add the "Industrial Four" (I-4) zone to the Boone County Zoning Regulations. This amendment would permit subsurface mining and related activities in Boone County. The Planning Commission recommended that the I-4 amendments be adopted on December 17.
- 1998 The Fiscal Court adopted the I-4 Zoning Text Amendments on February 10.

RELATIONSHIP TO 1995 BOONE COUNTY COMPREHENSIVE PLAN

The site is described on the Boone County Comprehensive Plan's 2020 Future Land Use Map as Rural Lands (RL) and Developmentally Sensitive (DS) with a very small area of Rural Density Residential (RD). As noted on page 207 of the Land Use Element, the Comprehensive Plan utilizes a 25 year planning horizon. As a result the Future Land Use Map indicates planned land uses for the year 2020. The Plan is a tool designed to enable Boone County and the Planning Commission to manage the location and timing of the various types of development to assure that adjoining land uses are compatible, and to assure that negative impacts to the environment are minimized.

The Land Use Element addresses urban service areas, and recommends that some areas of the county remain rural or low density development until it is reasonable to extend urban services and there is enough development mass to efficiently make use of the services. The Land Use Element also states on page 207 that urban services are not the only criteria, but that there are many other considerations to take into account to determine whether development is appropriate or not.

The Developmentally Sensitive (DS) classification is described on pages 207 and 208, and provides notification that there are slope or other stability considerations that must be addressed in proposed development. The preservation of these hillsides is a primary objective.

The Rural Lands classification calls for very low density residential development in a mainly agricultural or open space area.

Rural Density Residential areas could develop as one dwelling unit per acre as a general maximum density over the affected area.

The Future Land Use Development Guidelines section of this element recommends utilizing existing topography and vegetation on development sites. This is particularly important where areas are designated as DS. The portal area and settling ponds of the mine development are shown in the DS area. The Element goes on to recommend retaining wooded stream valleys as greenbelts. The Environment Goals and Objectives and the Environment Element recommend that detailed inventory and analysis of resources within the DS area occur for each development. The applicant has provided various consultant reports which accomplishes this purpose to some degree, although more detailed information may be necessary in order for the governing bodies to make an educated decision.

A portion of the site is in the 100 year flood plain. The Environment Element identifies this condition and recommends that special precautions be taken if these areas are developed. Disturbance of land in the flood plain presents an additional set of erosion risks, as alluvial soils are identified as highly erodible.

According to U.S. Geological Survey Maps, parts of the site contain the Kope Formation, which consists of interbedded shale and limestone bedrock layers. Where exposed, these layers are prone to slippage and landslide conditions. The portions of the site most affected by this situation are the lower portions of the Ohio River Valley wall and the sides of the Garrison Creek valley. This includes the proposed portal area and some of the proposed conveyor location. Staff is concerned that this formation may require extra attention and precautions, and there may be some areas that should not be developed at all based on site specific analysis.

The Environment Element recognizes the importance of Ohio River views, especially in areas like northern Boone County where a major city exists within a fifteen to twenty minute drive. These views can either be treated sensitively or ruined through development.

The Element also recommends proper usage or treatment of historic resources such as buildings and cemeteries.

Section B-1, River Road Area, page 214 of the Comprehensive Plan discusses a possible connection between KY 8 along the Ohio River to the I-275 interchange at Bullittsburg Church Road. The Plan recommends that a connection between the Petersburg Interchange and the Graves Road/Williams Road area and a possible connection between Williams Road and KY 8 would be a better way to serve future development and minimize impacts on the Developmentally Sensitive hillsides and stream valleys than the above mentioned connection. This is reaffirmed on page 215 in section B-2. This road is shown conceptually in Figure 3-6 in the 1996 Boone County Transportation Plan. It is shown as a special funding project for the years 2015 to 2020.

Garrison Creek is recommended to "remain intact as a greenbelt." Later, the Plan recommends that the stream valleys and ridge bluff lines remain in their current state for future recreation opportunities to serve ridge top residential development. Staff is concerned that the noise associated with the proposed materials conveyor would not make the area desirable for a natural areas path or similar passive recreation use.

In general, Sections B-1 and B-2 refer to the area north of I-275 near the proposed mine site as future residential development land when infrastructure is present. There are several references to protection of the hillsides and good residential development design. The Traditions Golf Course is mentioned as a residential growth catalyst.

The Idlewild interchange area is described as supporting gradual highway related commercial development with some future orientation toward tourism uses in Western Boone County. This is recommended to occur south of the interchange to directly serve traffic and to take advantage of visibility.

The Interchange area appears as a recommended planning project in the Western Boone County Study. This is not an officially adopted document, nor does it propose land use regulations. It does, however, suggest that this area, among others, be considered for future detailed planning efforts, such as a corridor plan.

The Economy Goal recommends a sustainable economy that reflects innovation and prosperity and protects the environment.

The Business Activity Goals and Objectives, as well as the Business Activity Element, address the location of industrial development and specifically recommend that industrial districts be properly located in advance of other development to lessen negative impacts on future development. In addition to location, development design is important to minimize dust, noise, and other impacts on adjacent land uses and the public infrastructure.

The Element notes that base industries like mining are necessary for the economy of an area and to bring investment to an area. As described on page 77, however, Boone County already has mining activity and other base industries like manufacturing and agriculture. The provision of base industries must be balanced with their impacts on the community. Page 84 specifically notes that "other types of mining activities may occur in the future of Boone County, but only with an evaluation of its benefits and costs to the community, including its impact on existing businesses and residential/agricultural uses."

Figure 5.3, the Future Industrial and Commercial Development map on page 87 of the Business Activity Element, does not show the subject site for industrial development:

As shown in Table 5.1, Boone County Base Industries, 1970 - 1989, mining involves significantly fewer numbers of businesses and fewer employees than other forms of industry in Boone County.

The Recreation Element recommends that areas adjoining the Ohio River and major stream valleys like Garrison Creek be studied in detail for public recreation opportunities. The Element also notes that the area north of I-275 is in particular need of public recreation sites. It recommends that facilities be carefully located regarding the population they are to serve. The Ohio River shoreline is to be considered for its recreation potential while retaining the ecological integrity.

The Preservation Element recommends that historic buildings, like those in the area, should be protected or properly used within development. Archeology is another important issue, especially in areas like this near the Ohio River. These resources must be dealt with properly.

A Transportation Objective is to give priority to protecting capacity and improving the existing road system. The Transportation Element notes that the transportation function of the Ohio River has been historically underutilized, and that its relationship to surface transportation should be examined and provided for where needed.

Page 187 of the Transportation Element indicates that Boone County's Ohio River shoreline is generally an undeveloped resource because of poor access, and the Comprehensive Plan calls for study of the river front's potential for a variety of land uses, including industrial and port operations.

STAFF COMMENTS

1. Comprehensive Plan

First, the Planning Commission and Fiscal Court will need to determine whether the application is in agreement with the Comprehensive Plan. Agreement, or compliance, with the Comprehensive Plan is one of the possible statutory findings for the granting of zone changes as well as a Planned Development standard stated in Section 1514 of the Zoning Regulations. Highlights of issues dealing with the Comprehensive Plan include:

- A. The Future Land Use Map designates the site predominately as Developmentally Sensitive Areas (DS) with some Rural Lands (RL), and one small area of Rural Density Residential (RD) uses near the mouth of Garrison Creek. Much of the proposed road construction, administration and storage buildings, and portal location are located within the DS. Concerns are noted above in detail regarding disturbance within the DS areas.
- B. The text of the Land Use Element expressly states "the Garrison Creek valley should remain intact as a greenbelt adjacent to Rural Density Residential growth, and should be considered for future outdoor recreational opportunities." Therefore, it will need to be determined whether this application reasonably fulfills this recommendation.

- C. The Land Use Element also describes the Idlewild interchange area as supporting gradual highway related commercial development with some future orientation toward tourism uses in Western Boone County.
- D. As noted above, the Recreation Element recommends that areas adjoining the Ohio River and major stream valleys like Garrison Creek be studied in detail for public recreation opportunities. The Element also notes that the area north of I-275 is in particular need of public recreation sites. The year 2000 Boone County Comprehensive Parks and Recreation Master Plan, not yet adopted, confirms this need.
- E. Figure 5.3, the Future Industrial and Commercial Development map on page 87 of the Business Activity Element, does not designate the subject site for industrial development.
- F. The Business Activity Element specifically notes that "other types of mining activities may occur in the future of Boone County, but only with an evaluation of its benefits and costs to the community, including its impact on existing businesses and residential/agricultural uses."
- G. As shown on topographic maps, the slopes along the Ohio River are significantly steeper than those present in the Garrison Creek valley. This demonstrates a greater risk of erosion and disturbance of the Kope formation.
- H. The Transportation Element notes that Boone County's Ohio River shoreline is generally an undeveloped resource because of poor access, and that the river front's potential should be studied for a variety of land uses, including industrial and port operations.

The Planning Commission and Fiscal Court will also need to determine whether the application fulfills the alternate findings for the granting of zone changes.

2. Traffic Impact Analysis/Garrison Creek Road

Staff believes that there will be some large truck traffic associated with the project such as a large equipment transport. This is not described in the TIA. This will affect the Level Of Service of Garrison Creek Road beyond a pure traffic volume issue. Turning radii, bridge load limits, and safety concerns will be present.

The TIA does not describe the rehabilitated design for Garrison Creek Road. It also does not disclose who will make the improvements. Based on the references to the need for drainage and road base improvements, it sounds like the TIA is recommending a total reconstruction of the road.

The proposed county park is not factored into the TIA. This use could generate significant traffic for Garrison Creek Road in light of the active and passive recreation scenes that have been submitted as photographs by the applicant.

The TIA makes a statement that "no change in level of service due to this project would occur." Staff is concerned that since there is negligible traffic on Garrison Creek Road now, and the TIA has not disclosed all types of traffic that will be present, this cannot be an accurate statement.

The TIA does not mention any potential for future storage/warehousing of industrial goods or records materials underground, unrelated to the mine operation. This type of commercial warehousing, which is found at some underground mine sites, would generate traffic beyond that forecasted in the TIA.

On page 3, the TIA considers the only other development to have an impact on the I-275 interchange area is the Answers in Genesis Museum. However, the TIA fails to recognize that the Martin Marietta Subsurface Mine, although denied as a zoning map amendment, is in litigation, and has to be mentioned as a possible future traffic generator.

The Conclusions and Recommendations section of the TIA refers to the improvement of Garrison Creek Road, but does not provide a potential design or address who has the responsibility of making the improvements. Greg Sketch, P.E., L.S., Boone County Engineer, has noted that the improved Garrison Creek Road shall not be less than the local street standards contained in the current Boone County Subdivision Regulations (pavement depth and width), from the entrance of the mining entrance to the intersection with KY 8 (refer to attached memorandum).

3. Planned Development Requirements

Staff offers the following comments regarding the standards set forth in Section 1514 "Planned Development Standards" of the Boone County Zoning Regulations. Concept Development Plan proposals in Planned Developments are to be primarily evaluated against these criteria. These comments are offered relative to the specific standards, and do not serve as a staff recommendation for the proposal as a whole.

1. Mixed Use Development and Pedestrian Orientation: The Concept Development Plan combines subsurface mining uses, a small surface operations area, a multi-purpose public park with a trail link to an adjoining area, and agricultural/open space uses. When considering the rural/undeveloped character of the area, and the fact that most "active" land uses such as retail, office, industrial, dwelling units, etc., are not commonly conceived as being appropriately "mixed" with subsurface mining operations, staff considers the proposed mixed-use concept to be reasonable, provided that the subsurface mining use is found to be acceptable at this location. The major comment staff has regarding this standard is that it is not clear in the application (or staff has failed to identify specific verbiage) whether the applicant will develop the park in accordance with the submitted plan and then dedicate the park, or whether Boone County is expected to develop the park after dedication of the land occurs. Staff's concern is that if the County is expected to bear the capital expenditure of park development, then much of the mixed use nature of the proposal may not be implemented as proposed through this application (i.e., proposal under review might not be an accurate depiction of the true end project).

2. Compatibility of Uses: Staff considers the proposed physical design/arrangement of the proposal to be reasonable relative to this standard. The plan elements that lead staff to this conclusion include: the proposal includes a small surface operations area that is located along the river and is separated from all other adjoining properties and active land uses by substantial topography and wooded areas (with the exception of the power plant across the river where barging already occurs), including the proposed park area and agricultural area (assuming that low intensity type agricultural endeavors are involved); and, the larger scale "industrial" operations involved with product processing will occur underground within the quarry itself. Regardless of these overall conclusions, it should be noted that the proposed bridge and access road will be visible from the nearby properties.

Based on the plan presented, Staff has not identified any compatibility problems between the proposed park and the immediately adjoining properties, outside of potential traffic problems discussed above. Due to the wide range of activities that fall under the generic heading of "agriculture," the applicant needs to explain what type of agricultural functions are intended for the 421 acre surface area in the eastern part of the site. This is due to the fact that some agricultural activities are fairly intensive and could involve substantial alteration to the wooded landscape, which based on the application materials, appears to be intended as a perpetual wooded buffer area.

In addition to providing a 3,000 foot separation between the mine and certain types of existing and planned residential uses, the applicant has also proposed to voluntarily provide a 3,000 foot separation between the underground quarry and the

Merrell Road/Williams Road area (residential area that is zoned A-1 and A-2 - the 3,000 foot separation is not required by Section 1189, #2 in this instance). Although the applicant has proposed a fairly substantial landscape screen around the surface operations area, staff contends that this screen should also include a berm on the "downhill" sides of this area's perimeter to help abate noise and glare from light. Such a berm should be at least 10 feet high and integrated into the overall grading and planting design.

Other issues regarding the compatibility of the proposed mining use (noise, vibration, etc.) will be discussed in the report provided by the Planning Commission's subsurface mining consultant. Related traffic issues are discussed above.

3. Open Space: Staff believes that this standard has been effectively met by the Concept Development Plan. Approximately 79% of the zone change area is proposed for agricultural uses (which need to be further defined as discussed above), and approximately 21% of this area is proposed for a public park. Approximately two tenths (2/10) of 1% of the entire site area is for the mine surface operations area, excluding the mooring area on the river. Additional comments on this issue and the proposed park itself may be forthcoming from the Boone County Parks Department.

4. Multi-Modal Transportation System: Due to the remote location of the project and the inherent physical barriers, staff has concluded that most traditional multi-modal facilities at the site itself (such as bus stops or car pooling lots) would not serve much tangible purpose. The Concept Development Plan does include a trail link to the property to the east which could eventually link the proposed park and the Garrison Creek Road area to River Road.

5. Preservation of Existing Site Features: The vast majority of the site is proposed to be used for agricultural and park purposes. As noted above, the intended agricultural uses need to be detailed to insure that they will not include large scale removal or alteration of existing site features.

6. Landscaping: A substantial amount of landscaping is proposed around the mine surface operations area. Landscaping will also need to be provided as per Article 37 of the Zoning Regulations for other "hard" improvements associated with the proposal, such as the parking area for the park, depending on whether the developer or the County itself will be responsible for park development.

7. Architecture: No specific design concepts have been provided for either the mine support buildings or the park related structures. Although the mine related buildings have been described as utilitarian in nature, they will be concealed from view. In order to assure compliance with this standard, a design system or set of guidelines should be developed for the structures within public view, such as the park shelters, signage for both the mine entrance and the park, and the bridge. Staff construes low-scaled structures that use predominately stone, brick, and wood materials as an appropriate response to the immediate wooded/rural environment - this approach correlates with the applicant's design intent stated thus far concerning the aesthetics of the bridge (stone faced, arched structure) and the intent to construct Adirondock type trail structures.

8. Historic and Prehistoric Features: These issues are discussed under staff issue #5 below.

9. Signage: Signage is discussed above relative to architecture and below relative to the I-4 zone requirements.

10. Transportation Connections and Entry Points: As discussed previously, the proposal includes a proposed trail link to the River Road area. The Concept Development Plan also includes a possible future alignment of KY 8 across the eastern part of the site. This would be part of an extension of River Road to the Petersburg/I-275 interchange as mentioned in the Comprehensive Plan discussion. Although there are no current plans to construct it and the feasibility of such a connection is questionable (also is not the "preferred" method for access improvements to serve continued growth in the area), the Planning Commission could consider requiring the dedication of the road alignment as a condition of any approval of this application, to occur if/when such a road were actually developed (also refer to the attached memorandum from Charles L. Meyer, P.E., Chief District Engineer, KDOT, District 6). Based on the remote location of the site and the steep topography which creates natural barriers, Staff has not identified any other realistic transportation connections.

11. Conformance with Comprehensive Plan: The relationship of this proposal to the Comprehensive Plan is discussed above.

In addition to the standards outlined in Section 1514, the Concept Development Plan criteria outlined in Section 1520 "Approval in Principle by Planning Commission" of the Zoning Regulations will need to be considered.

4. I-4 Zone Requirements

Staff has the following comments relative to certain requirements of the I-4 zone. Only requirements that are applicable at the zone change level are discussed in this report.

Section 1189 Geographic Requirements (pg. 11.41 of Zoning Regulations)

1. This section requires an I-4 zone to be located within 1,500 feet of an existing interstate interchange and requires affected roadways to be improved to certain standards if they do not exist. Because no trucking of product would occur under this proposal, the applicant has requested that the 1,500 foot requirement be waived pursuant to the provisions of the Planned Development overlay zone under the rationale that the intent of the requirement is to keep trucking routes in close proximity to freeways. Discussion regarding necessary road improvements is provided under staff issue #2 above.

2. This section states that "any I-4 zone shall not be located within 3,000 feet of an existing residential subdivision development, existing residential zoning, or planned (Future Land Use Map) Suburban Residential, High Suburban Density Residential, or Urban Density Residential area." The proposed I-4 zone boundary is in compliance with this requirement. The applicant has also proposed to maintain this same 3,000 foot minimum separation between the I-4 zone boundary and the residences in the Merrell Road/Williams Road area (zoned A-1 and A-2; areas along the immediate road frontages are planned as Rural Density Residential).

3. This section states "I-4 zoning shall not be placed where topographic conditions preclude a complete visual screen from a major public thoroughfare." The site's topography (in addition to existing vegetation and distance to other areas) provides a complete visual screen of the surface operations area from all roads and other properties in the area (the barging operation will be visible along the shoreline). The bridge and access road that connect to Garrison Creek Road will be visible from some of the nearby properties to the south.

Geographic Guidelines (pg. 11.42 of Zoning Regulations)

1. Centralized/public water and sanitary sewer systems are not proposed. The text of the current Comprehensive Plan's Land Use Element does not give support for the development of such systems for the area in question ("B-1: River Road Area," pg. 214 and "B-2: Idlewild Area," pp. 214 and 215).

2. Very few structures exist in the immediate area and there are no hi-tech industries in the vicinity. Specific historic structures that are in the general area include the Delph House, Gaines House, and the Bullitsburg Baptist Church. The Planning Commission's subsurface mining consultant may provide more definitive information on this issue.

Section 11100 Performance Requirements (pp. 11.48 - 11.50)

2. This section requires excess stone and spoil to be stored within the underground mine as soon as adequate space exists, and/or to be used as a construction material for berming around the site. The applicant's narrative indicates compliance with these requirements - excess stone and spoil will be used in the development phase for grading and landscaping purposes, and any remainder will be conveyed to the barge load out facility when it is completed. Any non-saleable materials will be disposed of underground after the mine is operational.

3. through 6. These sections outline blasting requirements. The proposed operations as outlined in the application materials generally comply with these requirements. The application materials discuss (in a non-committed manner), and the applicant has verbally mentioned, that blasting could be monitored by seismographs with the readings being broadcast live on a web site so that blasting effects could be directly monitored as the blasting occurs.

