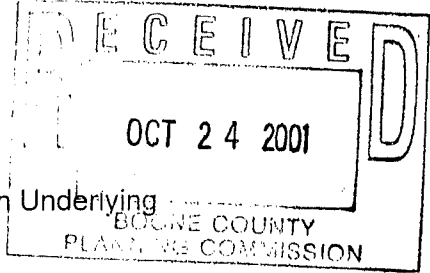


APPLICATION FORM

02-CCDP-001-A

CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION



(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check One:

- Concept Development Plan (Includes Utilization of an Underlying Zone in a Planned Development)
- Change in an Approved Concept Development Plan
- Long Range Planning Committee Review (As stated in the Houston-Donaldson Study)
- Long Range Planning Committee Review (As stated in the Union Town Plan)

- 2. Name of Project AVERITT EXPRESS
- 3. Location of Project 10755 DIXIE HWY, WALTON, KY 41094
- 4. Total Acreage of Site ~~15.32~~ 15.65 A
- 5. Current Zoning I-1
- 6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) 04/04/89
- 7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) NO
- 8. Proposed Uses (please specify each use) NA
- 9. Proposed Building Intensities (please specify) NA
- 10. Have you submitted a Concept Development Plan? NARRATIVE
- 11. Are you also applying for:
 - Conditional Use Permit NA
 - Dimensional Variance
- 12. Name of Applicant(s) DEE TRAVIS
- Phone Number 615/377-0099 Fax No. 615/377-6930
- 13. Address of Applicant(s) 5309 MEADOWLAKE RD
- BRENTWOOD TN 37027
- City State Zip
- 14. Name of Property Owner(s) AVERITT/SOG PROPERTIES, INC.
- Phone Number 931/526-3306 Fax No. 931/520-5069
- 15. Address of Property Owner(s) 518 OLD KENTUCKY RD
- COOKEVILLE TN 38501
- City State Zip
- 16. Are there any existing buildings on the site? YES
- How many? 2
- 17. Deed Book 410 Page No. 121 Group No. 493 2058
- 18. Have you had a pre-application meeting with BCPC Staff? YES

(over)

EXHIBIT

“A”

STAFF REPORT

Request of Dee Travis (applicant) for Averitt/SDG Properties (owner) to consider a Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The request is to remove a prior condition of zone change approval which limits the number of trucks that are kept on the site.

November 28, 2001

Request

Basically, this is a request to change the approved Concept Development Plan by removing a condition of approval by the Boone County Fiscal Court in 1989. The condition limited the number of trucks kept on this site to twenty-eight (28) per day.

History

- 1988 ZMA request of Averitt Express from C-3 to I-1 to allow a freight transportation distribution center. Request was denied by the Boone County Planning Commission and the Boone County Fiscal Court.
- 1989 ZMA request of Averitt Express from C-3 to I-1 to allow an express freight service center. Request was denied by the Boone County Planning Commission. However, the Boone County Fiscal Court approved the request with conditions, one of which stated "limited to twenty-eight 28 trucks per day..."

A letter dated August 28, 2001, was received requesting an official interpretation regarding this condition. Kevin Wall, acting in his capacity as Zoning Administrator for the Boone County Fiscal Court, provided a written interpretation of the condition as per the request. Both of these letters are attached to this staff report for your reference.

Surrounding Zoning and Land Uses

- North: Holt Caterpillar heavy equipment sales and service zoned Industrial One/Planned Development (I-1/PD).
- East: Across Dixie Highway, D-1 Auto Sales zoned Industrial One (I-1) and businesses zoned Commercial Services (C-3).
- South: Existing businesses and residences along Frogtown Road zoned Commercial Services (C-3).

West: Across Interstate 71-75 existing residences zoned Suburban Residential One (SR-1) and Baetens Nursery zoned Agricultural Estate (A-2).

Relationship to the Boone County Comprehensive Plan

The Future Land Use Map shows the subject property as Industrial (I). This classification is defined in the adopted Comprehensive Plan as:

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

The Land Use Element within the 2000 Boone County Comprehensive Plan only refers to this general area by stating:

"This area is bisected by U.S. 25, a major corridor for growth, extending from urbanized Florence to Walton. The fact that it runs parallel to I-75, and is located between the interstate and the railway, makes it an ideal transportation connector. Because of the various existing and future land uses along U.S. 25, it will carry a high volume of mixed traffic types. For this reason, any traffic-intensive or truck-oriented uses shall locate near connections to the interstate, and access management shall be an important consideration on all development along U.S. 25. The Kentucky Transportation Cabinet is considering a major widening of U.S. 25 south to the Richwood area."

Staff Comment

The overall character of this area has changed since the first request back in 1986 and even since both Averitt requests in 1988 & 1989. The Stone Center facility and the Holt Caterpillar facility are just two examples of change toward the transportation related uses. Also, the Kentucky Transportation Cabinet is in the process of improving this section of Dixie Highway with construction projected to begin in the 2006 fiscal year.

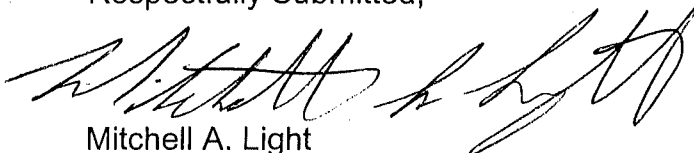
Therefore, it is of Staffs opinion that the condition limiting the number of trucks per day is no longer necessary.

Conclusion

This request needs to be evaluated by the Boone County Planning Commission and the Boone County Fiscal Court in terms of Article 3 of the Boone County Zoning Regulations.