Aside from these comments, the following issues need to be clarified relative to blasting:

- A. It is stated in the application materials (Volume 1, pg. 31) that blasting will be restricted to the times noted in the Zoning Regulations until specific data (site specific data regarding blasting effects/behavior) can be obtained. Another section (Volume 1, pg. 37) states that blasting will be limited to one period per day until site specific data is obtained. This begs the question as to whether the applicant is seeking a relaxation of Subsection 4 (limits blasting to hours of 8:00 AM to 9:00 PM, Monday through Friday) through the Planned Development overlay zone provisions provided blasting/vibration effects are reasonable (and within prescribed limits proposed by the applicant), or whether blasting will occur within the overall required time frame regardless and the intent here is to determine the most appropriate, specific blasting periods within the broader required time frame.
- B. There is a discrepancy in the blasting (vibration) limits that the applicant is proposing at a distance of 3,000 feet from the blast site. One section states that the maximum peak particle velocity will be 0.15 ips (inches per second) (Volume 1, pg. 31) and another section states that it will be 0.05 ips (Volume 2, Appendix 9, pp. 11 and 12).

The Planning Commission's subsurface mining consultant may provide additional comments regarding blasting.

8. This section states "no trucking shall occur on Saturday after daylight hours or on Sunday. The Planning Commission and Fiscal Court can impose additional restrictions on nighttime trucking activity depending on specific site considerations." As noted previously, no trucking of product is proposed, although these same restrictions should be maintained for delivery trucks, maintenance trucks, et al.

9. This section outlines dust control standards and requires truck wheel washing facilities that are at least 500 feet from the nearest public roadway, and requires the driveway to be paved for this 500 foot length. Because there is no trucking of product involved with this proposal, the aspects of this section that relate specifically to trucking are largely moot. It should be noted that because there are no "haul roads" in this development, all driveways and parking areas will need to be paved as per Article 33 of the Zoning Regulations.

The application materials (Volume 2, Appendix 12) basically state that there will be no dust impacts on the surface from subsurface activities. Relative to subsurface activities, the processing water is proposed to be clarified and recycled. Also, combination sedimentation/retention basins are proposed for storm water. Regarding processing water in particular, the applicant should concisely explain the necessary volume of water and how much the various sources that may be used can supply without adverse hydrological effects (this is discussed to some degree in the application materials).

11. Berming and landscape buffer requirements are discussed in this section. The requirements of this section have basically been met by the application. As mentioned under Planned Development standard #2 "Compatibility of Uses," staff contends that a minimum 10 foot high berm should be provided around the "downhill" sides of the surface operations area to minimize light and noise impacts.

12. This section discusses requirements pertaining to security. The measures discussed in the applicant's narrative comply with these requirements. The application also discusses secure methods for sealing the subsurface areas upon closure.

16. This section outlines standards for the required entrance sign. The application materials state that the required sign will be provided. As noted under the Planned Development standards comments, the aesthetic aspects of the sign (materials, design concept, etc.), should be part of an overall design system for the mine and park development.

Section 11102 "General Requirements" (pg. 11.52 of Zoning Regulations)

This section describes setback, building height, parking, and access road requirements. Staff's only comment relative to these requirements is that the driveways and parking areas will need to be hard surfaced as per the normal parking lot requirements referenced therein, and that landscaping will need to be provided for certain improvements as per Article 37 of the Zoning Regulations. This section also states that all laws of the Commonwealth of Kentucky and the United States relative to nuisances and the environment must be followed. Comments from Tim Barte, Resource Conservationist with the USDA/Natural Resource Conservation Service are attached.

Section 11104 "Minimum Size" (pg. 11.52 of Zoning Regulations)

This section requires an I-4 zone to include at least 200 acres and limits surface operations to 250 acres maximum. This application is in compliance with these requirements.

5. Historic and Prehistoric Resources

Staff has the following comments relative to historic and prehistoric resources on the project site.

- A. Staff appreciates the thorough approach to the identification of historic and prehistoric sites within the project and surrounding areas. The applicant has indicated a willingness to complete a Phase 1 archaeological survey on the proposed disturbed surface area, including a 300 foot buffer area. Staff recommends that a Phase 1 Archaeological Survey be completed on the entire site owned or controlled by the applicant. This would provide information about the likelihood of significant archaeological sites in areas that may be subject to use by other entities or may be part of future corporate growth. Any sites found potentially significant during Phase 1 investigations, within the proposed disturbed surface area, should be further studied with a Phase 2 investigation and mitigated or avoided as necessary.
- B. Staff is concerned about the two historic family cemeteries located within the area owned or controlled by the applicant. Currently, the McMurry Cemetery is located just outside of the proposed surface operations area. This cemetery has no gravestones visible on the surface, and it is enclosed with a barb wire fence. Staff recommends that this cemetery be surveyed by a professional archaeologist to determine if the cemetery boundaries represented by the existing fence are correct, if there are gravestones

located below the surface, and the possible number and location of graves present. The McMurry Cemetery should then be re-fenced using an appropriate material, as required by Section 3166 of the 1996 Boone County Zoning Regulations.

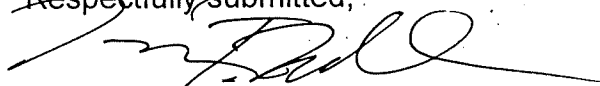
The Barnard Cemetery is located in the area proposed as a potential Boone County Park. This is a large unfenced family cemetery with over thirty burials dating from at least 1840 and possibly as early as 1824. Staff recommends that the Barnard Cemetery be surveyed by a professional archaeologist in order to determine the cemetery boundaries. The Barnard Cemetery should then be fenced using an appropriate material, as required by Section 3166 of the 1996 Boone County Zoning Regulations.

- C. There is an existing barn located on the west side of the current Garrison Creek Road, in the area proposed as a potential Boone County Park. It is noted on the applicant's map HT 19 as a possible park office. Staff requests the opportunity to assess this building for its historic significance prior to any decision being made about its reuse or removal.
6. A letter dated January 7, 2000 from Captain Dale E. Appel of Boone County Water Rescue is attached. This letter discusses water safety issues on the Ohio River that relate to this proposal.
7. A written report from the Planning Commission's subsurface mining consultant will be provided at the Public Hearing.

CONCLUSION

This application needs to be evaluated by the Boone County Planning Commission and the Boone County Fiscal Court in terms of the three criteria necessary for approving a Zoning Map Amendment, the Planned Development requirements stated in Article 15 of the Zoning Regulations, and the potential impacts on the existing and planned uses in the area. The Future Land Use Map will need to be amended if the request is approved.

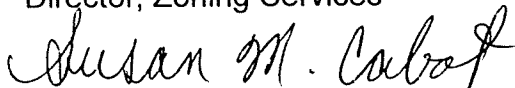
Respectfully submitted,



Kevin T. Wall, AICP CDT
Director, Zoning Services



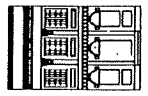
David A. Geohegan, AICP
Director, Planning Services



Susan M. Cabot
Historic Preservation Planner

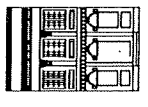
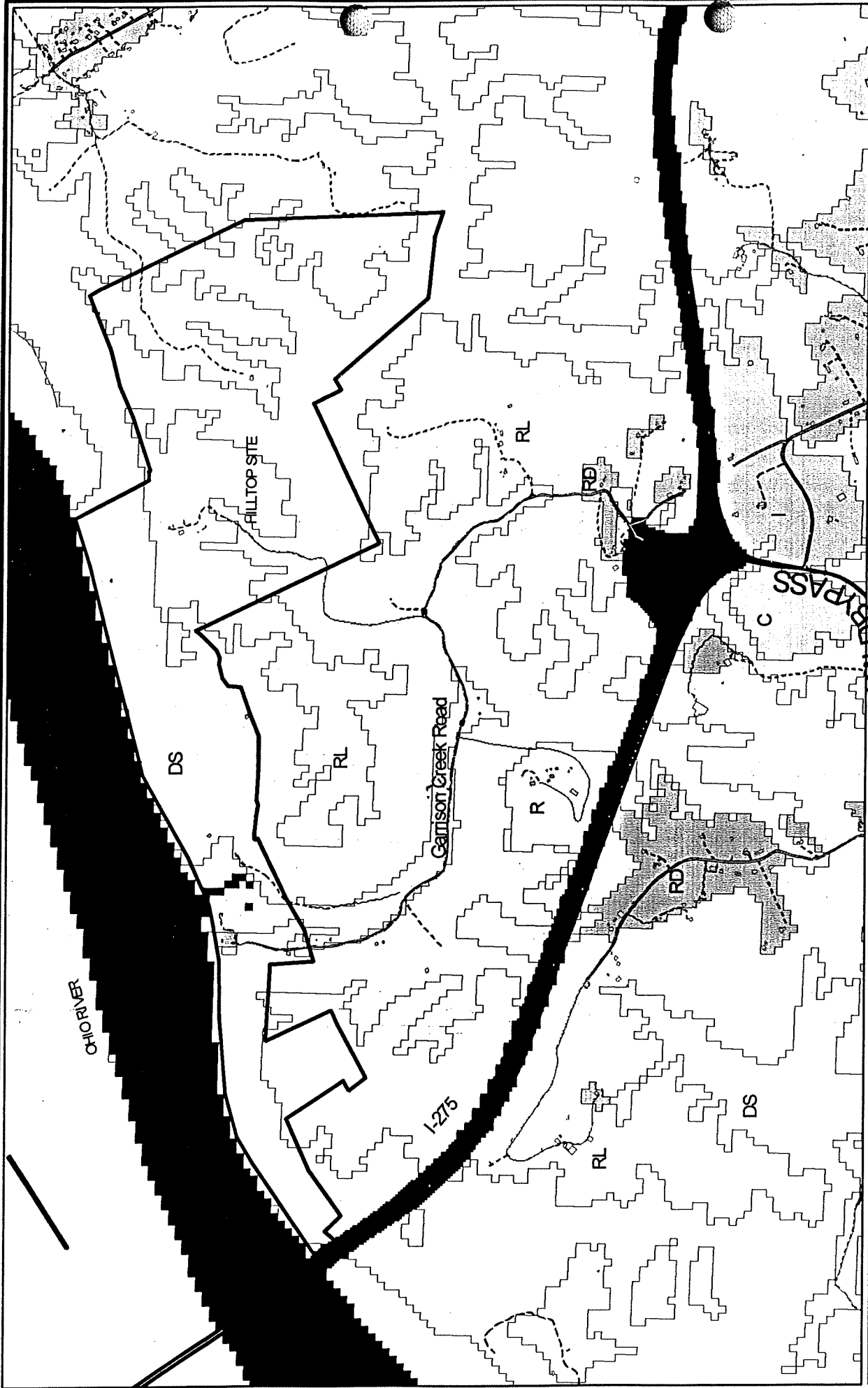
attachments:

- aerial photo w/ zoning information
- Future Land Use map excerpt
- memorandum dated 1/18/00 from Greg Sketch, P.E., L.S., Boone County Engineer
- memorandum dated 1/4/00 from Charles L. Meyer, P.E., Chief District Engineer, KDOT, District 6
- letter dated 1/10/00 from Tim Bartee, Resource Conservationist, USDA/NRCS
- letter dated 1/7/00 from Captain Dale E. Appel, Boone County Water Rescue
- application form



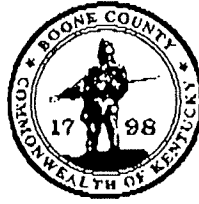
1 inch equals 1800 feet
Produced by the
Boone County Planning Commission
GIS Services Division
January 19, 2000

Zoning



1 inch equals 1800 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 January 19, 2000

Future Land Use



GREGORY V. SKETCH, P.E., L.S.
County Engineer

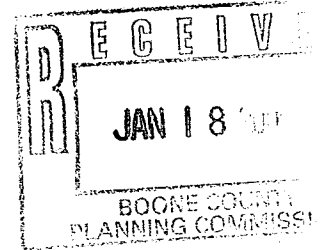
HARVEY F. PELLEY, L.S.
Director of Public Services

DEPARTMENT OF PUBLIC WORKS

5645 IDLEWILD ROAD
BURLINGTON, KY 41005

Phone: 606 586-5445
Fax: 606 586-5487

MEMORANDUM



TO: Kevin Wall, AICP CDT
Director, Zoning Services
Boone County Planning Commission.

FROM: Greg Sketch, PE, PLS
Boone County Engineer

RE: Proposed Zone Change -- Hilltop Basic Resources

DATE: January 18, 2000

This is in response to your request for input concerning the request for a zone change by Hilltop Basic Resources for subsurface mining of a 534 acre area of land near the I-275 interchange with K.S.R 8 and K.S.R. 20. The proposed development is near the end of Garrison Creek Road, a County maintained road. My major concern in this zone change request as with others involving County maintained roads is the adequacy of the road, both geometrically and structurally.

After having discussions with representatives for the zone change and reviewing the submitted plan, I have the following comment. If approved, I would submit that the Zone Change Committee considers requiring a condition to ensure the integrity of Garrison Creek Road. That condition would be that a pavement design be submitted to the County Engineer, for review and approval, with a width and depth that would support the portion of proposed mining activities that would utilize the road. As I understand that portion to be only employee and delivery traffic. All material from the mine will be transported to barges along the Ohio River and not hauled on Garrison Creek Road. Therefore, the new design shall be not less than the local street design within the current Boone County Subdivision Regulations and be the length from the mining entrance to the intersection of K.S.R. 8. If materials' hauling is allowed on the road, the submitted design shall not be less than the currently required design in industrial subdivisions and with the same length.

Thank you for the opportunity for input in this matter.

c: Jim Parsons, Boone County Administrator

RECEIVED
JAN 5 2000
BOONE COUNTY
PLANNING COMMISSION

MEMO TO: Kevin T. Wall, AICP CDT
Director, Zoning Services

FROM: Charles L. Meyers, P.E.
Chief District Engineer
District Six - Covington

BY: Robert A. Yeager, P.E. *RAY*
TEBM - Planning

DATE: January 4, 2000

SUBJECT: Hilltop Basic Resources Zone Change for Subsurface Mine

We have reviewed the subject request and have no current or proposed highway projects that would conflict with this requested zone change.

RAY/na
cc: R. Guidi



United States
Department of
Agriculture

Natural Resources
Conservation
Service

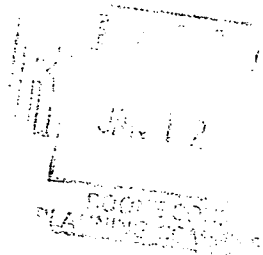
6028 Camp Ernst Road
Burlington, KY 41005

Phone: (606) 586-7903

Fax: (606) 586-7683

01/10/00

Kevin T. Wall, AICP CDT
Director, Zoning Services
2995 Washington Street
Burlington, KY 41005



Dear Mr. Kevin Wall,

The Natural Resources Conservation Service is charged with promoting the wise use and conservation of our natural resources. With this in mind, the following comments are submitted for the Hilltop Basic Resources Zone Change Application - North side of I-275 at the Petersburg interchange.

The proposed site currently has approximately 98 acres that are classified as Prime Farmland by the State of Kentucky. This mix of farmland with forest land on the steep hill sides complements each other and fits well with the existing zoning. We encourage the preservation of this agriculture zone and to change this zone would not meet Boone County's long term objective of maintaining farmland in the Western Corridor of county. Once a zone is changed from Agriculture, this opens the land up for future development.

Second, we encourage the use of vegetative filter strips, buffer strips and sediment retention ponds (as outlined on the plan map) to minimize the detrimental effect of sediment and other pollutants that may reach Garrison Creek from the portal and above ground facilities.

This information is presented to the planning commission to be used as a planning tool for wise, sound, and long term productivity of our natural environment. For further information, please contact our office. Thank you.

Sincerely,

Tim Bartee
Resource Conservationist

JAMES E. BICKFORD
SECRETARY

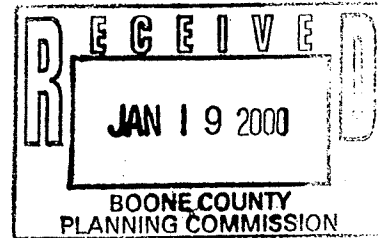


PAUL E. PATTON
GOVERNOR

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
FLORENCE REGIONAL OFFICE
8020 EWING BLVD STE 110
FLORENCE KY 41042

January 19, 2000

Mr. Kevin Wall, AICP CDT
Director, Zoning Services
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005



RE: Proposed Hilltop Basic Resources
Riverstone Mine Site
Boone County

Dear Mr. Wall:

We have reviewed the proposal packages sent to our office; the following is our reply from the standpoint of the permits that will be required from our Division.

Because the site will involve a processes industry involving construction and a surface disturbance of greater than 5 acres, a Stormwater Permit will be required. This permit will be a General Permit for Non-Coal Mining. Additionally it will have a Surface Mining Permit that must be applied for, approved and issued by the Kentucky Department for Surface Mining Reclamation and Enforcement. This permit will require the facility to construct and maintain sedimentation ponds as per the approved plans. These sediment ponds will have to be monitored by the facility on a twice per month basis, and the monitoring data submitted to the Division of Water on a quarterly basis. The KPDES Stormwater Permit which is keyed into the DSMRE Permit, will have the requirements for the facility to develop, implement and maintain a comprehensive, written Best Management Practice Plan. An appreciable amount of the "environmental compliance", not related to water quality, will fall under the requirements of the Dept. for Surface Mining.

The facility will need to develop a means of disposing of sanitary wastewater, and establish a potable water supply for the facility personnel. These are the major issues that the Division of Water is involved in. At the present, the area in which this mine is to be located is not serviced by either a comprehensive sewerline or a municipal water supply. If sewer and water lines are to be extended out to this area, the appropriate approvals for these extensions would have to be issued by the Division.



Boone County Planning Commission
January 19, 2000
Page 2

Representatives for Hilltop Resources have contacted the Division's Florence Regional Office and are aware of these requirements. At the time of our meeting, comprehensive sewerage and municipal water were not believed to be feasible for this project. The facility will need to apply for a permit to construct, and discharge from, a wastewater treatment plant. The specific design plans and site suitability will have to be reviewed and approved by the Division of Water's K.P.D.E.S Branch and Facilities Construction Branch after submittal and prior to installation. It is our understanding that the treatment plant will treat wastewater from the mine facility as well as the adjacent "nature park", the effluent from the treatment plant will discharge to the Ohio River. The treatment plant will have to comply with effluent limits and permit conditions.

Furthermore, it appears that the facility will need to provide drinking water for the site. The proposed facility was hoping to drill and utilize a water well as a source for the drinking water. The design criteria for this public water system will also have to be reviewed and approved by the Division's Drinking Water Branch. Additionally, the facility will have to comply with the regulations pertaining to Public Water Supply systems. In the event that the facility is able to complete a well supply for the facility, the amount of water usage may put them in the category of needing to have a Water Withdrawal Permit: This is also issued by the Division of Water. Additionally, if the mine needs to conduct pumping of the underground mine works, this may also require a Water Withdrawal Permit. If the facility utilizes a well source for their water supply they will have to develop a Well Head protection Plan.

In addition to the drinking water and wastewater issues, the facility will need to develop a Groundwater Protection Plan. This item may be required as part of application for the mining permit from DSMRE, however it is also a requirement of Division of Water regulation 401 KAR 5:037.

The Division of Water also has regulations pertaining to stream crossings and construction in and along stream banks. The proposed Barge Load-out will come under the jurisdiction of the Division of Water's Water Quality Section. This situation will fall under the Floodplain Permitting and Water Quality Certification Guidelines. Additionally, any work involving construction along the Ohio River and Garrison Creek will also include obtaining the necessary permits from the U.S. Army Corps or Engineers, Louisville District.