The Future Land Use Map will not need to be amended if the Planning Commission and Boone County Fiscal Court approve this request.

Respectfully Submitted,

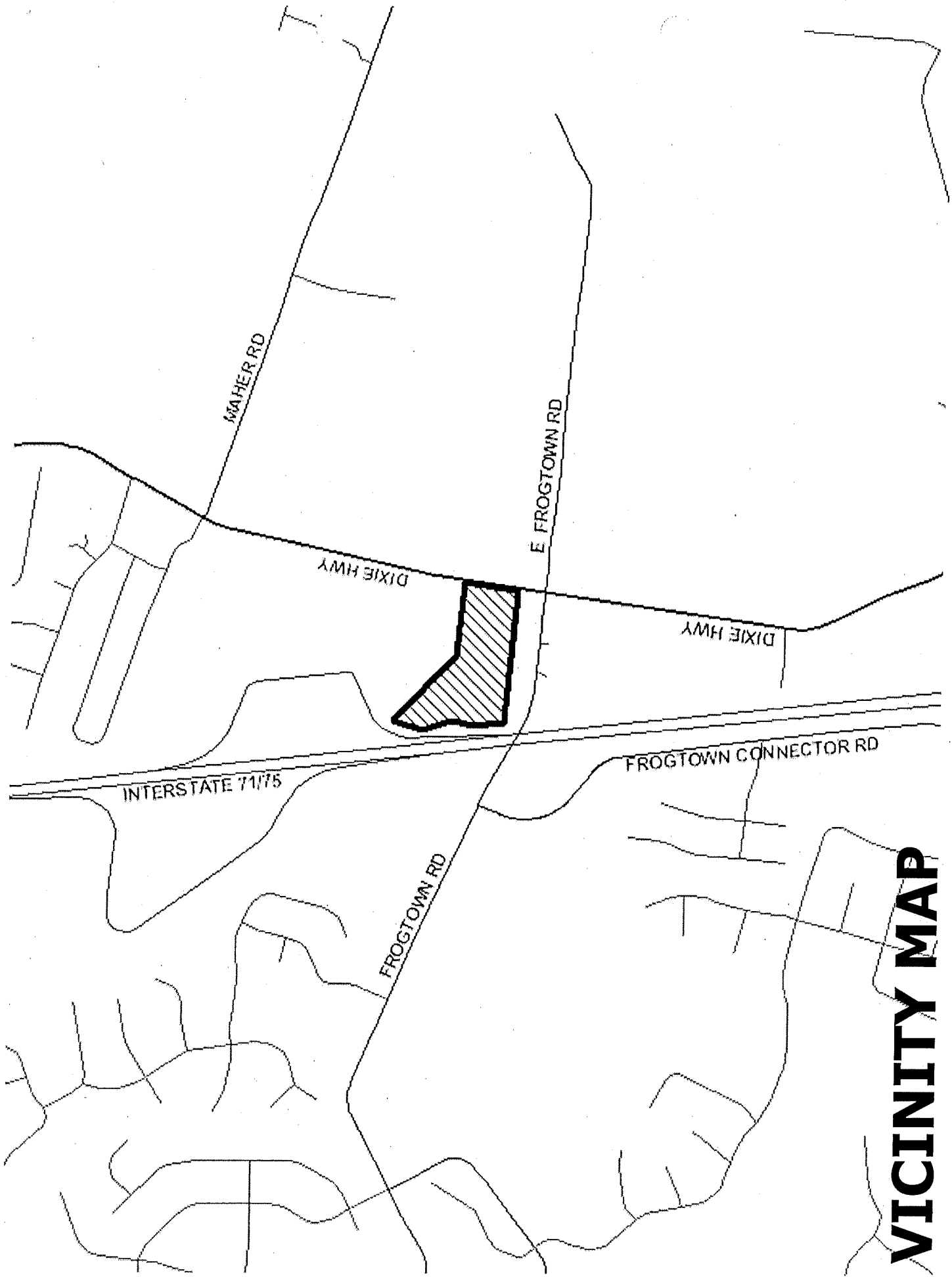


Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

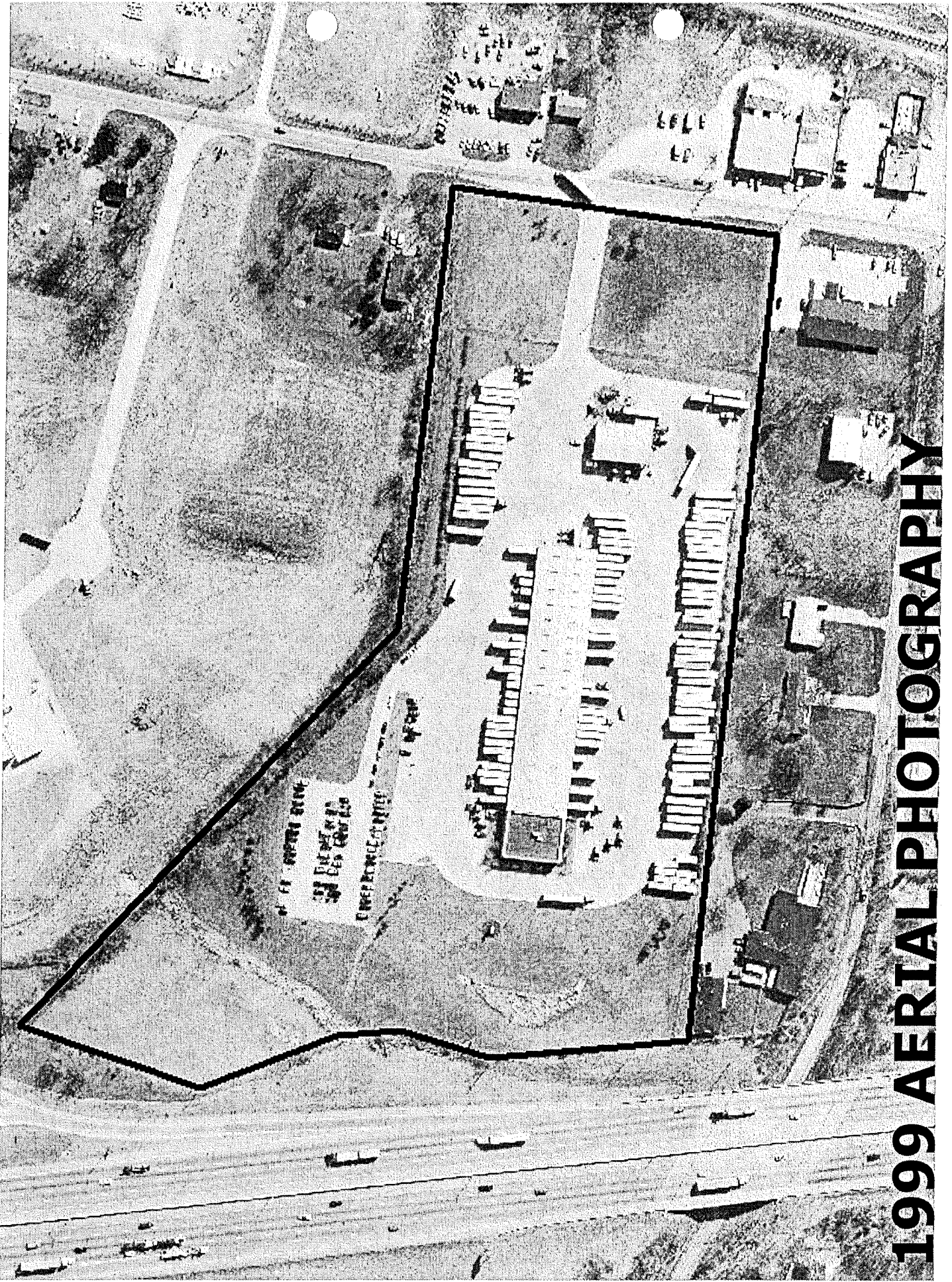
MAL/pr

Attachments:

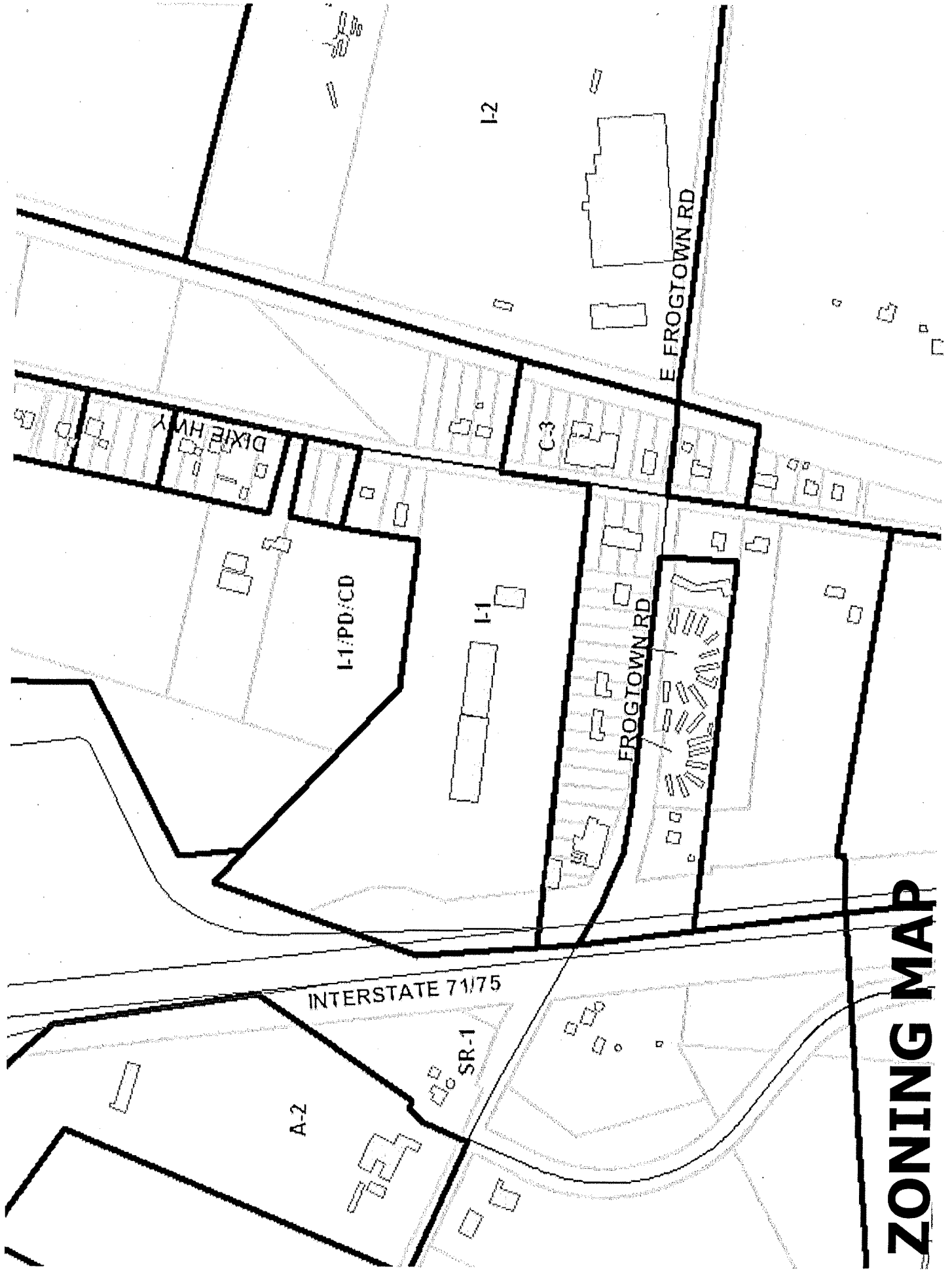
- Vicinity Map
- Aerial Photograph
- Zoning Map
- Future Land Use Map
- Narrative from Applicant
- Request for Official Interpretation
- Official Interpretation from Zoning Administrator
- Application