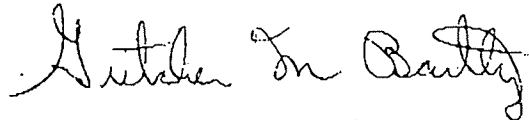
Boone County Planning Commission
January 18, 2000
Page 3

As stated above, the Division of Water would have direct jurisdiction for several areas associated with the proposed facility. They are as summarized below:

1. Obtainment of a General Stormwater Permit for Non-Coal Mining.
2. Obtainment of a KPDES Permit to construct and discharge from a sanitary wastewater treatment plant.
3. Obtain approval for construction of a Public Water Supply System, and compliance with the regulations pertaining to Public Water Supplies.
4. Obtain appropriate permits/certifications from Floodplain and Water Quality Sections for construction along streambanks, floodplains in and riparian zones (This will be in conjunction with permits issued by US Army corps of engineers).

If you have any additional questions or need further clarification of any of the items listed above, please feel free to contact our office at (606) 292-6411.

Sincerely,



Gretchen M. Bartley
Environmental Inspector III
Florence Regional Office
Kentucky Division of Water



BOONE COUNTY WATER RESCUE

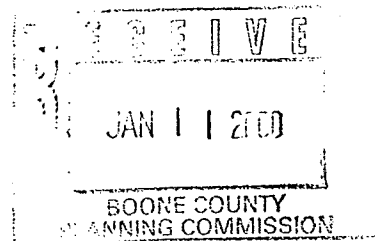
P.O. BOX 900

BURLINGTON, KENTUCKY 41005

CAPTAIN DALE APPEL

January 7, 2000

Kevin T. Wall
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005



SUBJECT: HILLTOP BASIC RESOURCES ZONE CHANGE
APPLICATION FOR SUBSURFACE MINE

Dear Mr. Wall:

Please be advised I have reviewed the two binders and the set of plans per your request. The following is recommended provided the proposed launching ramp, river trails and lake are constructed per plans ht-19 & ht-20.

Certainly by building a launching ramp and park trails along the river this would generate many people to the river for nature walks and to use the launching ramp, which is not available at this time in this area of the Ohio River. Many boaters will be drawn to the shoreline from Kentucky, Indiana and Ohio to moor their boats and take advantage of the trails, telephones, restrooms and any other facilities that might be available in the future to the public.

If all of this develops per the plans, the potential for a drowning, near drowning or boating accident in this area could increase. In order to further secure the safety and welfare of the public we may need to explore the idea of having a mooring float attached to the barge loading facility or a stand alone mooring float with a boarding ramp located just down stream. This would enhance the water rescue teams' ability to respond if needed. Also, the house that is shown on the plans might be looked at as a potential site to relocate the team headquarters and equipment.

In closing, I thank you for and I appreciate the opportunity to review this proposal. If any further information is needed, please advise.

Respectfully yours,

Captain Dale E. Appel
Boone County Water Rescue

CC: Bill Appleby, Director of Emergency Management

Phone: 606-586-6110

Fax: 606-586-8405

EMAIL: DAPPEL100@AOL.COM

ZONING MAP AMENDMENT APPLICATION FORM

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

1. Project Jurisdiction/Location

BOONE (X)	FLORENCE	WALTON	UNION
-----------	----------	--------	-------

2. Names of Applicant(s)

Applicant	Hilltop Basic Resources, Inc.		
Phone Number	513.651.5000		
Fax No.	513.684.8222		
Applicant's Address	One West Fourth Street		
	Suite 1100		
City Cincinnati	State Ohio	Zip 45202-3615	

3. Name of Property Owner(s)

Owner of Property	Hilltop Basic Resources, Inc.		
Owner's Address	One West Fourth Street, Suite 1100, Cincinnati, OH 45202-3615		
Phone Number	513.651.5000		
Owner of Property	Stevens, Addison G. and Myrna		
Owner's Address	3113 Peel Road, Burlington, KY 41005		
Phone Number	606.689.7653		
Owner of Property	Woods, Rodney and Sandra		
Owner's Address	3160 Peel Road Burlington, KY 41005		
Phone Number	606.586.5877		
Owner of Property	Hodges, Donald Gene and Niki Carol		
Owner's Address	2956 Jordan Lane, Burlington, Ky 41005		
Phone Number	606.586.7949		
Owner of Property	Kippler, Robert G. and William E. Kippler		
Owner's Address	323 Elm Street, Lawrenceburg, IN 47025		
Phone Number	812.537.3373		
Owner of Property	Taabar, Carl and Cynthia		
Owner's Address	699 Christophel Drive, Cincinnati, OH 45231-5053		
Phone Number	513.522.1184		

4. Name of Project

Hilltop's Riverstone Mine

5. Location of Project

Southside of Ohio River, North of I 275, Interchange, Boone County, Petersburg, KY

6. Acreage

<i>Numbers denote underground acreage to be mined</i>		
Proposed park area & underground mine - +/- 101		Acreage of Surface Facilities +/- 12 Acres
Future park addition (Surface Facilities) - +/- 12		
Underground mine and agriculture - +/-421		
Total	+/-534	

7. Current Zoning of Site

A - 1

8. Proposed Zoning (Classification being requested)

Agricultural One/Recreational/Industrial Four/Planned Development (A-1/R/I-4/PD)

9. Proposed Uses (please specify each use)

- Underground mining of limestone
- Underground crushing
- Underground screening
- Underground storage
- Above ground offices
- Above ground parts warehouse
- Above ground diesel storage
- Above ground conveyor from portal to river

10. Proposed Building Intensities (please specify)

Not Applicable

11. Are there any existing buildings on the site?

yes	Site Facilities- +/- 12 acres = one	Within boundaries of underground acreage (534 acres) = nine
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12. Parcel Information

14-9, 24-1 HBR Deed Book TBA (Rosenberg-Deed Book 699)	Page No. TBA(314)	Group No 2000
14-7 Stevens - Deed Book 548	Page No. 219	Group No 2000
24-19 Stevens - Deed Book 101	Page No. 228	Group No 2000
24-19 Stevens - Deed Book 548	Page No. 200;207;223	Group No 2000
14-7C Woods - Deed Book 717	Page No. 045	Group No 2000
14-7A,7B HBR - Deed Book 750	Page No. 257	Group No 2000
14-7D Hodges - Deed Book 715	Page No. 52	Group No 2000
14-2 Kippler - Deed Book 199	Page No. 342	Group No 2000
14-1A HBR - Deed Book 754	Page No. 286	Group No 2000
14-1 Taabar - Deed Book 211	Page No. 698	Group No 2000

13. Are you also applying for:

Conditional Use Permit	No	Dimensional Variance	No
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14. Have you submitted a Concept Development Plan?

Included with application

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

Yes – A few key dates include: May 18, 1999; July 13, 1999; August 23, 1999; November 22, 1999

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

<input checked="" type="checkbox"/>	Boone County Water and Sewer District
<input type="checkbox"/>	Florence Water and Sewer Commission
<input checked="" type="checkbox"/>	Union Light Heat and Power (Cinergy)
<input type="checkbox"/>	Cincinnati Bell
<input type="checkbox"/>	Owen County Rural Electric
<input checked="" type="checkbox"/>	Boone County Public Works Department (Roads – Greg Sketch)
<input checked="" type="checkbox"/>	Kentucky Transportation Department
<input type="checkbox"/>	City of Florence, Public Services Department
<input type="checkbox"/>	Boone County Building Department
<input type="checkbox"/>	Northern Kentucky Health Department
<input checked="" type="checkbox"/>	U.S. Soil Conservation Service
<input type="checkbox"/>	Local School District
<input checked="" type="checkbox"/>	Local Fire District (Captain Adams)
<input checked="" type="checkbox"/>	Boone County Parks
<input checked="" type="checkbox"/>	Natural Resources & Environmental Protection Cabinet, Department for Environmental Protection, Florence Regional Office, KY Division of Water
<input checked="" type="checkbox"/>	County Historian
<input type="checkbox"/>	Other

	Union Light Heat and Power
	Cincinnati Bell
	Owen County Rural Electric
✓	Boone County Public Works Department (Roads – Greg Sketch)
	Kentucky Transportation Department
	City of Florence, Public Services Department
	Boone County Building Department
	Northern Kentucky Health Department
	U.S. Soil Conservation Service
	Local School District
✓	Local Fire District (Captain Adams)
✓	Boone County Parks
✓	Natural Resources & Environmental Protection Cabinet, Department for Environmental Protection, Florence Regional Office, KY Division of Water
✓	County Historian
	Other

17. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature

Hilltop Basic Resources, Inc.

BY: Kevin M. Shelton, Treasurer

Property Owner's Signature

Addison Stevens and Myrna Stevens

BY: Addison Stevens, Myrna Stevens
 BY: Addison Stevens P.O.A.

Rodney Woods and Sandra Woods

BY: Rodney Woods, Sandra Woods

Donald Gene Hodges and Niki Carol Hodges

BY: Donald Gene Hodges - Niki Carol Hodges

Robert G. Kippler and William E. Kippler

BY: Robert G. Kippler, William E. Kippler

Carl Tabar, and Cynthia Tabar

BY: Carl Tabar SR, Cynthia R. Tabar

SECTION B (To be completed by BCPC Staff)

1. Date Received

month	DECEMBER	day	14	year	1999
-------	----------	-----	----	------	------

2. Fee Received

yes	\$ 7422.00	no
-----	------------	----

R# 22713

3. Check what has been submitted:

SECTION B (To be completed by BCPC Staff)

1. Date Received

month	DECEMBER	day	14	year	1999
-------	----------	-----	----	------	------

2. Fee Received *R# 22713*

yes	\$7,422.00	no
-----	------------	----

3. Check what has been submitted:

<input checked="" type="checkbox"/>	Application
<input checked="" type="checkbox"/>	Fee
<input checked="" type="checkbox"/>	Legal Description
<input checked="" type="checkbox"/>	Concept Development Plan
<input checked="" type="checkbox"/>	Address of Adjoining Property Owners
<i>14</i>	Number of copies of plan received**

4. Is application complete?

yes	<input checked="" type="checkbox"/>	no
-----	-------------------------------------	----

5. Staff Reviewer

<i>KEVIN WALL</i>

6. Committee Chairman

<i>TOM CHALEY</i>

7. Scheduled Public Hearing Date - *MON. 1/24/00 AT COWHER MIDDLE SCHOOL*

8. Boone County Planning Commission Action:

Approved	<input checked="" type="checkbox"/>	Approved with Conditions	<input type="checkbox"/>	Denial	<input type="checkbox"/>
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9. Other:

** Fifteen (15) Copies Are Required per BCPC instructions to Hilltop Basic Resources, Inc.

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

EXHIBIT
“B”

**Resubmitted at the June 7, 2000 Business Meeting
COMMITTEE REPORT**

#2

TO: Boone County Planning Commission

FROM: W. Thomas Chaney, Chairman

DATE: May 17, 2000

RE: Request of Hilltop Basic Resources, Inc. (applicant) for Hilltop Basic Resources, Inc., Addison G. Stevens, Myrna Stevens, Rodney Woods, Sandra Woods, Donald Gene Hodges, Niki Carol Hodges, Robert G. Kippler, William E. Kippler, Carl Taabar and Cynthia Taabar (owners) to consider a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Recreation/Industrial Four/Planned Development (A-1/R/I-4/PD) for an approximate 534 acre area located north of I-275 and the I-275/Petersburg (KY 8) interchange at the terminus of Garrison Creek Road, and along the south side of the Ohio River, Boone County, Kentucky. The request is for a zone change to allow underground extraction, processing, river barging of materials, and other activities pertaining to subsurface mining operations, and outdoor park/recreation and agricultural uses.

REMARKS:

We, the Committee, recommend approval of the above referenced request based on the following findings of fact and with the following conditions.

FINDINGS OF FACT

The Zone Change Committee has spent a great deal of time and effort in reviewing this proposal. In addition to attending and reviewing the record of the January 24, 2000 Public Hearing for this application, the Committee has conducted five working Committee meetings. These working public meetings included in-depth discussions and evaluation of virtually of every conceivable impact of the request, and the relationship of this application to the Boone County Zoning Regulations and the 1995 Boone County Comprehensive Plan, both of which were adopted as per the requirements of Chapter 100 of the Kentucky Revised Statutes. The Committee also reviewed concerns and comments which were presented by both the public and the Planning Commission's staff and consulting mining engineer; the Committee has concluded that the proposal, along with the agreed conditions, adequately and appropriately address these concerns and comments.

Through this exhaustive review, the Committee has determined that the proposed zone change, with the agreed conditions stated herein, represent a unique approach to the development and operation of a subsurface mine in agreement with the adopted Comprehensive Plan that minimizes adverse, or for that matter, recognizable impacts upon adjoining properties and the area at large. Specific aspects of the proposal that minimize impacts include the following:

- A. All processing and stockpiling of aggregate products will occur within the underground mine itself. This will basically eliminate noise and dust impacts commonly associated with mine surface activities.
- B. All aggregate product will be shipped via barges on the Ohio River. Because the proposal involves no trucking of aggregate, traffic effects will consist merely of incidental employee and delivery traffic, and not the large volume truck traffic commonly associated with subsurface mines. The lack of truck traffic also alleviates potential dust and noise impacts and will not cause any change in the existing or planned character of the area's roadways and interchanges, nor the existing or planned character of the property adjoining these roadways and interchanges. The secluded location of the site also will ensure that the operation will not change the existing or planned character of the overall area in general and the I-275/KY 8 interchange in particular. Overall, the industrial aspects of this development places little burden or impact on existing public infrastructure, such as roadways and utilities.
- C. Only approximately two (2) percent of the entire 534 acre land area of the site is proposed for mining related surface operations. The remainder of the land area is allocated for park, open space, and agricultural uses. Thus, the scope of the mine's surface operations is very incidental to the property at large. The applicant has also agreed to provisions which would ensure the long-term viability of the park, open space, and agricultural uses. Further, a substantial part of the underground quarry will be under the Ohio River itself, removed from any other land use except for river activities overhead such as barging and water recreation.
- D. The applicant has agreed to restrictive blasting limits which are one eighth (1/8) the level permitted by the Commonwealth of Kentucky. The applicant has also agreed to a very narrow blasting time frame. The applicant has not requested any variances or other exceptions to the I-4 zone "Geographic Requirements" or other setback related standards which shorten the distance between the mine and other active land uses - this will also help avoid blasting related impacts on neighboring uses and properties.

The Committee has concluded that the proposal is in agreement with the 1995 Boone County Comprehensive Plan due to the following reasons:

- A. The Boone County Comprehensive Plan's 2020 Future Land Use Map designates virtually all of the site as Rural Lands (RL) and Developmentally Sensitive (DS). Rural Lands are for wooded, agricultural, recreational, or low density residential uses of up to one dwelling unit per two acres and Developmentally Sensitive areas have physical characteristics which limit the land's ability to support urban development, or have natural characteristics that are important to a site's stability and visual character. As noted above, only an incidental portion of the site's land surface area will be used for mine related purposes, with the remainder being used for park, open space, and agricultural purposes as sought by the Future Land Use

Map. The application retains agricultural usage of suitable lands through the offering of an agricultural conservation easement; these areas are not needed nor planned for surface operations areas for the mining use. In the Committee's view, the fact that the application emphasizes the park, open space, and agricultural uses and character sought in the Comprehensive Plan is a fundamental strength of the proposal. This point is reinforced by the fact that the overall proposal is for a mixed use project that combines the A-1, R, I-4, and Planned Development zones.

The Developmentally Sensitive land use designation states "specific sites designated as Developmentally Sensitive require more detailed inventories of soil, slope, wildlife habitat, vegetation, and other possible physical constraints as part of the development plans. These inventories shall be used, along with engineering studies, to determine whether an area designated Developmentally Sensitive can be developed in a fashion which is sensitive to the existing site characteristics." The applicant has provided such studies and technical reports as part of this zone change review (relating to geology, groundwater/hydrology, and biology) and has demonstrated to the Committee's satisfaction that the proposal will maintain the stability of the physical features of the site as well as its natural character.

- B. The text of the Land Use Element states that "the Garrison Creek valley should remain intact as a greenbelt adjacent to Rural Density Residential growth, and should be considered for future outdoor recreational opportunities." Only 12 acres, or approximately two percent of the site's surface area, will be disturbed for the development of the mine. The applicant has agreed to donate in some form a total of 439 acres of the site for park, open space, and/or agricultural uses, and has agreed to concessions which will ensure the perpetual use of the 439 acres for these purposes, thus furthering the Land Use Element's goal of maintaining the valley as a greenbelt. Due to the discreet nature of the proposed mine's operation, other effects commonly associated with mining such as noise, dust, and truck traffic, will not degrade the planned greenbelt area. Further, the Recreation Element notes that the area north of I-275 is in particular need of public recreation sites.

The Land Use Element also states that "the area is scenic" and "the area's roadways are not suitable to serve large amounts of development." As discussed previously, the proposal will maintain the scenic qualities of the area, and because there is no trucking of aggregate product, road traffic to serve the proposed facility will consist of a small volume of employee traffic and occasional deliveries. The application and the attached conditions allow Boone County to improve and maintain Garrison Creek Road at an appropriate level.

In general, Sections B-1 and B-2 of the Land Use Element refer to the area north of I-275, east of the proposed mine site, as future residential development when infrastructure is present. Traditions golf course located to the east of the subject site is mentioned as a residential growth catalyst; residential growth continues to move westward from the North Bend Road area to the Traditions vicinity. The site is also within an area described by the Housing element as the "North River Area."

The Housing Element states that "this area will experience a great expansion in residential development in the near future. Two approved developments, Thornwilde and Tree Tops, will add a total of 950 housing units within the next ten years. Factors that will probably fuel even more growth, include the recent extension of sanitary sewer lines and pumps to the area, minimal impact from airport noise, and good regional accessibility with nearby I-275." Based on the proposal presented, which will be subject to a Concept Development Plan and various agreed conditions, the Committee has concluded that the proposal will not adversely affect the existing and future residential quality or growth in the North Bend Road and "North River" areas as the impacts usually associated with mines will be minimized, the proposal provides substantial setbacks from certain residential areas (including a voluntary setback from the Merrell Road area), and the external parts of the operation are focused on the Ohio River, within the river valley itself.

Overall, this request with its Concept Development Plan does not conflict with the Comprehensive Plan recommendations for the area in question, but rather promotes the Plan's recommendations.

- C. The Transportation Element indicates that Boone County's Ohio River shoreline is generally an undeveloped resource because of poor access, and the Comprehensive Plan calls for study of the river front's potential for a variety of land uses, including industrial and port operations. This proposal uses the river front for a barge facility, therefore making use of this underdeveloped resource while eliminating truck traffic. According to the applicant's figures, each barge can carry the amount of aggregate hauled by approximately 120 trucks. The placement of such a use in a secluded part of the County on the Ohio River is reinforced by the Business Activity, Industrial Objective 1 which states "industrial development shall be encouraged to locate near railroad lines, highways, the Ohio river, the Airport and on Airport owned land. Industrial districts shall be properly located in advance and thereby lessen any detrimental impact on future adjacent development."
- D. The "Areas of Future Industrial and Office Activity" section of the Business Activity Element states "upon the disuse of existing sand and gravel (p)its" (i.e., surface mine), "reclamation should occur. Other types of mining activities may occur in the future of Boone County, but only with an evaluation of its benefits and costs to the community, including its impact on existing and residential/agricultural uses." While this section of the Business Activity Element does not state that industrial or mining uses should or can occur on any specific site, it does state that mining activities, other than surface mining, can occur after careful evaluation of costs and benefits, and impacts on area land uses, notably residential and agricultural uses. This can mean that of two different proposals within seemingly close proximity to one another, one may receive a favorable evaluation while the other does not, as can be the case with any two different zone change proposals per the three statutory criteria in KRS 100.213. As a document was introduced into the record at the Public Hearing which purported that if this application were to be approved then the prior

Martin Marietta application would also have to be approved, the Committee disagrees with this contention because the two proposals are in two different locations and have fundamentally different operational methods and Concept Development Plans, while the Hilltop development is predominately park and open space areas with substantially less impacts on adjoining properties and the area as a whole.