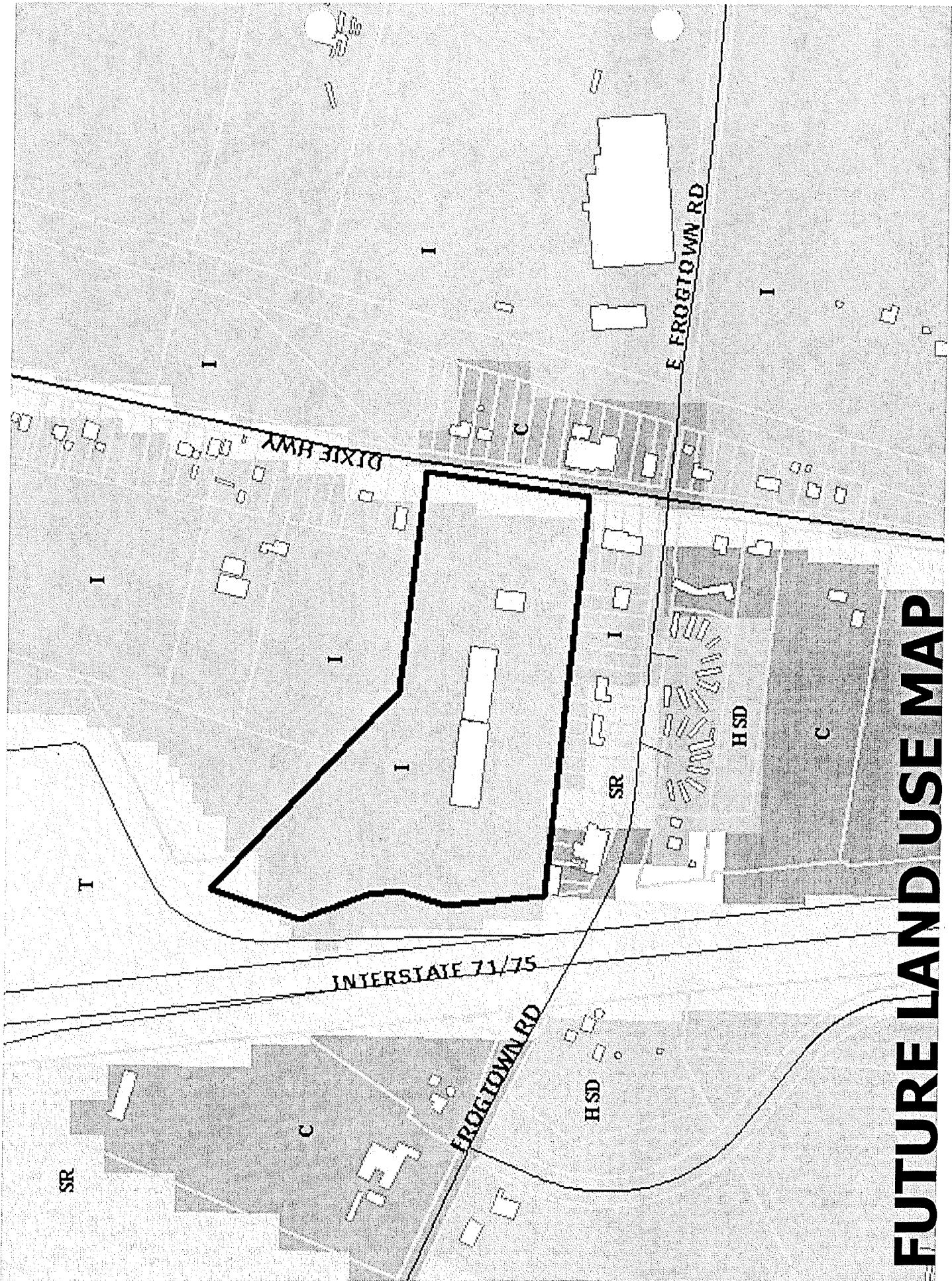
VICINITY MAP



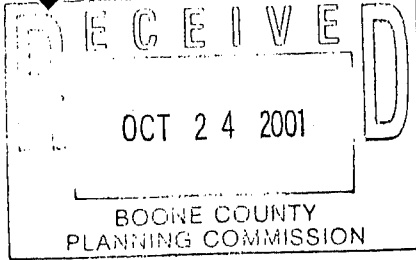
1999 AERIAL PHOTOGRAPHY



ZONING MAP



FUTURE LAND USE MAP



5309 Meadowlake Road, Brentwood, TN 37027
615/377-0099 • Fax 615/377-6930

NARRATIVE

Averitt/SDG Properties, Inc. purchased a 15.65 acre tract in Boone County, Kentucky on Dixie Highway in 1989. The Concept Development Plan was approved on April 4, 1989. The property was rezoned from C-3 to I-1. A condition was placed upon the property that no more than twenty-eight(28) trucks per day be allowed on the site and that acceleration and deceleration lanes be designed and approved by Kentucky D.O.T. and built and paid for by Averitt.

The acceleration and deceleration lanes were designed, approved and built. Averitt paid for that construction. The restriction on the twenty-eight(28) trucks was never referenced to Averitt again and the operation has run smoothly for the past twelve years. From the wording of the ordinance, the concern seems to have been the visual impact of trucks sitting on the yard. Over the past twelve years, Dixie Highway has filled in with development such that trucks parked on a yard set back from the road would not be an esthetical factor. There is a pipe company across from Averitt with pipes stacked right up to the road frontage. The site next to Averitt is a construction equipment rental company with large road equipment parked. In today's environment, Averitt's trucks are among the least visible units along Dixie Highway. Whatever the concerns were over a decade ago, they seem not viable in today's environment as it pertains to this site.

Averitt is making application to have the restriction on the twenty-eight(28) trucks removed. It is not realistic for the existing facility that obviously has been permitted and is operational today. It encumbers the ability of Averitt to possibly sell this facility and relocate to the thirty-three acre site on Turfway Road as no new buyer is willing to purchase with that restriction.

Hopefully, all concerned will understand that twelve years is a long time to test the suitability of this site for its intended use and this restriction has not been a factor in the responsible operation of the business. Averitt respectfully requests that the concept Development Plan be amended to remove the following:

.... "that Averitt Express be limited to twenty-eight(28) trucks per day" ...

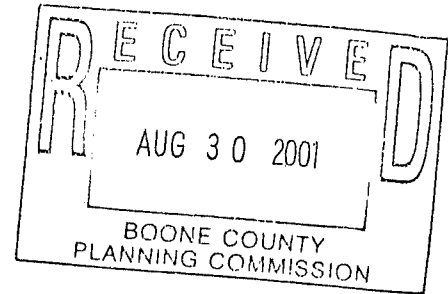
Your thoughtful consideration is greatly appreciated.

CT CON-WAY TRANSPORTATION SERVICES
A **CIF** COMPANY

RODERICK J. FRACASSI
Counsel

August 28, 2001

Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005
Attn: Mr. Kevin Wall,
Director of Zoning Services



VIA AIRBORNE EXPRESS

Re: 10775 Dixie Highway
Walton, KY

Dear Mr. Wall:

With regard to the above caption matter, and pursuant to your meeting of this afternoon with Mr. Bill Chin, I am writing to clarify the language of Ordinance 920.177, and the minutes of the Boone County Fiscal Court dated April 4, 1989. The minutes, which have been incorporated as an attachment to the Ordinance, add conditions to the I-1 zoning, including the following: "that Averitt Express be limited to twenty-eight (28) trucks per day and..."

It is Con-Way's understanding, based on your representations, that this language refers only to the number of tractors simultaneously parked at this facility during non-operating hours.

I am requesting for a written opinion letter from Boone County affirming this understanding by Con-Way. The letter should clarify the following:

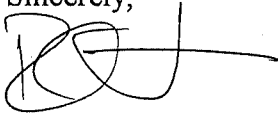
1. That this restriction is personal to Averitt and does not run with the land as an on going condition;
2. That if it does run with the land, and is binding to its successors, that the reference to "trucks" refers only to power units licensed for use on public roads and highways, and that it excludes any type of personal vehicle;

3. That the condition, does not apply to either the amount of trucks utilized in the operation at this address, or the amount of traffic traveling in or out of the facility.

I would ask that the letter be presented on the stationary of Boone County, and addressed to my attention at this letterhead address. If you are unable or unwilling to comply with my request, I ask you to promptly notify me at the telephone number provided.

Thank you for your anticipated assistance.

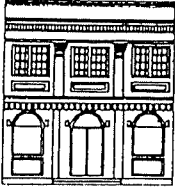
Sincerely,

A handwritten signature in black ink, appearing to be 'R. Fracassi', with a long horizontal line extending to the right.

Roderick J. Fracassi, Esq.

cc: Kevin Hartman, V.P of Operations
Bill Chin, Regional Manager
Monica Kohnen, Esq.

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

August 30, 2001

Mr. Roderick J. Fracassi, Esq.
CTS Con-Way Transportation Services
110 Parkland Plaza
Ann Arbor, MI 48103

RE: Conditions of Zone Change Approval for Averitt Express Facility at 10775 Dixie Highway, Boone County, Kentucky

Dear Mr. Fracassi:

In response to your letter dated August 28, 2001, I am providing the following information relative to the twenty-eight truck restriction that applies to the Averitt property:

First, your letter notes that it is Con-Way's understanding that the twenty-eight truck restriction (supposedly based on my representation) applies "only to the number of tractors simultaneously parked at this facility during non-operating hours." While I agree that it applies to the number of tractors simultaneously parked at the facility, there is no indication in the record which stipulate that this limit only applies during non-operating hours. In fact, I discussed with Con-Way representatives that the condition appears to be intended to address aesthetic concerns and the level of on-site activity associated with a trucking business, but that based on the approval minutes, traffic issues were not of concern.