After thoroughly reviewing this proposal and the agreed conditions, the Committee has concluded the benefits and costs to the community are favorable, while the impacts on existing and residential/agricultural uses will be appropriately mitigated. Specific to "existing" uses in the area, the surface operations/portal area is on the Ohio River shoreline and "downhill" in the river valley from adjoining land uses. It is also directly across the river from the Miami Fort power plant which already generates barge traffic and industrial noise. The power plant is a heavy industrial land use which is compatible with the proposed portal and barging activity. The surface operations/portal area will largely be visible only from this industrial use across the river, and only for the duration of the initial mine development and the initial maturation of the new landscape plantings that will be provided on a berm around this area. This site placement, landscape design, and other positive development aspects outlined in the Concept Development Plan and agreed conditions are reinforced by the Business Activity, Industrial Objective 2 which states "effective site placement, architectural design and landscape design for industrial uses shall be encouraged to enable a favorable relationship with adjoining uses. Industrial nuisances such as smoke, dust, noise and odor shall be kept at a minimum and site development and enforcement of such nuisances shall be carefully coordinated with necessary approvals of other regulatory agencies."

- E. The 2000 Boone County Comprehensive Plan Goals and Objectives have been adopted by the four legislative units, including the Boone County Fiscal Court. The Committee has concluded that these Goals and Objectives do not affect the application differently than the 1995 Goals and Objectives or the overall 1995 Comprehensive Plan.

The Committee has concluded that the Concept Development Plan and agreed conditions for the proposed A-1/R/I-4/PD zone effectively fulfill the requirements of Article 15 "Planned Development District" of the Boone County Zoning Regulations. In particular, the Committee has concluded that the attached conditions have effectively remedied the concerns expressed in the Staff Report and at the Public Hearing regarding compliance with the standards in Section 1514 "Planned Development Standards" of the Boone County Zoning Regulations.

The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives and policies of the 1995 Boone County Comprehensive Plan. The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The applicant has signed a letter demonstrating agreement with these conditions.

CONDITIONS

1. The applicant agrees to the creation of an Alternative Dispute Resolution program to hear and resolve potential neighborhood complaints pertaining to the mine's operations and impacts, and property damage complaints alleged to be caused by the mine and its related operations as described in the attachment entitled "Hilltop Basic Resources, Inc., Alternative Dispute Resolution Program."
2. The applicant will reach an agreement with the Hebron Fire Protection District, and any other appropriate and necessary emergency service agencies, regarding the provision of emergency services. The applicant will pay for emergency service training for such agencies as it relates to the mine operation. If emergency services are not provided by public agencies, then the applicant will provide such services themselves in accordance with federal and state requirements.
3. Pre-blast surveys prepared for area properties (for structures, wells, or other improvements) shall include space for the property owner's comments and/or disagreements with the survey preparer's findings within the survey report itself, at the time of its original preparation. Such property owner comments shall be recorded with the pre-blast survey reports. Stated disagreements shall be reviewed through a subsequent property inspection with a resolution also stated within the survey report; this shall occur within 45 days of the initial report. The applicant is also agreeable to surveying, at a property owner's request, properties that are outside but grouped with or contiguous to properties within the one mile area at the applicant's expense. The applicant shall also conduct a pre-blast survey for any future property owner (provided the original property owner opted not to have a survey conducted), as well as for any future structures, for properties within the specified areas. The applicant is only required to conduct a pre-blast survey for any given structure once. The applicant shall provide a copy of the applicable, completed pre-blast survey to the property owner in question.
4. The applicant shall provide park and open space donations and economic considerations as detailed in supplemental condition #4, which is attached. The additional documents referenced in supplemental condition #4 are also attached. The park and open space areas discussed in the attached condition #4 are conceptually illustrated on the plan sheet entitled "Proposed Area to be Donated" that was received by the Planning Commission on May 4, 2000.

5. Ventilation shafts that are located on the east side of Garrison Creek Road shall be located at least 1,000 feet from the common property line of any tract under a different ownership, excluding the land donated by the applicant for park and/or open space purposes, and ventilation shafts that are located on the west side of Garrison Creek Road shall be located at least 500 feet from the common property line of any tract under a different ownership, excluding the land donated by the applicant for park and/or open space purposes. A complete vegetative screen shall be provided around ventilation shaft areas, except for any gates.
6. All conveyor chutes and transfer points located outside of the mine, and inside the first 50 feet of the mine's interior, shall be rubber lined and enclosed. All conveyors shall be covered except for the final loading conveyor.
7. All buildings, signage, and the bridge shall be subject to Design Review by the Planning Commission through the Special Use Permit process. As represented by the applicant, the stone-faced bridge and other structures shall appear as if they are located within a National Park. The purpose of this Design Review is to insure that these structures architecturally relate to the rural, wooded hillside environment through use of materials, colors, architectural forms and detailing, and an overall design theme, or that utilitarian mining related structures in the surface operations area will be completely screened from public view and adjacent properties.
8. The applicant will conduct a Phase 1 archaeological survey for the entire property under the applicant's control; Phase 2 investigations will be conducted for any significant sites discovered through the Phase 1 investigation and that are also within areas proposed to be disturbed. The survey for the areas proposed to be disturbed shall be completed prior to the submission of the Special Use Permit application. The survey for the remainder of the property shall be completed before the mine is opened for production. All survey results shall be submitted to the Planning Commission.
9. Production blasting shall be conducted only between 3:00 PM and 5:00 PM, Monday through Friday, except when blasts must be conducted later than the 3:00 PM to 5:00 PM time frame for life/safety reasons, such as to correct misfires, etc. Seismograph monitoring of blasts shall be broadcast live on the Internet in real time. The applicant agrees to peak particle velocity blasting limits of 0.05 inches per second at 3,000 feet and 0.25 inches per second at 1,000 feet.
10. Prior to any other site activity, an off-loading facility will be constructed in the area proposed for the barge load out, rather than the boat ramp in the proposed park area. This off-loading facility will be used for heavy equipment deliveries; only smaller bull dozers and equipment used to build the initial dock facility will be permitted to be transported via Garrison Creek Road. Heavy equipment and diesel fuel used for normal mine production operations shall be delivered via the river.

11. A 10 foot high, landscaped earth berm shall be constructed around the top/rim of the down slope that adjoins the surface operations area. The plantings for this area shall follow the concept included with the initial Concept Development Plan submittal.
12. Vegetative screening which uses flood tolerant species shall be used to augment the visual character of the stone faced bridge. Existing vegetation will be retained to screen the access road. All disturbed areas shall be revegetated per the landscape plan provided in the initial Concept Development Plan submittal and the Zoning Ordinance requirements.
13. The applicant may not increase the ambient statistical noise levels L10 and L50 by more than 10 dBA with maximum levels of 55 dBA and 60 dBA at any common property line of an adjoining tract under different ownership, excluding the land donated by the applicant for park and/or open space purposes.
14. The Kope formation proposed to be disturbed for the development of the portal shall only be altered in manners that will provide perpetual stability of said slope as determined by the applicant's geo-technical engineer. The specific methods proposed to stabilize disturbances to the Kope formation shall be reviewed by the Planning Commission through the Special Use Permit process.
15. All crushing and screening shall occur underground.
16. The required annual mine survey shall be prepared by a qualified, independent third party as mutually agreed by both the applicant and the Planning Commission. The independent third party shall be hired by the applicant at the applicant's expense.
17. No fly ash shall be stored in the underground mine.
18. No new or additional markets will be served by Hilltop's Constance facility. In addition, the Constance facility will not be a regional distribution site.
19. The only uses permitted by this zone change are those specifically outlined in the Concept Development Plan and the agreed written conditions stated above. Other commitments and clarifications regarding the zone change and Concept Development Plan are outlined in the booklet entitled "Responses to Boone County Zone Change Committee, Riverstone Mine," dated March 1, 2000. The agreed written conditions stated above shall supercede any conflicting commitments expressed in the referenced booklet.

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.

W. Thomas Chaney

W. Thomas Chaney, Chairman
For Against _____
Abstain _____ Absent _____

Bob Newman
For _____ Against _____
Abstain _____ Absent

Bob Schwenke
For _____ Against _____
Abstain Absent _____

Earl White

Earl White
For _____ Against
Abstain _____ Absent _____

Lisa Wilson
For _____ Against _____
Abstain _____ Absent

David Zimmer

David Zimmer
For Against _____
Abstain _____ Absent _____

TOTAL: 2 FOR 1 AGAINST 1 ~~ABSTAIN~~ 2 ~~ABSENT~~

Alternative Dispute Resolution Process
May 9, 2000

HILLTOP BASIC RESOURCES, INC.

ALTERNATIVE DISPUTE RESOLUTION PROGRAM

INTRODUCTION

The primary objective of this Alternative Dispute Resolution (ADR) program is to provide an ongoing forum to maintain communication between Hilltop Basic Resources, Inc. (Hilltop) and the local community, related to the mining operations at the Riverstone mine in Boone County. The program's other objective is to resolve any perceived conflicts or impacts. The program consists of two parts:

- A liaison committee
- A dispute resolution process

The liaison committee is a group of local citizens that meets with representatives of Riverstone on an ongoing basis to identify any issues and to provide resolution if possible.

This type of program fosters good relations between the mine operator and the local citizens because it will allow problems to be resolved quickly thus avoiding, whenever possible, the need for legal action.

The dispute resolution process provides a procedure to respond to complaints or claims that are not addressed by the liaison committee.

The ADR process is not intended to replace the rights of any individual to contact Hilltop directly regarding any issues and does not affect the legal rights of any entity.

LIAISON COMMITTEE

MEMBERSHIP OF LIAISON COMMITTEE

The liaison committee is viewed by Hilltop as an organic entity that could change its composition and role with time depending on the issues. Therefore the current composition of the committee is a preliminary configuration that can be changed by the committee itself.

The initial committee will consist of:

- An independent chairman selected by the committee from a panel submitted by Hilltop, local residents, the County (this individual can not be related to Hilltop)
- 2 representatives of Hilltop, including the Riverstone mine manager
- 3 representatives of the local residents (within 1-mile)
- 1 other local representative
- 1 observer (non voting) nominated by the fiscal court

LIAISON COMMITTEE MEETING SCHEDULE

The committee may meet as often as it desires but at least quarterly or if a complaint is received from a resident. The actual meeting schedule will be determined by the committee members.

Alternative Dispute Resolution Process
May 9, 2000

Hilltop will provide secretarial services and will pay all expenses for the operation of the committee including meeting room rental, mailing costs and out of pocket expenses of members.

POTENTIAL ISSUES FOR CONSIDERATION BY LIAISON COMMITTEE

As with the membership of the committee the issues to be addressed are up to the committee itself. Detailed below is a preliminary outline of potential issues:

- Review locations of permanent seismographs and recommend alternate locations, if necessary.
- Review seismograph readings on a monthly (or other) basis.
- Review status of pre-blast surveys and recommend updates for any new construction or property additions (or significant remodeling)
- Review results of noise and dust monitoring stations.
- Review copies of the quarterly mine plan indicating the location and configuration of the workings.
- Pre qualification of at least three independent ADR facilitators who can convene and chair the Dispute Resolution Process.
- Review list of all complaints, and individual complaint forms, received by Hilltop and actions taken. This will exclude any complaints made confidentially to Hilltop.
- Identify any unresolved issues and determine potential solutions. Define timetable for resolution of issue.
- Identify any issues that can not be resolved by the liaison committee and submit them to the Dispute Resolution Process.
- Coordinate visits of interested local residents to the Riverstone operation.

DISPUTE RESOLUTION PROCESS

DISPUTE RESOLUTION PANEL COMPOSITION

The Riverstone Mine Dispute Resolution Process will be responsible for the investigation, and/or the mediation of the complaints and claims referred to it by the liaison committee. The Dispute Resolution Panel will consist of:

- An independent facilitator, selected at random from the group pre-qualified by the liaison committee
- One representative of Hilltop
- One representative of the local residents, nominated by the fiscal court

Experts may be retained by the panel to assist in the review and analysis of issues before it. Any expert shall be selected based on the recommendation of the Panel. All costs associated with the retention of an expert will be paid by Hilltop. Hilltop will also be responsible for the compensation of the independent facilitator.

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DISPUTE RESOLUTION PROCESS PROCEDURES

The following are the responsibilities and procedures for the Dispute Resolution Process:

- The objective of the Dispute Resolution Process to get both parties to agree to a reasonable and equitable resolution to the issue.
- Mediate any noise and dust complaints that cannot be resolved by either Hilltop or the liaison committee. This will include hearing both parties issues and performing the necessary investigation and review to best mediate a reasonable and equitable resolution.
- Mediate any blasting complaints and damage claims that cannot be resolved between the complainant or claimant and Hilltop or the liaison committee. This will include hearing both parties issues and performing the necessary investigation and review to best mediate a reasonable and equitable resolution.
- Hilltop agrees that the resolution of any issue submitted to the Panel shall be binding upon Hilltop, if the defined level of damages is less than \$10,000.

COMPLAINT / CLAIM PROCESS

Complainant / Claimant Actions

When an individual has a complaint or claim to make, they should call Hilltop immediately to define their concerns. If preferred, the concerned citizen may submit the issue directly to the Chairman of the liaison committee.

Hilltop Actions

- Upon receipt of a complaint or claim Hilltop will complete part 1 of a "Complaint and Claim Report".
- Copies of the form will be mailed to the complainant/claimant and the Chairman of the liaison committee. This is the vehicle to ensure the liaison committee is notified of the complaint and that Hilltop has made record of the complaint.
- Hilltop will then investigate the complaint/claim. Depending on the nature of the issue this investigation could be a short and simple process or it could involve a more detailed review and analysis.
- Hilltop will update the complainant/claimant and all members of the liaison committee via the U.S. mail on the first and 15th of each month.
- Hilltop will submit a final report detailing how the items have been addressed. This report will be submitted no later than forty-five days after the initial complaint / claim was made. This report will be made using Part 2 of the Complaint and Claim Report and any other documentation necessary. This final report will be mailed to the complainant/claimant and the liaison committee.
- If the complainant/claimant is not satisfied with Hilltop's actions and final report, the complainant/claimant will then notify Hilltop and the liaison committee via the mail that

Alternative Dispute Resolution Process
May 9, 2000

they are not satisfied. The complainant/claimant should articulate specifically in the letter why the report and/or actions are not satisfactory.

Liaison Committee Actions

- The liaison committee will meet and review and investigate the issue using the information that has been provided by Hilltop and / or the complainant/claimant.
- The liaison committee will meet within 14 calendar days of receipt of notice from the complainant/claimant.
- The liaison committee will review the complaint/claim. Depending on the nature of the issue this investigation could be a short and simple process or it could involve a more detailed review and analysis.
- After analyzing the available data the liaison committee will convene a dispute resolution meeting with both Hilltop and the complainant/claimant. Following the meeting the committee will prepare its findings and recommendations for the resolution of the issue. The resolution shall be decided by a majority vote of the committee members present.
- The liaison committee shall issue its resolution no later than forty-five days after the initial notice from the complainant / claimant.
- The liaison committee will update the complainant / claimant and Hilltop via the U.S. mail on the first and 15th of each month.
- If either Hilltop or the complainant / claimant is not satisfied with the liaison committee resolution and if it is impossible to resolve the issues, then the dispute may be referred to the Dispute Resolution Process. Hilltop is bound to refer any issue not resolved by the liaison committee to the Dispute Resolution Process, if agreed to by the complainant / claimant. If the dispute is not referred to the ADR Process the complainant / claimant may pursue all other legal options available.
- In order to commence the Dispute Resolution Process, the liaison committee shall retain one of the pre-selected independent facilitators. The independent ADR facilitator will be responsible for managing, chairing and convening the Dispute Resolution Process.

Dispute Resolution Actions

- The Dispute Resolution Panel will meet and review and investigate the issue using the information that has been provided by the liaison committee plus all correspondence and/or reports prepared by the parties.
- The Dispute Resolution Panel will meet within 14 calendar days of receipt of notice from the liaison committee.
- The Panel will have up to sixty calendar days to make a written recommendation / decision. The recommendation / decision shall be based on interviews with the parties, face-to-face dispute resolution sessions, advice / studies of independent experts or any other actions deemed appropriate by the Panel.

Alternative Dispute Resolution Process
May 9, 2000

- After collecting all applicable information relating to the issue being discussed, a written recommendation will be made by the Panel. This report will detail the findings, responsibilities and level of damages (if any).
- If the written report concludes that the damage was caused by Hilltop, the Panel will define how the complainant/claimant is to be compensated.
- If the level of damages is less than \$10,000 Hilltop agrees to be bound by the findings of the Dispute Resolution Panel. If the complainant / claimant does not agree with the findings they may select either binding arbitration or litigation to resolve the dispute.
- If the level of damages is greater than \$10,000 the parties may select either binding arbitration or litigation to resolve the outstanding issues.
- The Panel will update the complainant /claimant and Hilltop via the U.S. mail on the first and 15th of each month as to the status of the mediation and decision making process.

SUPPLEMENTAL CONDITION #4

4. The applicant agrees to various economic considerations. These are detailed in the document titled "Boone County Zone Change Committee, Riverstone Mine Supplement to #17 Economic Package, Responses dated 3/1/00" and further defined in letters from Mr. John Steele to Kevin Costello dated April 12, 2000 and May 2, 2000.

These economic considerations include:

- Donation of the surface property of the developmentally sensitive areas that it controls. This property includes the entire Garrison Creek valley controlled by Hilltop. The proposed property is indicated on the attached drawing and consists of 326-acres.
- Donation of the surface property of 113-acres to Boone County or other approved entity, for use as a County Park (or as green space as determined by the County)
- Donation of an Agricultural Conservation Easement for the 134-acres of farmland to maintain the property in perpetuity to the land uses permitted under the current A-1 zone.
- Donation of right of ways or "bridle paths" to link any of the greenspace tracts
- Provision of an income stream to the County to allow the county to develop the Park (or green space), Garrison Creek Road and other infrastructure. This "facility upgrade fee" will consist of \$0.10 per ton of saleable product shipped from the proposed operation.
- The applicant will participate in the upgrade of Garrison Creek Road from the intersection with Ky 8 and the vehicular entrance to the subject site. Funding for this will be included as part of the "facility upgrade fee".

BOONE COUNTY ZONE CHANGE COMMITTEE

Riverstone Mine

Supplement to #17, Economic Package Responses dated 3/1/00

In addition to the tax revenues described on page 43-A of our original Responses, Hilltop offers the following additional economic considerations:

1. PARK PROPOSAL

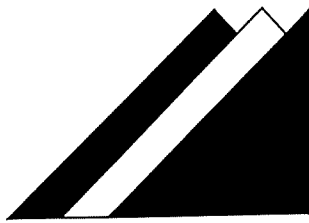
Hilltop has met with County officials, Mr. Stanton and Mr. Hund to discuss the potential park and acreage donations to the County. A letter dated March 10, 2000 to Mr. Hund (see attached) outlined our understanding of the County's park desires.

In response to this issue, Hilltop is now offering 110 acres to the County to accomplish the park needs and an additional 257 acres of green space. This property shall be conveyed to Boone County, or a suitable body such as the Boone Conservancy.