Second, the restriction does run with the land and does apply to successive owners, business operators, etc. Based on the record and a discussion with a long term Planning Commission employee who recalls the original application, it is my understanding that the term "trucks" does refer to power units/tractors licensed for use on public roads and highways, and does not include the personal vehicles of employees or material handling equipment such as forklifts.

Third, the approval minutes which contain some discussion regarding the conditions states that one of the County Commissioners "questioned whether the developer would commit to no more than twenty-eight trucks per day being based at this facility and was advised that would be agreeable." Based on the final wording of the condition, notes in the file

Mr. Roderick J. Fracassi, Esq.
August 30, 2001
Page 2

regarding the condition, and my discussion noted above, this condition pertains to the number of trucks (tractors) used in the business operations which are parked on the site at any given time - it is not intended or designed to limit the amount of traffic generated by the facility. Please call me if you have any questions or need any clarifications.

Sincerely,

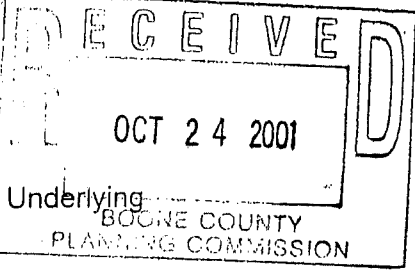
A handwritten signature in black ink, appearing to read "Kevin T. Wall", with a long horizontal flourish extending to the right.

Kevin T. Wall
Zoning Administrator
Boone County Fiscal Court

KTW/vlm

APPLICATION FORM

CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION



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

1. Check One:

- Concept Development Plan (Includes Utilization of an Underlying Zone in a Planned Development)
- Change in an Approved Concept Development Plan
- Long Range Planning Committee Review (As stated in the Houston-Donaldson Study)
- Long Range Planning Committee Review (As stated in the Union Town Plan)

2. Name of Project AVERITT EXPRESS
3. Location of Project 10755 DIXIE HWY, WALTON, KY 41094
4. Total Acreage of Site ~~15.33~~ 15.65 A
5. Current Zoning 1-1
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) 04/04/89
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) NO
8. Proposed Uses (please specify each use) NA
9. Proposed Building Intensities (please specify) NA
10. Have you submitted a Concept Development Plan? NARRATIVE
11. Are you also applying for:
- Conditional Use Permit NA
 - Dimensional Variance
12. Name of Applicant(s) DEE TRAVIS
- Phone Number 615/377-0099 Fax No. 615/377-6930
13. Address of Applicant(s) 5309 MEADOWLAKE RD
- BRENTWOOD TN 37027
- City State Zip
14. Name of Property Owner(s) AVERITT/SD&P PROPERTIES, INC.
- Phone Number 931/526-3306 Fax No. 931/520-5069
15. Address of Property Owner(s) 518 OLD KENTUCKY RD
- COOKEVILLE TN 38501
- City State Zip
16. Are there any existing buildings on the site? YES
- How many? 2
17. Deed Book 410 Page No. 121 Group No. 493
18. Have you had a pre-application meeting with BCPC Staff? YES

(over)

19. Please check the following organizations/agencies which you have discussed the proposed development with in the last several months: NA

- Boone County Water and Sewer District
- Florence Water and Sewer Commission
- Union Light Heat and Power
- Cincinnati Bell
- Owen County Rural Electric
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- City of Florence Public Services Department
- Boone County Building Department
- Northern Kentucky Health District
- U.S. Soil Conservation Service
- Local School District
- Local Fire District
- Other: _____

20. Concept Development Plan Jurisdiction/Location
 Unincorporated Boone County. Walton Union
 Florence

21. Applicant's Signature(s) [Signature]

22. Property Owner's Signature(s) [Signature]

SECTION B (To be completed by BCPC Staff)

1. Date Received 10-24-91 Fee Received \$1,328.00 LA 29470
2. Check what has been submitted:
 Application Fee Legal Description
 Concept Development Plan Addresses of Adjoining Property Owners
 No. of copies of plan received **
3. Is application complete? YES NO
4. Staff Reviewer KRISTINE LIGHT
5. Committee Chairperson MARK HKS
6. Scheduled Public Hearing Date _____
7. Boone County Planning Commission Action:
 Approved
 Approved With Conditions
 Denied
8. Other: _____

** Five (5) Copies Required

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

Note: See Boone County Planning Commission Fee Schedule for Concept Development Plan Fees. An application consists of all fees paid in full, submitted drawings and a completed application form.
BCPC:11/2000

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
November 28, 2001
7:30 P.M.**

PUBLIC HEARINGS

Commission Members Present: Mr. Barlow, Mr. Hicks – Temporary Presiding Officer, Mrs. Kegley, Mr. McMillian, Mr. Newman, Mrs. Poston, Mr. Ries, Mr. Schwenke, Mr. White, Mrs. Wilson - Secretary/Treasurer, and Mr. Zimmer.

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

Legal Counsel Present: Mr. Dale Wilson

Mr. Mark Hicks, Temporary Presiding Officer, called the meeting to order at 7:30 PM and introduced the first item on the Agenda:

1. **Applicant:** Dee Travis for Averitt/SDG Properties (owner)

Request: Change in Concept Development Plan

The request of Dee Travis (applicant) for Averitt/SDG Properties (owner) to consider an application for a Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The request is to remove a prior condition of zone change approval which limits the number of trucks that are kept on the site.

Staff Member Mitch Light presented the Staff Report which included a Power Point presentation (see Staff Report). Mr. Light reviewed the history of the site when in 1986 there was a request to change the zoning from SR-1 to I-1, which was denied. In July, 1986 there was a request to change the zoning from SR-1 to C-3 for crane rental and it was approved with conditions – but it did not develop. The history of the site after that time is included in the written Staff Report.

Mr. Hicks asked for the applicant's presentation.

Mr. Dee Travis, 5309 Meadow Lake Road, Brentwood, Tennessee, stated that the new Averitt project on Turfway Road is under site development at this time, pending the resolution of this issue. He stated that he was not present in 1989 and is limited to evaluating the restriction as written. He stated that they have put in the accel/decel lanes and have complied with the restriction regarding on-site maintenance. He stated that the condition of twenty-eight trucks per day does not define "trucks" and Mr. Wall's memorandum gives the definitions. They are not sure what all of the issues were in 1989, but it appears that the concerns were largely aesthetic. Over the last thirteen years, Dixie Highway has developed such that Averitt is one of the lesser noticeable projects in terms of aesthetics and it is set back from the road. He stated that if the subject restriction were strictly imposed, it would be impossible to operate a sixty-five door facility there. In the thirteen years Averitt has been there, the restriction has never been referenced. They request that the restriction be removed so that they can sell the facility and complete construction on their new site. Con-Way Transportation Services is the proposed buyer of the property and their representatives are present to respond to questions. He stated that whether the buyer be Con-Way or another buyer, this restriction would prevent the sale of the facility. He stated that the restriction has never come into play and there is a long history of the site being operated for its intended use. He offered to answer any questions.

Mr. Hicks asked if there was anyone else present who wished to speak in favor of the request.

Ms. Monica Kohnen, attorney for Con-Way Transportation Services, stated that Con-Way is a potential purchaser of the property – but they will not purchase the property if the restriction is not removed.

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

Mr. Don Davis, owner of the property across the street from Averitt Express, stated that he is responsible for the fact that Averitt is in its present location. In the early 1980's, he was a member of this Planning Commission and the request came before the Planning Commission on different occasions and it was denied. Then in 1987 he became a County Commissioner and voted on this request in 1988. He stated that the request was denied the first time based on the Staff Report (he has a copy). He feels that it was his doing that the request came back in another six months as he had met with a representative of Averitt Express, Jerome Terrill, and Mr. Terrill gave him brochures and information on the company. Mr. Terrill also presented that information to Fiscal Court and Fiscal Court members on different occasions. Mr. Davis stated that the pictures were of vehicles and the operation was represented as being like UPS – a local delivery company with all single-axle trucks. He referred to the Fiscal Court minutes and stated that they agreed to twenty-eight trucks – they did not agree to twenty-eight

trailers or twenty-eight tractors. They agreed to twenty-eight trucks because Averitt led Fiscal Court to believe that all the vehicles were single-axle trucks with the primary purpose of local delivery, and there would be a couple of tractor trailers per day for delivery. Mr. Davis referred to his comments in the April 4, 1989 Fiscal Court minutes, which Averitt agreed with, and noted that his comments and the motion state "trucks". He stated that today there are about 128 trailers parked on the site. He cannot say how many tractor trailers go in and out today, but he has no doubt that it is a couple of hundred. He commented that they are nice trucks and trailers. He stated that there are no signs on U.S. 25 that advertise Averitt and the trucks are rolling right along with light loads. With the addition of the rock quarry and the block company trucks that carry heavy loads and run slowly, there will be major accidents some day. He stated that the conditions Fiscal Court put on were because of the trucks. He still today agrees with both Staff Reports when the request was denied in 1988 and 1989 because the primary reason for denial was that this type of facility needs to be in an industrial park -- but then Averitt demonstrated that it was single-axle trucks -- and Fiscal Court took their word and overturned it. We have since found out that they did not do what they said they would do. He stated that the sixty-five door facility did not start out that way and they expanded it to sixty-five doors.

Mr. Light stated that the information referenced by Mr. Davis will be brought to the Committee Meeting.

Ms. Rebecca Gramer, owner of property at 192 Frogtown Road, stated that she was not notified when Averitt went into construction. She was the property owner in 1989 when the Planning Commission's decision was overturned by Fiscal Court. She bought the property in 1988 when there was beautiful farmland there and the home is now worth nothing. Her house is one of the two houses that can be seen when looking at the Averitt site. The property on one side sold for \$580,000 -- but they cannot get \$140,000 for their house and are now renting it. She has approached Averitt and spoken to Mr. Travis several times about the problems there. She offered Averitt her property, but they were not interested. She stated that she is against this application unless her property is also purchased by Con-Way. She stated that the decel lanes are not slow down lanes and a truck cannot get through over there. She is against this request.

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

Mr. McMillian asked what they want the restriction lifted to. Mr. Travis responded that they are asking that the restriction be removed. He stated that they are in ninety-five markets around the country and this is the only one that has attempted to limit the number of tractors or trailers on a site. He stated that there is a limitation as to how many they can physically fit on the site. Mr. McMillian stated that they do not want more parking spaces for Averitt, they want to sell the

property. Mr. Travis agreed and stated that the restriction would keep them from being able to sell the property. There is no restriction on the number of trucks at the Turfway site. He stated that they are asking that the restriction be removed because it is an encumbrance and would prevent the sale.

Mr. Costello questioned why they agreed to the restriction. Mr. Travis responded that he has no idea. Mr. Costello asked if there is anyone still with the company who could speak to that question. Mr. Travis responded that there is no one at the company who was involved in the hearings thirteen years ago.

Mr. Zimmer asked if the only use that can be on this site in this zone is a freight service center. Mr. Wall responded "yes" and explained that the site is limited to this use unless they come back through the Concept Plan process.