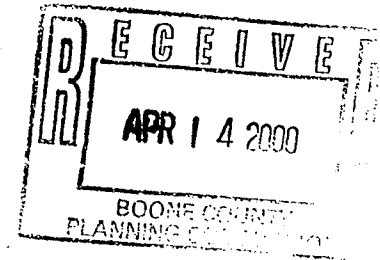
Approximate value of acreage = \$1,500,000.00
(see attached drawing)

2. ANNUAL DONATIONS

In an effort to provide annual support to the local community needs, Hilltop proposes to donate to Boone County, or a suitable body such as the Boone Conservancy, a fee equal to \$0.10 per ton of limestone shipped for sale from Riverstone. This donation of approximately \$180,000.00 per year shall continue for a period of twenty (20) years.



**HILLTOP
BASIC
RESOURCES
INC**



April 12, 2000

Mr. Kevin Costello, Executive Director
Boone County Planning Commission
2950 Washington Street
Burlington KY 41005

Re: Hilltop Basic Resources – Economic Approach

Dear Mr. Costello:

During the planning committee meeting on March 23, 2000, Hilltop Basic Resources presented an outline of the economic package associated with its proposed underground limestone mine. This letter is a follow up to that outline and addresses the questions raised about the proposed park and issues related to the park's future development.

Hilltop recognizes that development of a park could cause increased traffic. It should be noted that this future traffic level is dependent on whether or not the county wants to develop the area as a park and what type of park is proposed. There is a difference in traffic resulting from an active-activity park when compared to a passive-activity park.

As for Hilltop's use of the road, the company believes that the proposed limestone operation has little impact on the road. The mine design calls for barge transport and therefore has minimal traffic or road impact.

Due to the uncertainties relating to future traffic levels and because of the varying options for the development of the park, Hilltop proposes to provide an income stream to the county. The revenue would consist of \$0.10 per ton of saleable product shipped from the proposed operation and it would enable the county to develop the park and related infrastructures as it sees fit. The present value of the income stream, which Hilltop commits to provide, is approximately \$2.5 million.

As you are aware, Hilltop proposes to donate 110 +/- acres to Boone County for use as a county park. In addition to the property proposed for the Park, Hilltop has heard numerous comments relating to the preservation of greenspace and the maintenance of rural agricultural lands. To address that issue, Hilltop is proposing to donate the surface property of the developmentally sensitive areas that it controls. This property, 247 +/- acres, includes the entire Garrison Creek valley controlled by Hilltop. The total of the surface property included in this donation is indicated on the attached drawing and consists of 357 +/- acres.

Hilltop understands that the actual boundary of the donated land could be adjusted to reflect the requirements of Boone County. Therefore, Hilltop is willing to discuss the configuration of the property with the appropriate Boone County agency. The currently zoned A-1 agricultural land on the ridge tops that is not developmentally sensitive will be maintained in its current land use. As Hilltop is not a farming company, this land will be leased to tenant farmers.

In summary, Hilltop is proposing:

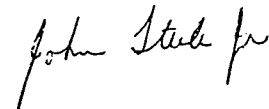
- Donation of 110 +/- surface acres for a park
- Donation of 247 +/- acres of surface property for greenspace preservation
- Contribution of \$0.10 per ton of saleable product shipped

Robert Hay, a Boone County commissioner, was a recent guest columnist in the Cincinnati Enquirer. He suggests that while developers want to develop, "balance can be achieved while respecting everyone's reasonable property rights." We agree with this concept and believe "balance" in this case came about through months of discussion, thought and planning which the commission members and the Hilltop team put into this project. The "balance" is a viable and attractive proposal that offers the county a unique opportunity to acquire a significant area of river frontage, preserve an important Ohio River tributary, and enjoy a revenue stream that gives the county decision making options.

On a separate note, on Monday morning we will deliver to your office a proposed complaint resolution program for your consideration.

On behalf of Hilltop Basic Resources, I thank you and all the parties involved for your consideration and thoughtful input throughout this application process.

Sincerely,



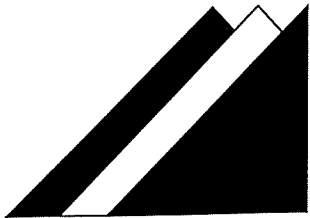
John Steele, Jr.

President & CEO

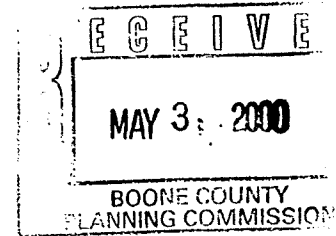
JSjr/ws

Cc: John Stanton, Asst. County Administrator

Ken Hund, Parks & Recreation Director



**HILLTOP
BASIC
RESOURCES
INC**



May 2, 2000

Mr. Kevin Costello
Executive Director
Boone County Planning Commission
2950 Washington Street
Burlington, KY 41005

Re: Hilltop Basic Resources – Augmented Economic Approach

Dear Mr. Costello:

Further to our letter to you dated April 12, 2000, and in response to the issues outlined in the letter from Mr. Ken Hund dated April 19, 2000, Hilltop would like to take this opportunity to amend our proposed donation of the surface property of the developmentally sensitive areas and to address the conservation aspects of the agricultural property.

In reviewing the configuration of the proposed surface land donation, Hilltop has added 79 acres, bringing the total donation to 439 acres. This acreage links a number of the previously non-contiguous tracts in order to improve the utility of the park project. To further enhance this utility, Hilltop proposes to provide a permanent right of way to provide linkages between the tracts. The additional acreage and the proposed right-of-ways are indicated on the attached drawing.

Hilltop understands that the actual boundary of the donated land could be adjusted to reflect the requirements of Boone County. Therefore, Hilltop is willing to discuss the configuration of the property with the applicable Boone County agency.

If the County does not want to accept the property as part of the parks system, Hilltop is willing to work with other suitable entities such as the Boone Conservancy to achieve the same objective. It is also possible that this could be achieved through the donation of preservation / conservation easements rather than the transfer of title.

As previously indicated, Hilltop proposes that the currently zoned A-1 agricultural land on the ridge tops will be maintained in its current land use and will be proposed for agricultural use. In order to assuage any doubts as to Hilltop's intention for this property, Hilltop is proposing to donate the development rights to an accepted agency such as the Kentucky Purchase of Agricultural Conservation Easements (PACE) program. Hilltop will donate the right to develop any use that is not included in the current A-1 zoning regulations.

We would like to reiterate that, as all of the produced rock is shipped by barge and all heavy equipment will be delivered on the Ohio River, Hilltop has taken every effort to minimize impacts to the Garrison Creek Road. However, we are aware that development of the park/green space could cause increased traffic. Due to the uncertainties relating to future traffic levels because of the varying options for the development of the park/green space, Hilltop is proposing to provide an income stream, or "facility upgrade fee", for the use of the County to develop the park and other infrastructure, including the road. This "facility upgrade fee" will consist of \$0.10 per ton of saleable product shipped from the proposed operation. Hilltop will participate in any way that it can in the upgrade of Garrison Creek Road, except that the funding for any improvements is part of the "facility upgrade fee".

In summary, and as a result of this augmented proposal, Hilltop is proposing:

Donation of the surface property of the developmentally sensitive areas that it controls. This property includes the entire Garrison Creek valley controlled by Hilltop. The proposed property is indicated on the attached drawing and consists of 326 acres.

Donation of the surface property of 113 acres to Boone County, or other approved entity, for use as a park (or as green space as determined by the County).

Donation of an Agricultural Conservation Easement for the 134 acres of farmland to maintain the property in perpetuity to the land uses permitted under the current A-1 zone.

Donation of right of ways, or "bridle paths", to link any of the green space tracts.

Provision of an income stream to the County to allow the County to develop the park (or green space), Garrison Creek Road, and other infrastructure. This "facility upgrade fee" will consist of \$0.10 per ton of saleable product shipped from the proposed operation.

Participation in the upgrade of Garrison Creek Road from the intersection with Kentucky Route 8 and the vehicular entrance to the subject site. Funding for this will be included as part of the "facility upgrade fee".

Hilltop appreciates the opportunity to work with the Planning Commission in order to make this project a win-win opportunity for both the County and Hilltop. We hope that the proposed voluntary preservation of agricultural and green space will contribute to the maintenance of the diversity of Boone County.

Sincerely,

HILLTOP BASIC RESOURCES, INC.



John F. Steele, Jr.
President

JFS/slk

BOONE COUNTY PLANNING COMMISSION
CONNER MIDDLE SCHOOL
3300 COUGAR PATH
January 24, 2000

PUBLIC HEARING

Commission Members Present: Mrs. Amett - Secretary/Treasurer, Mr. Barlow, Mr. Caddell - Chairman, Mr. Chaney - Vice Chairman, Mr. McMillian, Mrs. Poston, Mr. Ries, Mr. Schwenke, Mr. White, Mrs. Wilson, and Mr. Zimmer.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Susan Cabot, Historic Preservation Planner; Mr. David Geohegan, AICP, Director of Planning Services; Ms. Jan Hancock, Secretary; Mr. Mike Homer, Planner; Mr. Kevin Wall, AICP, CDT - Director, Zoning Services.

Legal Counsel Present: Mr. Dale Wilson

Mr. Arnold Caddell, Chairman, called the meeting to order at 6:05 P.M. and introduced the members of the Planning Commission. The Chairman introduced the item on the Agenda:

1. Applicant: Hilltop Basic Resources, Inc. for Hilltop Basic Resources, Inc., Addison G. Stevens, Myrna Stevens, Rodney Woods, Sandra Woods, Donald Gene Hodges, Niki Carol Hodges, Robert G. Kippler, William E. Kippler, Carl Taabar, and Cynthia Taabar (owners)

Request: Zoning Map Amendment

The request of Hilltop Basic Resources, Inc. (applicant) for Hilltop Basic Resources, Inc., Addison G. Stevens, Myrna Stevens, Rodney Woods, Sandra Woods, Donald Gene Hodges, Niki Carol Hodges, Robert G. Kippler, William E. Kippler, Carl Taabar, and Cynthia Taabar (owners) to consider a Zoning Map Amendment from Agriculture (A-1) to Agriculture/Recreation/ Industrial Four/Planned Development (A-1/R/I-4/PD) for an approximate 534 acre area located north of I-275 and the I-275/Petersburg (KY 8) interchange at the terminus of Garrison Creek Road, and along the south side of the Ohio River, Boone County, Kentucky. The request is for a zone change to allow underground extraction, processing, river barging of materials, and other activities pertaining to subsurface mining operations and outdoor park/recreation and agricultural uses.

Following an explanation of the Public Hearing process, the Chairman stated that the Committee Meeting for this item will be on February 7, 2000 at 5 P.M. in Courtroom 3A of the Administration Building. The Chairman asked that comments be confined to land use issues.

The Chairman asked for the applicant's presentation.

Applicant's Presentation:

Attorney Mike Duncan with the law firm of Ziegler & Schneider in Crescent Springs, stated that he has been a resident of Boone County since 1978. He stated that their presentation will include a Power Point presentation. He stated that his client, Hilltop Basic Resources, has assembled some property in a remote location that is zoned Agriculture. The property is located across the Ohio River from the Miami Fort Power Plant. The project is a river-oriented project, not a road-oriented project. They are asking for a zone change amendment to Agriculture/Industrial Four/Recreation/Planned Development Overlay. There will be a combination of uses on the property. The limestone mining will be entirely underground and all the crushing, screening, and sorting will be underground. The material will be conveyed out from under the ground via enclosed conveyors and directly onto barges on the Ohio River. There will be about twelve acres of surface area associated with the limestone mine which will remain A-1. There is no intent to have a large scale farming operation. There will be a recreation facility on some of the surface area through the Planned Development Overlay.

Mr. Duncan stated that Hilltop Basic Resources is one of his most conscientious and caring clients, and one of the reasons it took so long to get this application ready was that they looked at all the details. They looked at the concerns raised at the previous limestone mining request, they talked to neighbors and citizens, and they held public forums. They held a news conference to acquaint the public with the request. They wanted the public to be a part of this proposal and they have been. They set up a 24-hour hotline prior to filing the application. They have an E-mail address for citizens to submit their concerns and they immediately respond with the requested information. They recently held a meeting for people within a one mile radius to hear basically the same presentation that will be presented this evening. They stayed late and answered the questions raised. They also did a couple of postcard mailings to keep the people apprised of what was going on and to solicit input.

Mr. Duncan stated that they feel that this development will be as least obtrusive as underground limestone mining can be. He introduced Mr. Kevin Sheehan, Vice President of Hilltop Basic Resources; and Mr. John Morgan, a Mining Engineer. Mr.

Duncan stated that all of the experts will not speak, but all of the expert reports have been submitted with the application and are submitted as part of the Public Hearing.

Mr. Kevin Sheehan stated that he is a native of Kentucky and a former Boone County resident. He introduced the other members of their project team: Mr. John Morgan, President/Chief Executive Officer of Morgan Worldwide Mining Consultants; Mr. John Seibel, Minerals Industry Consultant and resident of Boone County; and Mr. John Steele, Jr., President and Chief Executive Officer of Hilltop Basic Resources and grandson of the founder.

Mr. Sheehan stated that they will keep their presentation under sixty minutes and want to give the Planning Commission and public an opportunity for questions and comments. They have shortened their presentation to keep it under sixty minutes, but they have all of their experts present to answer any questions.

Mr. Sheehan presented and reviewed the applicant's Power Point presentation with commentary that Hilltop Basic Resources is a third generation greater Cincinnati/Northern Kentucky company that has been locally owned and operated for almost sixty years. Their Mission Statement is to supply the construction industry with the best value in aggregates. He stated that the term "aggregates" is used interchangeably with sand, gravel, and limestone. He stated that they are guided by corporate principles and values including safety, honesty and integrity. They are good corporate citizens in the communities they serve and they abide by the laws and regulations and encourage their people to take leadership roles in the community. Mr. Sheehan presented an overview of their operations and noted the locations of their terminals. Their central river terminal in downtown Cincinnati is located between the Clay Wade Bailey and Brent Spence bridges. He stated that the river provides an opportunity for efficiency in the movement of the sand and gravel they mine and allows for a wider distribution area. They have been here since the mid-1960's and relocated to their present location to make room for Cinergy field. He stated that all of their materials are brought in by barge along the Ohio River. Their next sand/gravel/limestone distribution terminal was established on Kellogg Avenue in Anderson Township (east Cincinnati) in the early 1980's. Their products from this location are also barged. They have another distribution terminal on the Ohio River in Constance, Kentucky. This terminal is also sand/gravel/limestone products and there are no ready-mix asphalt facilities. They have a facility on the Ohio River in Patriot, Indiana. Ninety-five percent of the material from the Patriot facility is loaded on a barge and shipped up river to the other three terminals (Downtown, Kellogg Avenue, and Constance) and to customers further up the river in Maysville, Kentucky, and in West Virginia. Mr. Sheehan presented slides of their three plants in the Dayton, Ohio area which are off the river and not part of the river transportation network. He presented a slide showing the relationship of their locations to each other.

Mr. Sheehan stated that it is important for Boone County to have access to economically priced high quality stone to support the growth in the area. The site they have chosen is remote and directly across from the Miami Fort Power Station. The site allows them to take advantage of the Ohio River. They believe that Hilltop is uniquely positioned to take advantage of this resource with minimal disruption to the surrounding area. They have spent a great deal of time in public hearings and public meetings to understand the concerns about mining. They heard concerns about blasting damage, dust, crushing/spraying/stockpiling activities, noise, negative visual impact on the surrounding area, and the destruction of farmland. They have also heard that there is a need for additional parks and recreational areas. They believe their proposal addresses all of the concerns.

Mr. Sheehan stated that the proposed mine is located in a remote area. It is on the Ohio River and directly across from the power station. There will be no trucking of stone from the site. All crushing, screening, and stockpiling will be located underground. There will be no lime kilns or asphalt production plants. Since the activities and stockpiling will be underground, the surface activity will be limited to twelve acres, which is less than two percent of the total acreage, and allows them to maintain the agricultural designation on most of the property. He stated that they have voluntarily agreed to limit their blasting and have agreed to a seismographic system to allow the residents to see what effect the blasting is having and to ensure that they stay within the voluntary blasting guidelines they have established. They propose to donate one hundred thirteen acres of the surface area for park and recreation uses. They have plans for construction of a public boat ramp. He presented slides of what the recreational area might look like. He stated that there are cemeteries on the property that will be preserved and protected. He stated that there is a unique educational opportunity to explore Boone County's rich history from the Indian traditions through the arrival of the first Europeans through the first settlement known as Petersburg in 1789. They feel that the recreation area will provide an opportunity to explore the history. They estimate employing thirty-two people for a two-shift operation. There will be tax revenues to the county in property and employment taxes.

Mr. John Morgan, also using a Power Point presentation, indicated the location of the proposed underground limestone mine. He presented and reviewed an aerial photograph. He stated that their objective is to minimize the surface effects associated with mining. The operation will be in a remote location and the surface use will be less than twelve acres. Everything else normally associated with underground limestone mining will be underground -- including crushing, screening, processing, and stockpiling. He indicated the area that will be opened up and the area that will temporarily be used for stockpiling and, once it is disposed of, it will be revegetated and return to its natural state. Once they are in operation, all people will see is the flat area that will be paved and the access to the underground. They will not have asphalt or concrete plants. There will be no surface stockpiles. The

stockpiles will be underground and the material transported directly from underground stockpiles to the barge. There will be no trucks and all the material will be transported by barge. There will be no dust or noise and only a minimal area of surface disturbance. He indicated the tributary that goes directly to the Ohio River and stated that there is no flow from their project into Garrison Creek. He stated that normally there is a high water demand associated with a limestone operation because of the surface activity and the need to minimize dust with water sprays and truck washes, but they do not have those water demands. Any water they use underground will be recycled and used again. He stated that there will be no surface crushing, screening or stockpiling. They have developed a non-traditional approach and have these operations underground. All activities normally associated with a limestone operation will be underground. They have chosen a remote site that is low-lying. A low-lying site is not at the same elevation as anyone else and there is natural screening. He presented a slide of the property owned and controlled by Hilltop Basic Resources and noted the small area shown in blue which is the only area proposed for surface activity. He presented a breakdown of all the land Hilltop Basic Resources owns and controls and stated that all of their land includes mineral rights. For the 130 acres, they propose separating the mineral rights from the surface and donating the surface property as a park. He noted the location of the proposed boat ramp. He reviewed the surface disposal area. He presented a slide showing the area proposed for the underground mining activity. The setbacks to the existing residential zones were shown by green lines to indicate how they comply with the three thousand foot setbacks and the setback for properties on Merrell Road. He stated that they have conducted archaeological, hydrological, blasting, and traffic studies reflecting the mining activity. He stated that the park is a Future Land Use depending on what the county is going to do. They have developed a landscape plan that includes the creation of buffer zone and protection of their activity, shows how a park would work, and how it would be designed to be a compatible land use. He stated that there is a barn and a house on the property and two cemeteries and they will have to do additional surveys as required by the Planning Commission. There will be a detailed site survey. He stated that both of the cemeteries are outside of the disturb area. They have conducted a hydrologic study in regard to the effect of the ground water on the mine and any effect on the wells. They believe there will be minimal inflow of water into the mining activity and no effect on ground water or on existing ground water users. Any water requirements that cannot be met by limited seepage into the mining activity will be supplemented by a water source from the Ohio River. There will be a detailed hydrological study and testing of all existing wells to determine their current conditions. They will maximize the amount of water recycling to minimize the amount of water they get from the Ohio River. They will apply for a permit for discharge of ground water and surface water. They have retained blasting and mining consultants to evaluate the blasting issues and create a blasting plan to meet the site-specific blasting standards they have adopted. They do not believe there will be any adverse effects from the proposed blasting. They will conduct a pre-blast survey on all properties within one mile, including historic

structures such as cemeteries. He stated that as they get into the mine area, they need to tailor the blasting conditions to the ground. They will start off at the smallest possible level and see how the ground reacts. There will be state-of-the-art seismic monitoring equipment that will give everyone the opportunity to see if they are doing what they said they would do. He stated that they looked at the traffic associated with the mine, which includes a minimal number of trips of employees and delivery of supplies. He stated that all of the heavy equipment will be brought in by flat top barge, except for small pieces of equipment brought in in the first few days to get the barge facility established. He stated that the noise study shows the primary sources of noise in the area currently are Miami Fort Power Station, traffic on I-275, and airplanes. The potential sources of noise are the barge ventilation fans, the surface conveyor and the traffic leaving the site. All of these will be evaluated and there will be a defined limit above which they will not increase the current baseline conditions. They have looked at air quality and believe the avoidance of pollution is better than mitigation. By putting the crushing, screening, and stockpiling underground they get rid of the sources of dust, which improves the air quality issues. They will submit an application for an air quality permit and with their regular air monitoring program they will ensure that they comply with the standards defined. He stated that the mine is designed for 1.8 million tons of stone per annum, which is a useful life for the mine of one hundred twenty years. It is basically a permanent land use and, therefore, they need to minimize the amount of surface disturbance. The mine will be about six hundred feet below the surface with only twelve acres of surface activity. Any runoff from the mine will be diverted through three on-site structures to make sure the stormwater flow is not greater than the pre-development flow. The culvert underneath the working area will be designed for a 100-year storm. They will use the pillar mining method and the pillars will be designed to insure there is no subsidence and the mine will have long-term stability. There will be no post-mining land use of the underground facilities. The mine will remain a void and be sealed up. They will not have any secondary uses of the mine. On completion of the mining activities, the ports will be sealed. The surface area will be graded and reseeded and become part of the park facilities. He stated that they conducted an environmental evaluation which found that there were no significant habitats that would be affected. The only activity on Garrison Creek is the construction of a new road and a bridge across it. All of the rest of the site activity/discharges are in the unnamed tributary. They will minimize any impacts to Garrison Creek. He stated that they will look for the presence of running buffalo clover and determine if there is any action necessary. As the seasons change, they will look for any site-specific factors which might affect the development area. He stated that they have designed the mine low in the valley so the proposed park area will not see any of the surface facilities even when the trees are bare. There will be a planting plan for the disturbed outskirts to provide additional screening for the surface facilities and for the barge loading. People using the proposed trail linking to Route 8 will be screened from the conveyor noise and dust.

Mr. Duncan submitted all of the expert reports and studies (see Exhibits 1, 2, 3, and 4). He submitted and referred to his letter of January 21, 2000 addressed to the Planning Commission, which is a cover letter to "Hilltop Compliance with Comprehensive Plan – Discussion Document" that summarizes their compliance with the Comprehensive Plan (see Exhibit 5). In regard to compliance with the Comprehensive Plan, he stated that the Land Use Element on Page 210 requires them to use existing vegetation and topography and implement buffering and landscaping to mitigate any negative effects. He asked Mr. Morgan how they have incorporated these requirements into their compliance with the Comprehensive Plan. Mr. Morgan responded that they only have twelve acres on the surface and are located low in the valley. They will avoid disturbing any existing vegetation except in the twelve-acre area. He stated that they have a natural buffer. The land overlying the underground mine will only be used for a park, which preserves the natural buffer of agricultural/developmentally sensitive land.

Mr. Duncan stated that in the Land Use Element within the text of the Comprehensive Plan, there are various Land Use Map compliance guidelines that must be followed, such as "development should not encroach on Developmentally Sensitive areas". He questioned how they have complied with that. Mr. Morgan responded by reviewing a drawing of the Developmentally Sensitive areas in relation to the proposed activity. He stated that about half of the twelve acres proposed for surface activity will be disturbed and it is very low on the hill and will not affect the stability. There will be some excavation and some fill and they are looking at detailed design criteria to ensure that they do not cause any disturbance or instability of the slopes. The acreage of rural land shown in white will be preserved as agriculture land at the current agricultural use which is grazing and pasture land. Mr. Duncan asked if there is an active farming plan. Mr. Morgan responded "No", and stated that they will maintain the current use which is basically grazing land and hay land. They could have located the surface facilities on the prime farm land, which they believe is counter to the Comprehensive Plan. Therefore, they used Developmentally Sensitive land with specific design criteria.

Mr. Duncan referred to the Business Activity Element of the Comprehensive Plan, specifically "Industrial" (Page 7 of the Comprehensive Plan) and stated that Item #1 says that "Industrial development shall be encouraged to locate near railroad lines and highways", but more specifically in this case, to the Ohio River. He asked how this issue is addressed. Mr. Morgan responded that since their normal business activity with the aggregate and stone is on the river, this is a perfect fit with the river as the source of transportation and avoids any traffic impacts to the area.

Mr. Duncan referred to Page 84 of the Comprehensive Plan in regard to areas of future industrial and office activity. He stated that there is reference to the river bottom areas and industries involving barge transportation and it talks about future mining activity. He asked how they address this part of the plan. Mr. Morgan

responded that there is no area shown on the Land Use Plan for I-4, so they tried to determine where it would fit. They believe there are threads of evidence in the Comprehensive Plan, one being that river bottom areas are suitable for mining and have been used as I-3. They also follow the idea of using the Ohio River as the primary transportation corridor. Therefore, they feel they comply.

Mr. Duncan asked the Commissioners to review their submitted information. He submitted the Power Point presentation and will submit a disc of it in the next few days.

At this time, Chairman Caddell asked Staff Members Kevin Wall and David Geohegan to present the Staff Report.

Staff Report:

Staff Member Kevin Wall presented the segments of the Staff Report in regard to the Site Characteristics, and Adjoining Land Uses and Zoning. Mr. Wall's presentation included a Power Point presentation. Staff Member Dave Geohegan continued the Staff Report and Power Point presentation in regard to the Relationship to the 1995 Boone County Comprehensive Plan. In regard to the Traffic Analysis section (Page 9), Mr. Geohegan questioned, since this will be a 120-year project, if large equipment in future years will have to be brought in over Garrison Creek Road if some large equipment inside the mine would need to be replaced. He commented that once the boat dock is used for recreational purposes, there would be public outcry if they were to bring in equipment through there. Mr. Geohegan referred to a letter received after the Staff Report was completed from Mr. Duncan which deals primarily with the Comprehensive Plan (see Exhibit 5). He noted that the first page of Mr. Duncan's letter states that the I-4 zone was not foreseen in 1995 when the Boone County Comprehensive Plan was updated. Staff disagrees with this comment. Mr. Geohegan stated that there is statement in the Business Activity Element that refers to the possibility of different kinds of mining uses other than surface mining. That statement is in the 1995 Comprehensive Plan, but it was not in the 1990 Comprehensive Plan and was based on discussion of these types of uses being proposed. He stated that Mr. Duncan's letter also talks about one of the Goals of the Environmental Element and "Development within Boone County preserves and promotes a better quality of life *while allowing a reasonable economic return*". He stated that the italicized portion of that sentence is not included in the 2000 Goals and Objectives approved by the Planning Commission last week but has yet to be adopted by the legislative units. Mr. Geohegan stated that the applicant refers to methodology to stabilize exposed portions of the Kope formation, but no details of those methods were submitted. If this methodology a retaining wall? He noted that the letter also talks about the hillsides along the Ohio River being protected from

erosion and not being affected by development, but the submitted plan shows buildings, a roadway, and a bridge proposed within that area. Staff would like more detail in this regard. He stated that the applicant also refers to stormwater drainage and dealing with a 25-year storm event. He stated that the Subdivision Regulations require looking at different types of storms, including a 50-year storm event. He questioned if that would affect the size of the twelve-acre disturb area. He stated that there is reference in the Economic Section to the idea that the mine would provide employment opportunities for Boone County citizens, but the Comprehensive Plan shows that there are not a lot of employees associated with a mine. Staff does not know if the barge operation referred to in Mr. Duncan's letter is owned by the mine operator or if it is an outside operation, and those employees might not be from Boone County. Staff questioned the benefit in terms of number of employees. Mr. Geohegan stated that the letter and the applicant's Power Point presentation referred to an existing Hilltop port facility, which is in Boone County (Constance) – even though the letter points out that there is none in Boone County – and some of the aggregate from this mine would be shipped to that location in Boone County. Staff questions why they would expand that location if they are not expecting additional traffic. Staff would like this issue addressed. Mr. Geohegan stated that when a runway was constructed at the airport in 1990 or 1991, a lot of aggregate came up KY 20 and Route 8 and there were a lot of complaints about the trucks tearing up the road and about safety concerns. He stated that at the end of Mr. Duncan's letter is a description regarding the park property and a future county park, but it does not indicate whether the applicant would donate the land or whether they would construct the facilities shown in the pictures in the application. He stated in regard to the scenic views from the hilltop of the site, that there are some beautiful views of the Miami Valley and the Ohio River, but in the picture half of the view is the power plant. That issue should be evaluated in looking at the county park. There is also reference near the end of the letter in regard to a stockpiling area. He questioned if the Constance port facility is utilized and a lot of product goes through that facility, would there be more surface stockpiling at that location? He stated that the Transportation Element talks about dust, emissions, and other effects of truck transportation and there is a statement that the project as proposed would eliminate, or greatly decrease, the emissions and dust – but they may not be being decreased and may just be being transferred to another location because at some point the product is off-loaded from the barges and trucked to its destination. The letter also points out that fuel consumption will be significantly lower than in a mining operation that relies totally on trucks – but that impact also has to occur somewhere and is transferred to another location. He stated that there is a statement on Page 12 of Mr. Duncan's letter that the operation is not visible from any adjoining properties or the proposed park area, but he is not sure that is entirely accurate. He stated that there is property to the south that is mostly hillsides and wooded (the Moore property) and the proposed buildings and surface operation would be visible from that property. The proposed bridge over the creek and Garrison Creek Road will also be visible from that property and from the last residence indicated on the slide. Mr.

Geohegan offered to answer any questions regarding the Comprehensive Plan. Mr. Wall completed the Staff Report in regard to the Planned Development Requirements (Page 10). He noted a correction to the Staff Report on Page 12, 3. Open Space: "Approximately two tenths (2/10) the 1% of the entire site . . ." should read "Approximately **two percent** . . . ". He stated that the letter from Mr. Sossong (see Exhibit 6) is included in the record and Mr. Sossong is available to answer any questions. Mr. Wall referred to the two questions raised by Staff (A & B on Page 15 of the Staff Report) in regard to blasting. He noted that Mr. Morgan responded to question B and the maximum peak particle velocity will be 0.5 ips (inches per second). Mr. Wall noted the letters attached to the Staff Report from Mr. Tim Barteet with the Natural Resources Conservation Service, Mr. Greg Sketch with Boone County Department of Public Works, Mr. Charles L. Meyers, P.E., Chief District Engineer, Captain Appel with Boone County Water Rescue, and Gretchen Bartley with the Natural Resources and Environmental Protection Cabinet. Received after the Staff Report was completed and included as exhibits are letters from the Army Corps of Engineers (Exhibit 7) stating that they will be required to get a Department of Army Permit for mining under the river and from Mr. Ken Hund with Boone County Parks (Exhibit 8). These letters are also part of the record. Mr. Wall continued the Staff Report in regard to Historic and Prehistoric Resources (Page 17). This concluded the Staff Report.

Recess:

At this time, Chairman Caddell thanked the Boone County Board of Education and Principal Viox for the use of this facility. At 7:45 P.M. the Chairman called for a recess until 8 P.M..

At 8 P.M., the Chairman called the meeting back to order and asked for any questions or comments from the Commissioners.

Questions and Comments from the Commissioners:

Mr. Chaney asked the applicant to bring information to the Committee Meeting in response to his concerns. He is concerned about subsidence in the area of the mine, underground drainage, impact on barge traffic, and the future land use of the property.

Chairman Caddell stated that Staff made an appropriate remark in regard to consideration of possible additional acreage for park use and he would like the applicant to respond to that. He stated that if all of the material is for barge traffic, where do those barges go? What is the closest facility that will receive material from this site that would be brought back into Boone County?

Mr. Zimmer stated that he would also like his questions answered at the Committee Meeting. He is concerned about the truck traffic coming out of Constance. He questioned the anticipated increase in truck traffic. He would like to know how long it will be from the time construction begins at the surface until it is complete and the mine operational. He stated that there has to be an exhaust system. He questioned the noise from the fans and if noise abatement equipment is planned. Is there a bridge proposed to take the development equipment that is barged in across Garrison Creek or will it be taken through the creek? He asked if there has been communication with Hebron Fire & Rescue or with rescue personnel who would respond to an underground accident. If not, what provisions will be made for training so that those people can adequately respond? He stated that there was reference to the property being deeded back to Boone County at the point of reclamation – is that to occur 120 years in the future? He stated that there was no mention of sanitary or water facilities and questioned how these needs would be handled for staff at the site. He asked Staff why a PD is required for the A-1 that will remain A-1. He asked if the applicant knows for a fact whether there is Kope formation at the surface site.

Mr. Ries stated that he is concerned about the types of explosives and how often there will be blasting. He questioned what type of discharge will occur into the Ohio River from the underground mining. He questioned how dust from the barges will be prevented from going into the river. He is also concerned about the increased barge traffic on the river.

Mr. McMillian questioned who would maintain the roads to the facility and the barge area.

Mr. Schwenke asked if there are any other mines in the tri-state area that also have everything underground that the Commissioners could look at.

This concluded the questions from the Commissioners.

At this time, the Chairman stated that he would call names from the sign-in sheets of persons who wished to speak, beginning with those in favor of the request and followed by those opposed. Following those speakers, those who did not register will be given the opportunity to speak.

Mr. Costello began calling the names from the sign-in sheets beginning with Mr. Rodney Woods, who was no longer present. Mr. Costello then called Mr. Harvey Bergman.

Testimony from the Public:

Mr. Harvey Bergman, one of the owners of approximately 432 acres at 4997 Bullittsburg Church Road, Petersburg, read and submitted his letter in support of the application on letterhead of Bedrock Investment, LLC (see Exhibit 9).

There being no other sign-in sheets in favor of the request, Mr. Costello began calling the names of those opposed beginning with Mr. Eugene Dunn.

Mr. Eugene Dunn, 2969 Bullittsburg Church Road, stated that a statement was made that the applicant tried to contact all of the neighbors, but he did not receive notice and is closer than those who were notified. He is opposed to the request. He questioned the 3,000 foot setback and stated that he heard the starting line has been backed up. He feels that the Planning Commission has to be consistent with what it did in the past, or Martin Marietta is going to come down hard. He stated that he can not wait for the park to get here in 120 years. He questioned there being a park there while the mining is going on because there could be a mining accident. He questioned if people could take their children to the park with no danger involved. He does not know of any company that would allow people to trespass on their property. He does not think people would go there when the mining operation is going on. He questioned laws that would allow people go to there while the mining is going on. He does not think it would be advisable for people to go there. He stated that they would have to reconstruct Garrison Creek Road because it is almost impossible for two cars to pass on it. There is the mail, school buses, and camp visitors there. He stated that if they do not provide on-site protection, they would have to depend on Hebron, which is 4.5 miles away, and that does not seem logical. He stated that he has hunted on this ground and some of it is very steep, especially on the east end. He questioned what the blasting will do to the land. Ten years ago, a slip started at the top of the hill and went to the river, taking a log cabin with it. He is also concerned about the added noise. He stated that Miami Fort Power Plant is there, there is the airport and airplanes overhead, there are railroad tracks across the river, and there will be this noise. He lives within a mile of the proposed portal. He feels that a bridge over the creek is a good idea for fire protection – but who will build it? Will the applicant build it? He stated that there was an idea of extending Route 8 west from where it ends, but it would have to go right through the property of the portal. He stated that it is impossible to go up a wall with a highway. He stated that a lot of the property is underwater and questioned what happens at high water time. He stated that the applicant has not seen the land where they propose to put the portal when the river is high. He stated that there may be enough material there for one hundred and twenty years, but where do they stop? They will get to the point of the 3,000 foot limit. He is disgusted with the whole thing.

Mr. Robert R. Miller, 1200 Merrell Road, commented “if you can’t win, join forces”. He is concerned that if this mine is approved, then with Martin Marietta there will be

two mines there instead of one. He is opposed to any mining there. He has lived there thirty-one years and is fairly close to the edge of the property. He feels that if this mine gets in, the other one will too -- and he does not want either one.

Ms. Debbie Cummings, 4062 Petersburg Road, which is within a mile of the subject site, stated that before they bought their property eleven years ago, they talked with the Planning Commission about how this area was to develop since there was so much farmland. She was assured that the area would not develop industrially based on the Comprehensive Plan. She stated that I-4 zoning will bring in mining and set a precedent in the area. There are hundreds of acres of land around this site. She questioned who would buy land around an I-4 zone unless they wanted to develop it industrially. She has asked Hilltop if they could promise her that they would not do what Martin Marietta is proposing to do in five to ten years, but they could. She stated that I-4 is the worst type of industrial zoning and allows nuclear waste disposal, asphalt plants, and other intense uses. She stated that their homes will be devalued. Her insurance company has said that they will not cover foundation damage to her home and the mining company's insurance should cover it. Some insurance companies will not cover homes within two miles. She stated that the airport plays fair and buys homes and Hilltop should do the same. She asked how she can be sure Hilltop will not steal her minerals. She questioned who would pay for the monitoring of these tunnels. She stated that there is a newly developed limestone mine in Gallatin County. She stated that it is not true that we have to allow either mine. She does not want the proposed park if industrial zoning and underground mining come with it. Other Boone County residents did not have to compromise to get parks like Boone Woods or Central Park. Ms. Cummings quoted from Pages 214 and 215 of the Comprehensive Plan in regard to this area. She stated that in the Land Use Summary of the Comprehensive Plan it says that the Plan recommends that the rural western portion of the county be studied for its potential as a major tourism, recreation, historic, scenic, and rural residential corridor. There is no mention of mining or industrial zoning in this area. She asked the county to follow the Comprehensive Plan. She stated that their area is beautiful. It is the last rural area in Boone County and the first exit visitors from Ohio and Indiana encounter. She stated that the KY 20 corridor has not been studied. She would like to see it studied and any rezoning to this area occur after that study is completed. She stated that there are other areas in Boone County where this type of industry and rezoning are appropriate. If Boone County intended for this area to be industrial and I-4, they should not have allowed the last ten years of residential growth.

Mrs. Jennifer Warner stated that her property is halfway between the two mining sites on the south side of I-275 off Stevens Road. She feels that Hilltop has submitted a good proposal -- they have addressed the noise and vibration issues, the dust problem, they have eliminated the trucking pollution and noise problems (at least by her house). By the donation of the park land, Boone County will finally have a park on the river. She stated that people speak highly of Hilltop's

environmental and community responsibility. She has been told that Hilltop's facilities are well cared for and attractively maintained, unlike Martin Marietta. Two men she knows and respects are working on this project (John Morgan and John Seibel). Hilltop, like Martin Marietta, has agreed to finance pre-blast surveys, but there are other issues. Hilltop may be using a private road without permission. Hilltop professes compliance with the 3,000-foot setback rule, but some of that setback is on privately owned, undeveloped property and deprives that property owner of the right to develop his property. She stated that some of the limestone will only be taken a few miles up the river to Constance. KY 20 already needs repair. She encouraged the Commissioners to ask about the added volume on KY 20 and plans for its renovation. She stated that the residents appreciate that the Planning Commission listened to them and turned Martin Marietta down after they demonstrated their lack of ethics and responsibility supported by inaccurate and dishonest experts. She questioned if approving the Hilltop proposal would assist the county in blocking Martin Marietta – or would it force the courts to allow Martin Marietta to get in? Mr. Warner read a communication (see Exhibit 10) she received from Ken Holland, a Martin Marietta employee, which she considers to be a threat and a personal attack. His claim that she never met with Martin Marietta is not true. She feels that the legal questions must be answered before any mining proposal goes forward in Boone County. Once land is destroyed it cannot be replaced. She stated that if Boone County is to retain any rural residential character that makes it a desirable place to live, the Comprehensive Plan must be upheld – and the Comprehensive Plan calls for A-1 zoning for these parcels. She stated that the time is not right for the Hilltop proposal and she urges the Planning Commission to reject it. Mrs. Warner submitted a summary of her comments (see Exhibit 11).

The Chairman asked the speakers to confine their comments to land use issues. Mr. Costello called the next speaker, Mrs. Tanner.

Mrs. Ruth Tanner, a resident of 2949 Idlewild Bypass for twenty-nine years, stated that she shares the concerns of the previous speakers. She agrees with the Staff's concerns about truck traffic. She has heard that Hilltop only plans to barge out the aggregate, but has stated that this location "will allow for distant and nearby markets". She questioned how they plan to transport to those markets without trucks. She stated that the mine will affect the aesthetics of the area and the interchange and disrupt the lives of the residents.

Ms. Aimee Boese, 5673 Petersburg Road, stated that the most important reason to turn this application down is the Comprehensive Plan. She stated that Hilltop has been sensitive to community concerns and made communication a priority, but she does not support this application. She stated that the Comprehensive Plan says there should be no commercial or industrial development north of the interchange. Martin Marietta's request for rezoning in the same area was turned down based on the Comprehensive Plan. The Comprehensive Plan must be applied fairly and

consistently. She has heard that Hilltop's proposal is closer to the spirit of the Comprehensive Plan – but the Comprehensive Plan does not have a spirit, it has guidelines written in black and white. She feels that if one mine is allowed, then others will follow. It's like fast food – once there is a McDonald's on a corner, then Wendy's and Hardee's follow. She stated that Hilltop has said that the local economy can only support one mine, but she does not buy that. She believes Martin Marietta intended to truck to the local market in Northern Kentucky and Southeast Ohio, but Hilltop plans to barge to terminals as far away as West Virginia -- which are two different markets. She questioned Hilltop's finances and if they can afford this project. What if Hilltop gets in and then Martin Marietta buys them out? She commented that Mr. Steele has said the company is not for sale, but she believes it could be if the price was right. She questioned how firm the deed restrictions would be. Could they be changed or removed? What if the Corps of Engineers will not issue permits to them in this location? She asked that the petitions with 1,300 signatures against the mine that were submitted during the Martin Marietta hearing be made a part of this record. The petitions were deliberately worded to oppose any underground mining in Boone County.

Ms. Vanessa Wiechers, 4052 Petersburg Road, stated that they received a letter saying that they are within a one mile radius of the Hilltop proposal. She and her husband are opposed to this mine just like they were opposed to Martin Marietta. They want the west quadrant of Boone County to remain rural. They do not need dust and blasting. She stated that a mine is a mine whether it is above ground or below ground and they do not want mines in Boone County.

Mr. Dale Eppert stated that he is a resident of Cincinnati, but he visits Boone County often. He asked if the twelve-acre facility will contain the stormwater and wastewater treatment facilities needed for the site. With the stormwater and wastewater being dumped upstream, can Hilltop assure water quality and provide daily monitoring of the beach property? He agrees that there should be an archaeological survey of the entire site. He stated that he has hiked the area and seen whole sections of hillside wash away.

Mrs. Peggy Taylor, 1084 Merrell Road, stated that in addition to the concerns raised regarding dust, blasting, and noise, they do not want their property devalued. She questioned how many acres would have to be mined to get 1.8 million tons. She asked if this is a hypothetical number or is it a plan? Have they figured this out? She stated that maybe it will only be twenty years before it is a big, abandoned mine. She questioned a phasing schedule. She questioned tabling this proposal until we know the outcome of the Martin Marietta proposal. She stated that they moved to Boone County about twenty years ago because they like the rural country atmosphere – and they want it to stay that way. She asked that the proposal be turned down.

Mr. Bob Taylor, 1084 Merrell Road, agreed with the previous speakers. He stated that his biggest concern is that if Hilltop gets in, then there will be Martin Marietta, and then his property will be worthless since it is just across the road. He asked the Planning Commission to think about the people who live there. He stated that even the new subdivisions will be affected. He asked if the people buying those big homes know what could happen to them with all the dust, dirt, and noise.

Mr. Greg Moser was no longer present.

Mr. Bryan Moser, a newcomer to Garrison Creek, with 84 acres of property, agreed with his neighbors. He stated that he bought his land because he cares about the heritage and the beauty of the area and he hopes to live there. He read the Comprehensive Plan twice before he bought his land and determined this was the kind of place he wanted to live in. He stated that in 1988/89 he was a Research Fellow at MIT focusing on regional economic planning in Kentucky. He stated that this site is ten minutes and two exits away from one of the best airports in the county with direct flights from London and Paris. One small information business centered in one building that is consistent with the growth of the county can yield much better economic return than a mine. He stated that the economic benefits of the proposal must be compared to the alternatives – thirty-two jobs on five hundred acres for 120 years is not much benefit.

Sheila Merrell, 2829 Jordan Lane, Burlington, reviewed a letter from Carl R. Smith, P.E. dated January 22, 2000 (see Exhibit 12) in opposition to the request. Mr. Smith is out of town due to a family emergency. Ms. Merrell stated that she and her husband agree with Mr. Smith's letter.

Ms. Kerry Trouberman, 3638 Ashby Fork Road, stated that of the two mines, Hilltop is better – but the area is not zoned for mining. She has lived at the interchange for four years and has a sizable investment there. She stated that this is a permanent and destructive zone change and would open a can of worms. Allowing the mining company sets a precedent for this interchange. Once one mining company is there, who knows what other kinds of industrial uses will follow? There will be dirt and hazards and homes with cracked basements and cisterns. The property values will drop. She stated that there are nice homes being built in this gorgeous area. With this in the back yard, people will not be able to get out of their homes what they put into them, even if they could sell them. She asked that the land be developed with things the residents can use, such as restaurants and gas stations when it's time. She questioned how Hilltop would access the property. How many blasts per day will there be? She noted that Martin Marietta was going to blast from 6 A.M. to 11 P.M.. What if Martin Marietta gets approved and there are two sets of blasts going off simultaneously all day long? Will a complaint board be set up? One mining company will blame the other for cracked basements and foundations – so what is the homeowner to do? She stated that the proposed zone change goes against the

Comprehensive Plan and will destroy Western Boone County. She questioned how the mine will be sealed in 120 years. She noted that the applicant said they will not fill it up with nuclear waste. She feels that both Hilltop and Martin Marietta are confident about getting zone changes since they have purchased property in the area. She questioned the benefit to Boone County once the land is ruined with I-4 zoning.

Mr. Thomas D. Roberts, 3175 Roberts Lane, stated that he is opposed. He asked the Commissioners to look at all the testimony heard from the people about Martin Marietta, all the testimony heard tonight, and all of the objections heard. He asked the Commissioners to look at what the people of Boone County want.

Mrs. Pat Fox, 4304 Wolper Road, which is about six miles from the site, stated that she and her husband and her family are opposed to both mines. She stated that the people of Boone County spoke loudly and clearly against the Martin Marietta request and the Planning Commission and Fiscal Court listened and turned it down. She stated that she likes the area and intends to stay there. She stated that the area Hilltop is talking about is environmentally sensitive. She has gone past their mine in Patriot and it is intrusive, loud, unsightly, and there is dust. She asked the Commissioners to follow the Comprehensive Plan again.

Mary Brady, 2947 Bullittsburg Church Road, stated that Garrison Creek Road needs to be rebuilt. Who will pay for it? She stated that more information is needed on the trucks that will come out of Constance and go on I-275 and share their exit on their way to Ohio and Indiana. She asked if there are guarantees that trucks will never be coming out of the facility in the future. Maybe they will not be trucking for the first five or ten years, but will that change over the 120 years? She stated that the picture Hilltop has displayed of the park shows a lot of flat ground – which makes her think of soccer fields, baseball fields, and tennis courts – but there is not much flat land there and the flat land will be under water at certain times of the year. Will they have to rebuild whenever there is a major flood, and who will pay for it? She stated that some of the pictures show the boundary lines of the 113 acres to be in the water. She questioned how much of the 113 acres will be a park and how much of it will be usable. She stated that she can not see an economic way to build a roadway to the area along the Ohio River because it is the side of a mountain. She questioned who will maintain the park. Who will build it? She noted that the applicant said they were going to use the boat ramp and the restrooms they are going to give to the park. Will continue using those facilities after the park is open to the public? She stated that allowing Hilltop means the property around it is open to Martin Marietta. She asked the Planning Commission to say no to Hilltop.

Dana Kisor (Jennifer Warner's husband), 2510 Stevens Road, stated that some of the houses in the area have dry stacked stone foundations which may be affected by underground blasting and the cisterns may also be affected. He questioned how

those concerns can be addressed. He questioned how one limestone mine could be approved when the other one was turned down.

Mr. Leonard Rowekamp, attorney representing the Moore Family Limited Liability Company, which owns a 33-acre parcel directly to the south of the proposed mine site and borders the east border of the property, stated that his client's property is the buffer zone. This development comes directly to his client's property on the east side and prevents his client from developing the property residentially and consistent with the Comprehensive Plan. Access to the property appears to be proposed across some of his client's property, which has been done without the permission or consent of the Moore family. He stated that he understands that the Planning Commission is under a court mandate to provide an area where there could be a mine. He stated that there is already a mine in southern Boone County and the Constance location is within approximately seven miles. He stated that instead of one location of barging on the Ohio River in Boone County there will be two, which is not consistent with the Comprehensive Plan. The Comprehensive Plan requires a zone change proposal to be consistent with the Comprehensive Plan. The spirit of the Comprehensive Plan is that this area is to be developed as low density residential, not high density industrial. Another justification for a zone change is a change of significant economic impact – but there are no changes to this area that the applicant has even attempted to address to the Planning Commission. He stated that one applicant getting in there would justify additional applicants on the surrounding property and would form a legal basis for a zone change with significant changes in the area not anticipated in the Comprehensive Plan. He stated that the Planning Commission needs to follow the Comprehensive Plan and be consistent with the rights of the adjoining property owners.

Mr. Costello stated that four people did not indicate whether they were for or against the request on their sign-in cards, and those four people will be heard at this time beginning with Mr. Tim Quill.

Mr. Tim Quill, 1168 Thistleridge Drive, Hebron, stated that Boone County has some of the most beautiful and unique land in the Northern Kentucky area. There is the opportunity for residential development which will reap greater monetary rewards than the proposed zone change. He and his wife recently moved to Boone County. He hopes the zone change will be denied.

Mr. Dennis Helmer stated that he and his wife live in Florence, but they own 442 acres southwest of I-275. He stated that the proposal is not consistent with the Comprehensive Plan. He does not see that Boone County has much to gain economically from the zone change.

Mr. James Dressman, III, attorney representing Martin Marietta, an adjacent property owner, submitted his written comments (see Exhibit 13).

Mr. Kevin Murphy, attorney representing E-Town Development, owner of Traditions Golf Group and the surrounding property which they hope to develop, stated that they fought the Martin Marietta request hard and are in court now. He has to file a motion to intervene and they plan to fight Martin Marietta to the end. His client does not want mining. He stated that they did meet with Hilltop as they did with Martin Marietta – they looked into the company and they looked into the proposal. One of their biggest concerns is the blasting. Hilltop has assured them there would be no perception of the blasting. They also had concerns about dust coming onto the golf course and surrounding property. Hilltop put in their application that dust will not be a problem to the community. He stated that they were worried about crushing and the above ground storage of materials, and Hilltop has assured them in writing that everything will be underground except the area where they exit towards the river. They were worried about other uses such as asphalt and concrete, but Hilltop has put in writing that they will not do that. Hilltop made many commitments to the people and in writing that Martin Marietta would never make. There will not be a problem with trucks with Hilltop and they make that commitment in their application. They put their words in writing and make commitments. He stated that Mr. Morgan made a commitment that they will not perceive the blasting and that is what they want. When E-Town Development bought their property with the idea of developing it, mining was not contemplated. He stated that if mining is to go in, then they ask that the commitments made as part of the application be mandated. He stated that Hilltop's reputation is better than Martin Marietta's for being a good community citizen. They believe based on Hilltop's words and actions, and their reputation, that they will be a good neighbor.

This concluded the testimony from those who registered to speak. The Chairman asked if there was anyone present who did not register but wished to speak.

Mr. Mike Kirkwood stated that he owns two farms in the area and anticipates building a home on one of them – but that is on hold until the mining issue is resolved. One of his parcels is within 300 to 500 feet of the border of the subject site. His property is immediately west of Traditions Golf Course and north of I-275. His property is being used as a buffer, but they intend to use it for residential. He questioned the concept of a 3,000 foot buffer when it does not exist. He stated that the mine will limit development in the area. He asked that the request be denied.

Mr. Kirk Haskin, 12155 Becker Lane, stated that he moved to Boone County three years ago to take part in the economic growth of the region. Shortly after he arrived, Toyota located here one exit from the airport, and Ashland Oil located here to be close to world class transportation. He asked the Planning Commission to look at those two moves compared to the thirty-two jobs Hilltop offers before committing to 120 years.

Patsy Ligon, 2963 Bullittsburg Church Road, Petersburg, stated that the minister of Bullittsburg Baptist Church is out of town but the Church wants to be on record as being opposed.

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

Applicant's Summary/Response to Comments and Questions:

The Chairman asked attorney Mike Duncan to summarize and respond to the questions. Mr. Duncan stated that the questions are of a technical nature and asked Mr. Morgan to respond.

Mr. Morgan stated that they will address specific issues raised by the residents at the Committee Meeting, but will address two points at this time. He stated that the concept of the park was done by a consultant, John Edwards, and is a representative concept that would work utilizing existing trails and rights-of-way along the Ohio River. They do not want to be presumptive about what Boone County Parks wants to do. He stated that any long-term park will belong to the county and has to be what the county wants. He stated that it is a collaborative effort in regard to funding, design, and development. They envision the surface property being donated to the county at the end of a two-year period when the mine is developed and underground. The only additional property that could be developed at the end of the life of the mine is the surface facilities. The one hundred thirteen acres would be donated approximately two years after the end of activity. He noted a document which shows a detailed analysis of the mining rates and why the mining would last 120 years. He stated that the mine would stay within the currently proposed boundaries for its 120 year life. He stated that they believe the Kope formation is present there and creates design challenges, but it does not mean that they cannot develop there. They have consultants who are aware of developing within the Kope formation and detailed designs will be provided. He stated that the proposed access to the mine across Garrison Creek Road is across property Hilltop controls and they will not trespass on any property not owned by Hilltop. He stated that there is a concept in Boone County about a long distance trail along Route 8. He stated that it would be a hiking or biking trail – they are not proposing to build a road along the river to join up with Route 8. He stated that the east end of Route 8 goes across the Moore property and development of a long distance park would need their agreement. He stated that everyone is concerned about safety. Hilltop is also concerned about safety and looks forward to working with all the fire departments in the area that might respond to any underground or surface event. He stated that they will place fire fighting materials at the mine site. The mining industry develops a self-help arrangement through mine rescue teams. When there is a problem, everyone comes together. He stated that mine safety teams would be a system to utilize. He stated that there are two issues in regard to Garrison Creek Road. He noted that they have stated clearly that they will

not utilize trucks to move the limestone from the mine. There will be trucks associated with delivery of regular supplies. The heavy equipment required when mining commences or replacement equipment will be brought by barge. The ramp will not be used for heavy equipment and will be the county's at that stage. He stated that Constance is an existing facility that provides a portion of the aggregate for Boone County. He stated that people are looking more and more for crushed limestone rather than aggregate or gravel. There is a nationwide trend away from sand and gravel and towards crushed limestone, so there will be an increase in the material going through Constance regardless of whether this mine goes ahead or not. In regard to blasting, he stated that there is a typo in the proposal and it should be 0.5 at 3,000 feet. The comment about blasting timing was their error. Blasting will be for a 15-minute period per day and will occur within the timeframe allowed by the I-4 zone. The best time for the company to do the blasting is when the shift changes and the mine is empty – but they are willing to listen to the neighbors if this does not work for them. He stated that there is 120 years of reserve. There is a drawing in their submissions showing how the mine will develop away from the mine bottom and to the west first. Each block is about ten to fifteen years. The west is the most remote area to prove that they can meet the mining standards they propose. If they can't, they get stopped. He stated that they will address any questions submitted to them between now and the Committee Meeting.

Mr. Duncan stated that there are three legal issues. They can provide answers to the other issues at the Committee Meeting. In regard to legal access through the Moore property, he knows Mr. Rowekamp and if Mr. Rowekamp believed access was proposed through the Moore property he would not have said "appears to go through the Moore property". Mr. Duncan stated that the legal access is not through the Moore property. Title examinations were performed and access is through Garrison Creek Road and across property Hilltop owns or will own. He stated that they will look into what Mr. Rowekamp is talking about. Mr. Duncan stated that the Comprehensive Plan is more than just the Land Use Map. When the colors were put on the Land Use Map, the I-4 zone had not been adopted and, therefore, it could not have been on the Land Use Map. He stated that for the I-4 industrial type of land use activity, several things have to come into conformance. There has to be limestone where it will be mined. This site is secluded and has limestone under it. It is the best place in Boone County to put a limestone mine, which is borne out by Hilltop's research. He stated that they pointed out several references in the text of the Comprehensive Plan to show that what they are pursuing is not antagonistic to the text of the Plan. Mr. Duncan stated that the third issue is one he did not want to get into. He stated that the law requires this proposal to be measured on its own merits, but scare tactics have been used to intimidate the Commissioners to believe that if this application is approved, the Martin Marietta application has to be approved – but that is not the case. He noted Kevin Murphy's comments. He stated that he is not here to talk the Martin Marietta proposal down, but this application has been compared to the Martin Marietta proposal. He stated that the 1,400 trucks associated

with Martin Marietta as stated by Kevin Murphy is many more than Hilltop will have. Hilltop will not have above ground stockpiling, which is where the dust comes from. He stated that it is clear that one proposal is viable and will enhance Boone County and the Planning Commission has already ruled that the other one will not. He commented that someone said that approving this proposal will create a precedent. He stated that it will create a good precedent because the standards Hilltop has committed to in writing are way up there and any future proposal will have to meet those standards -- no trucks, no above ground crushing and screening, and river access to keep the trucks off the road. He offered to answer any questions.

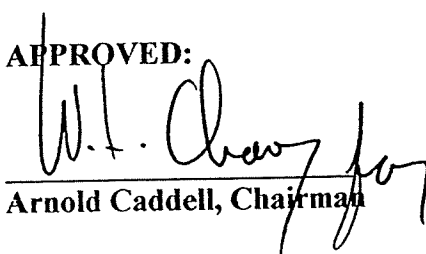
The Chairman asked if there were any further comments or questions.

Mrs. Wilson asked the applicant to address the safety concerns for the recreational area. Mr. Morgan responded that they will address those concerns at the Committee Meeting.


Mr. McMillian questioned how many acres of this site are under the river. Mr. Duncan responded that the 534 acres is above ground. There is an additional number of acres that are part of the property Hilltop owns and there is a legal right to mine under the river as long as all the permits and safety standards are met. He stated that they plan to mine 170 feet. Mr. McMillian asked if that is part of the 120 year build out. Mr. Duncan responded that the staging shows that the mining will go away from the adjoining properties and under the river before it gets close to the other properties. Mr. McMillian asked how they will convey the limestone from the river. Mr. Duncan responded that there is a system of conveyors underground that go up hill and drop the material into the river barge.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on February 7, 2000 at 5 P.M. in Courtroom 3A of the Administration Building. The public is welcome to attend, but it is up to the Committee Chairman as to how much input there will be from those in attendance. Under no circumstances will any additional testimony be allowed. The Chairman closed this Public Hearing at 9:55 P.M..

APPROVED:


Arnold Caddell, Chairman

Attest:


Jan Hancock, Recording Secretary

Exhibits: see attached list.

- Exhibit 1 Application for a Zoning Map Amendment, Riverstone Mine, Volume 1, dated December 14, 1999
- Exhibit 2 Application for a Zoning Map Amendment, Riverstone Mine, Volume 2 – Appendices, dated December 14, 1999
- Exhibit 3 Application for a Zoning Map Amendment, Riverstone Mine, Volume 3 – Drawings, dated December 14, 1999
- Exhibit 4 Hilltop Basic Resources' Non-traditional Approach (one page)
- Exhibit 5 Letter from Michael A. Duncan, Ziegler & Schneider, P.S.C., to Boone County Planning Commission dated January 21, 2000 with attachment Hilltop Compliance with Comprehensive Plan, Discussion Document
- Exhibit 6 Letter from Gerard T. Sossong, P.E., Marshall Miller & Assoc. to Mr. Kevin Costello, Executive Director, Boone County Planning Commission, January 24, 2000
- Exhibit 7 Letter from Frank J. DeGott, Department of the Army to Mr. Kevin T. Wall, Boone County Planning Commission, January 20, 2000
- Exhibit 8 Letter from Ken Hund, Director of Parks, to Mr. Kevin Wall, Boone County Planning Commission, January 20, 2000
- Exhibit 9 Letter from Harvey Bergman presented at the January 24, 2000 Public Hearing
- Exhibit 10 Copy of E-Mail from Ken Holland submitted by Jennifer Warner
- Exhibit 11 Outline of comments by Jennifer Warner
- Exhibit 12 Letter from Carl R. Smith, P.E., dated January 22, 2000
- Exhibit 13 Position Statement of Martin Marietta, Inc. regarding Zone Change Application of Hilltop Basic Resources, Inc., submitted by Mr. James Dressman, III, with attached letter from Jeffrey A. Straw, Vice President, GeoSonics Inc.



**Resolution
Of
The Boone County Fiscal Court**

Resolution No. 2000-204

A RESOLUTION OF THE BOONE COUNTY FISCAL COURT DENYING A REQUEST OF HILLTOP BASIC RESOURCES, INC. (APPLICANT) FOR HILLTOP BASIC RESOURCES, INC., ADDISON G. STEVENS, MYRNA STEVENS, RODNEY WOODS, SANDRA WOODS, DONALD GENE HODGES, NIKI CAROL HODGES, ROBERT G. KIPPLER, WILLIAM E. KIPPLER, CARL TAABAR AND CYNTHIA TAABAR (OWNERS) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM AGRICULTURE (A-1) TO AGRICULTURE / RECREATION/ INDUSTRIAL FOUR / PLANNED DEVELOPMENT (A-1/R/I-4/PD) FOR AN APPROXIMATE 534 ACRE SITE GENERALLY LOCATED NORTH OF I-275/PETERSBURG (KY 8) INTERCHANGE AT THE TERMINUS OF GARRISON CREEK ROAD, AND ALONG THE SOUTH SIDE OF THE OHIO RIVER, BOONE COUNTY, KENTUCKY.

WHEREAS, the Boone County Fiscal Court received a request for a Zoning Map Amendment to the Boone County Zoning Map and such Zoning Map Amendment being a zone change from Agriculture (A-1) to Agriculture/Recreation/Industrial Four/Planned Development (A-1/R/I-4/PD) for an approximate 534 acre site generally located north of I-275 and the I-275/Petersburg (KY 8) interchange at the terminus of Garrison Creek Road, and along the south side of the Ohio River, 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

WHEREAS, based upon a review of the public record developed by the Boone County Planning Commission, the Boone County Fiscal Court finds contrary to the recommendation of the Boone County Planning Commission and determines that the aforesaid zoning map amendment should be denied.

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

SECTION I

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and is hereby denied, this Zoning Map Amendment being a request for a zone change from Agriculture (A-1) to Agriculture / Recreation / Industrial Four/Planned Development (A-1/R/I-4/PD) for an approximate 534 acre site generally located north of I-275 and the I-275/Petersburg (KY 8) interchange at the terminus of Garrison Creek Road, and along the south side of the Ohio River, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in an Agriculture (A-1) zone is

**Resolution
Of
The Boone County Fiscal Court**

Resolution No. 2000-204

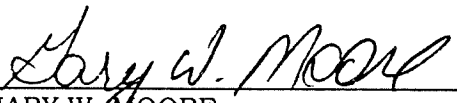
more particularly described in DEED BOOKS 699, 548, 101, 548, 548, 548, 717, 750, 715, 199, 754, and 211; PAGE NOS. 314, 219, 228, 200, 207, 223, 045, 257, 52, 342, 286 and 698, respectively (as supplied by the applicant) as recorded in the Boone County Clerk's office.

SECTION II

That as a basis for this denial for a Zoning Map Amendment request are the findings of fact and conditions which were considered by the Boone County Planning Commission, but not adopted, and which are attached hereto and are hereby incorporated by reference as if fully set out in this Resolution and marked as "Exhibit A".

SECTION III

Adopted by the Fiscal Court of Boone County at a regular meeting on the 29th day of AUGUST, 2000, and on the same occasion signed in open session by the County Judge-Executive attested by the County Fiscal Court Clerk and declared to be in full force and effect.

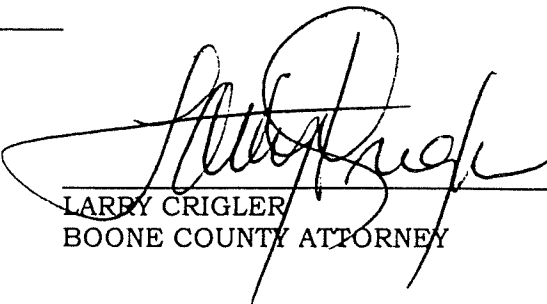


GARY W. MOORE
BOONE COUNTY JUDGE-EXECUTIVE

ATTEST:



ROBYN R. COBB
FISCAL COURT CLERK



LARRY CRIGLER
BOONE COUNTY ATTORNEY

**FINDINGS FOR DENIAL
HILLTOP ZONE CHANGE APPLICATION
JUNE 7, 2000**

FINDINGS OF FACT

The Boone County Planning Commission understands that the Zone Change Committee has spent a great deal of time and effort in reviewing this proposal. In addition to attending and reviewing the record of the January 24, 2000 Public Hearing for this application, the Committee has conducted five working Committee meetings. These working public meetings included in-depth discussions and evaluation of virtually of every conceivable impact of the request, and the relationship of this application to the Boone County Zoning Regulations and the 1995 Boone County Comprehensive Plan, both of which were adopted as per the requirements of Chapter 100 of the Kentucky Revised Statutes. The Committee also reviewed concerns and comments which were presented by both the public and the Planning Commission's staff and consulting mining engineer. Although the Commission agrees that the proposal presents a unique approach to subsurface mining as discussed in the Zone Change Committee's Committee Report which recommended conditional approval of this application, with less impacts than the prior Martin Marietta zone change applications, the Planning Commission has concluded that this zone change request fails to fulfill any of the three statutory criteria for the granting of zone changes as outlined in KRS 100.213.

The Commission acknowledges that the application involves approximately five hundred and thirty four (534) acres of land area, and approximately one hundred and seventy (170) acres of mine area under the Ohio River. Although the proposed mine and its appurtenant operations would be substantially underground, the request represents a very large industrial land use in an area that was planned for agricultural, open space, and low density residential uses.

Even though the Planning Commission has determined that the application submitted for the specific site in question has not met the necessary criteria and standards to warrant approval, the Zone Change Committee conducted a detailed evaluation of the various aspects of the proposed subsurface mining operation and its related impacts and compiled a list of potential conditions of approval which are attached to the Committee Report for this application; these conditions were agreed to in writing by the property owner. As noted herein, the Commission has determined that the application should be denied, regardless of the possible conditions agreed by the applicant. In short, based on the findings outlined below, the Commission concluded that the proposed conditions are not sufficient to warrant approval of the Hilltop application at this time.

The Commission recognizes that several mining operations currently exist in the community and that subsurface mining operations may locate in Boone County in the future. An approximate half dozen mines currently exist in Boone County. The Commission also recognizes that Zoning Map Amendments to the Industrial Four "Subsurface Mining" (I-4) District may be coupled with either a dimensional variance and/or the Planned Development (PD) District to allow relaxations and flexibility in the requirements in Section 1189 "Geographic Requirements," Subsections 1 and 2 - such applications may be submitted and reviewed on their own merits for other sites in Boone County by either the current applicant and/or others. However, the Commission has determined that based on the land use issues, and the criteria, policies, and standards that are the appropriate means for evaluating the application at hand, it should be denied for the site in question. Specifically, the Committee has determined the following:

1. The map amendment is not 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. The Future Land Use Map specifies Developmentally Sensitive Areas, Rural Lands, and Rural Density Residential land uses for the site for the 25 year planning horizon. None of these land use designations include industrial or mining uses, and the Rural Lands and Rural Density Residential designations include low and moderately low density residential uses, which are not appropriately intermingled with mining uses. The Comprehensive Plan specifically describes mining as an Industrial land use - the Future Land Use Map and the Land Use Element identify specific areas which are planned for Industrial uses.

The text of the Land Use Element expressly states that "the Garrison Creek valley should remain intact as a greenbelt adjacent to Rural Density Residential growth, and should be considered for future outdoor recreational opportunities." Although the applicant has offered concessions toward the provision of open space and outdoor recreational and agricultural opportunities, the plain language of the Plan does not contemplate any type of mining or industrial uses on this site. The Land Use Element also describes the Idlewild interchange area as supporting gradual highway related commercial development with some future orientation toward tourism uses in Western Boone County. The text states that this commercial development should occur on the southern half of the interchange because of the lack of visibility, established residential uses and church uses on the northern half - the Committee cannot reasonably conclude that industrial and mining uses are appropriate for this site in light of the fact that the Land Use Element basically states that commercial development is incompatible with the established residential uses and the church use. There is a small area designated for Industrial uses on the Future Land Use Map near the Idlewild interchange, however, this area is in the southeast quadrant of the interchange near Deck Lane and the site in question is located to the north and northwest of the interchange, along the Ohio River.

In general, Section B-1 and B-2 of the Land Use Element refer to the area north of I-275, near the proposed mine site, as future residential development when infrastructure is present. Traditions golf course located to the east of the subject site is mentioned as a residential growth catalyst; residential growth continues to move westward from the North Bend Road area to the Traditions vicinity. These points are reinforced by the Business Activity Goal which states "appropriate locations for businesses compatible with the surrounding area are provided in Boone County" - the proposed industrial use is incompatible with the planned greenbelt area, the residential growth which is growing westward toward the site, and the Ohio River frontage, which is a Developmentally Sensitive Area. A Business Activity Objective (Industrial Objective 2) states that industrial nuisances shall be kept to a minimum to enable a favorable relationship with adjoining uses. Although the applicant has agreed to several conditions which would control certain mining related impacts, no firm commitment or explanation has been made regarding the containment of dust, and the Commission is concerned that fugitive dust escaping from the mine through the ventilation shafts, the opening for the overland conveyor, and the portal could present a nuisance to other uses in the vicinity. Impacts of air blasts from these openings during construction and regular operations has not been effectively explained, and no commitments have been made to assure that these impacts will be contained.

Figure 5.3, the "Future Industrial and Commercial Development" map on page 87 of the Business Activity Element, does not designate the site for industrial development. The "Areas of Future Industrial and Office Activity" section of the Business Activity Element states "upon the disuse of existing sand and gravel (p)its" (i.e., surface mines), "reclamation should occur. Other types of mining activities may occur in the future of Boone County, but only with an evaluation of its benefits and costs to the community, including its impact on existing and residential/agricultural uses." This section of the Business Activity Element does not state that industrial or mining uses should or can occur on the site or general area in question, however, it does demonstrate that methods of mining other than surface mining can occur in Boone County under certain circumstances. This statement does not guarantee that all mining uses are appropriate under all circumstances once the evaluation of benefits and impacts has been conducted. The applicant did provide studies and technical reports as part of this zone change review (relating to geology, groundwater/hydrology, and biology), however, these studies in and of themselves do not demonstrate that the proposal is in agreement with the Comprehensive Plan. Further, the recommended condition regarding protection of the Kope formation does not provide any clear idea as to how this susceptible geologic formation will be maintained.

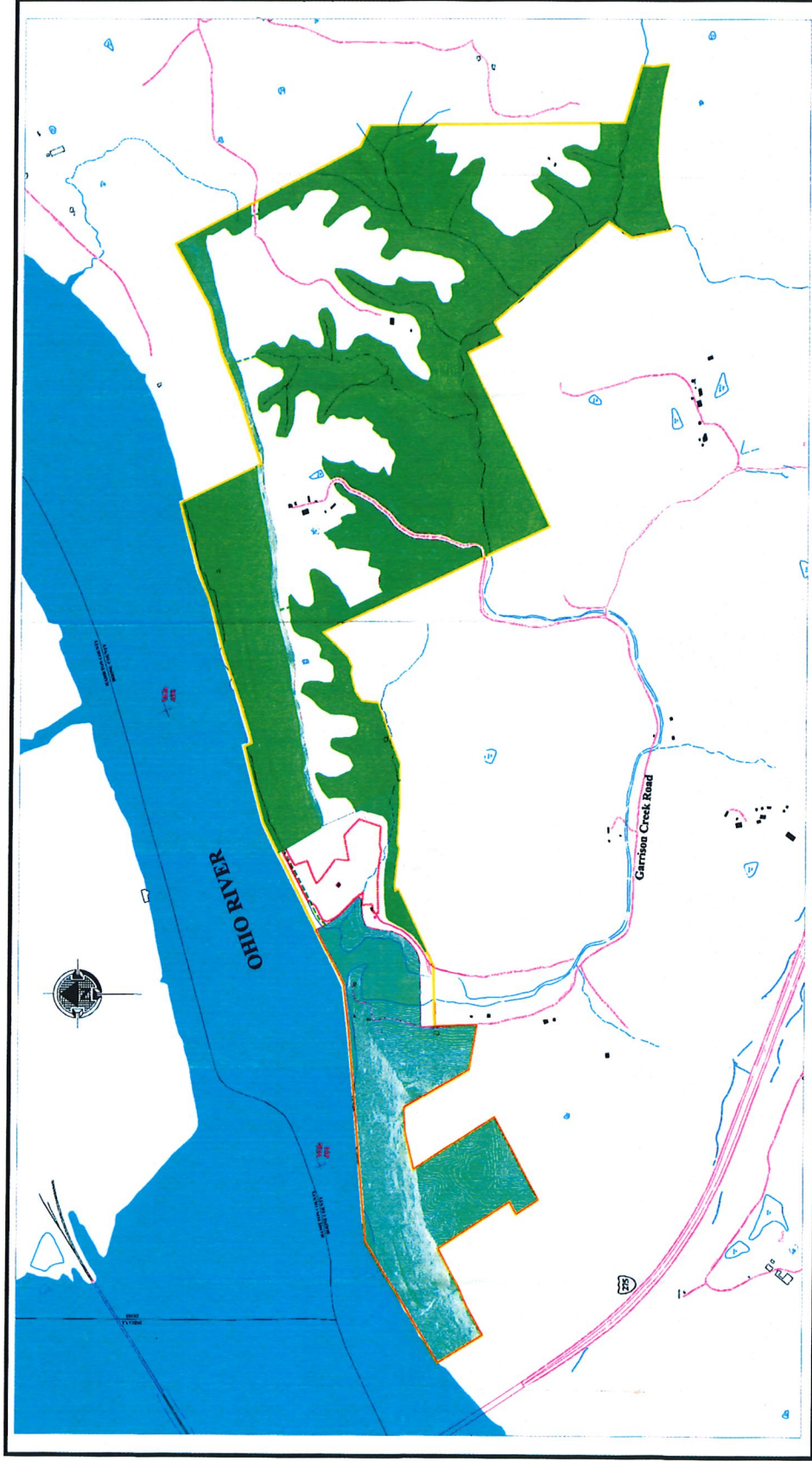
The applicant claimed through materials submitted at the Public Hearing that the Business Activity Element called for extractive industries in certain river bottom areas. While this is correct, the site in question is not within a river bottom area, but is located on a Developmentally Sensitive hillside.

The site is within an area described by the Housing Element as the "North River Area." The Housing Element states that "this area will experience a great expansion in residential development in the near future. Two approved developments, Thornwilde and Tree Tops, will add a total of 950 housing units within the next ten years. Factors that will probably fuel even more growth, include the recent extension of sanitary sewer lines and pumps to the area, minimal impact from airport noise, and good regional accessibility with nearby I-275." The Housing Element does not state that industrial and/or mining uses may occur in between Idlewild interchange and the Ohio River.

The arguments made by the applicant concerning agreement with the Comprehensive Plan deal largely with general statements about base industries, mining, etc., that apply to the County at large, and statements regarding the non-industrial aspects of the proposal. These arguments do not deal with the core issue of whether mining or industrial uses were planned for the site or area in question. In addition, references in the Plan that recommend a "reasonable economic return" do not mean that a property owner or developer is entitled to a preferred or most profitable land use. Again, this is a general statement about land use in Boone County, and must be weighed against the impacts of each development and the direction set by the Comprehensive Plan. In fact, low density residential development is often seen as a reasonable economic return in areas such as Garrison Creek and the ridge top areas surrounding the valley.

2. It has not been demonstrated that the existing zoning classification is inappropriate or that the proposed zoning classification is appropriate. In addition, the Commission has not identified any factor which could allude to any reasonable fact supporting such a finding. In fact, similarly situated land with characteristics similar to the site in question are commonly zoned A-1 in many areas of Boone County. The mere fact that there may be economically viable subsurface resources on the site, or that a new zoning district that permits extraction of such resources has been adopted, in and of themselves do not satisfy this criteria for Hilltop's proposed site.
3. There have been no major changes, or even seemingly minor changes, of an economic, physical, or social nature in the area not anticipated in the adopted Comprehensive Plan that substantially alter the area's character. Very few changes, of rather incidental significance, have occurred in the area since the adoption of the Comprehensive Plan. The mere fact that a new zoning district that permits extraction of subsurface mineral resources has been adopted does not constitute a change in the area's character.

4. The application for the A-1/R/I-4/PD zone does not effectively meet the requirements of Article 15 "Planned Development District" of the Zoning Regulations. While the proposal and the agreed conditions contain some of the desired aspects of a Planned Development as expressed in Article 15, the Planned Development Standards outlined in Section 1514 require a Planned Development to conform to the provisions of the adopted Comprehensive Plan. As already noted, the Commission has determined that the request is not in agreement with the Comprehensive Plan. Fulfillment of the standards, policies, and criteria of Article 15 is a moot issue when considering that the zoning map amendment application has failed to fulfill the necessary statutory criteria.



- Legend**
- Stream
 - Water
 - Building Property Line
 - Building
 - Pond
 - Proposed Right-of-Way

Proposed Park Area	+/- 110 Acres
Green-Space Area	+/- 247 Acres
Wildlife and Conservation Area	+/- 79 Acres
Total	+/- 436 Acres

Prepared by



MORGAN WARD PUGH
MINING CONSULTANTS
 LLC
 Lexington, Kentucky 40502



HILLTOP
BASIC
RESOURCES
INC.

Proposed Area
to be
Donated

A1/B1-4PD Zone Change

Boone County, Kentucky



Date: 07/27/20
 Drawing No.:
 Drawn by: JB
 Checked by: *Cherry, C. B.*

CHERRY, C. B. BOONE COUNTY