Mr. Zimmer stated that he did not see in the packet of information where it says that only the front end of a tractor trailer is restricted to twenty-eight and questioned where that came from. Mr. Light responded that he went over the letter Con-Way wrote to Kevin Wall and Mr. Wall's response. He stated that he did not read the 1989 Fiscal Court minutes as well as Mr. Wall did. He stated that there have always been more than twenty-eight trailers out there. He added that after hearing Mr. Davis say that he thought they were single-axle UPS-type trucks, he now understands why Fiscal Court said "trucks". Mr. Zimmer asked Mr. Wall if he was changing his interpretation. Mr. Wall responded "no" and stated that he was not here in 1989 either, but he did research the record. He does not recall the single-axle issue and the condition did not include the type of trucks. He has reviewed the Fiscal Court minutes and they are not as direct as they could be. He stated that there was a statement that the concern regarding the number of trucks was not oriented to traffic issues – it was aesthetics. He spoke with the Staff people who were here at that time because the record was not completely clear. Mr. Zimmer asked Mr. Wall if his opinion has now changed. Mr. Wall responded that Mr. Davis is the third person he has heard from who was there at the time and the stories are not completely dovetailing together. Mr. Zimmer asked if it is possible that he would have a different opinion if he were to read through the Staff Reports, Committee Reports, and minutes from 1988 and 1989. Mr. Wall responded that Mr. Zimmer might have a different opinion – but Mr. Wall is the Zoning Administrator and so his opinion is the one that counts. Counselor Wilson advised that the Zoning Administrator's interpretation is the legal decision, subject to review by a court.

In response to questions from Mr. Zimmer regarding the accel/decel lanes, Mr. Light stated that they were required by Fiscal Court, they are in the right-of-way and are owned by the state.

Mr. Zimmer asked that the Committee be provided with the Staff Reports, Committee Reports, and Fiscal Court minutes.

Mr. Zimmer stated that the request is to lift this restriction and during the review process, other conditions for the property could be discussed and agreed upon. One of his concerns is the setback from U.S. 25. He questioned the effect on the Concept Plan if the number of trucks is changed. Mr. Light responded that the Concept Plan would not change. Mr. Wall stated that his recollection of the Concept Plan is that the site improvements are maxed out and there is not much else that could fit on the site.

Mr. Zimmer asked if there is any restriction regarding outside storage on the parcel across the street. Mr. Light responded that Staff is investigating that site and will relocate the things that are too close to the road.

Mr. Ries stated that the only reason he heard as to why this restriction should be changed is that they want to be able to sell the property. Mr. Light agreed. He stated that Averitt does not want to sell it to someone and then claim that they did not know about the restriction. They are trying to sell it free and clear of restrictions. They want to sell it to finance their new business.

Mr. Ries stated that the Planning Commission is not in the business of helping people to improve their property to sell it. He stated that he knows what Richwood Road is like now and an apartment complex was defeated basically because of the traffic issue. There are three truck stops there now and it is a major traffic disaster. He has a problem with adding trucks there and, unless they go to another exit, they will be adding fuel to the fire. He can see more against this change than just allowing the property to be more saleable.

Mr. Barlow stated that the sixty-five doors were additions to the original building and asked if those additions came through the Planning Commission. Mr. Light responded that the overall Concept Plan was approved by Fiscal Court and it had the large facility on it. There was nothing approved by Site Plan Review over and about that. Mr. Wall advised that the limit was not number of doors, it was square footage of the facility.

Mr. Barlow questioned the number of trucks at the facility on an average day. Mr. Travis responded that he will have to get a count from their operations people. Mr. Barlow noted that Mr. Travis made the comment that the restriction has never been referenced and asked if that means that they have honored the twenty-eight limit. Mr. Travis responded that it means that nobody has brought up the restriction in the thirteen years they have been there. He stated that Con-Way will initially have a smaller operation than Averitt has now. Mr. Barlow asked if the number of trucks currently is greater than one hundred per day. Mr. Travis responded that his involvement is real estate as a third party and he is not as associate of Averitt. Mr. Barlow stated that he would like to have the information. Mr. Travis responded that he will provide the information to the Committee. He stated that for the Turfway Road application, they broke the data down to number of trucks/per time/per day and they will do the same for this site.

Mr. Barlow stated that aesthetics might have been the issue twelve years ago, but today there is a traffic issue because of the very large number of trucks. There are Averitt trucks at the Mt. Zion interchange every hour of every day. He stated that the traffic issues are more of a factor for maintaining this limit than they were twelve years ago and the Committee should look closely at the traffic.

Mr. Newman questioned the definitions of "truck", "trailer", and "tractor". Mr. Travis responded that the "tractor" is the cab, a "trailer" sets independently without being motorized or able to move, and when they are hooked together it is a "truck". He stated that they are not defined in the Fiscal Court minutes in 1989 and they are not sure what Fiscal Court was referencing. Mr. Newman asked if they hook the trailers and tractors together, are there less than twenty-eight coming and going per day? Mr. Travis responded that he is sure there are more than twenty-eight. He stated that the restriction has not been referenced in the years Averitt has been there and arose as a title issue. Mr. Newman stated that they are in violation of the condition. Mr. Travis stated that technically there are more than twenty-eight trucks.

Mrs. Poston stated that the facility was approved with enough square footage for sixty-five bays and only twenty-eight trucks were approved. Why did they approve this size building? Mr. Costello responded that normally those issues would be reviewed by the Planning Commission, but the application went to Fiscal Court and they made a decision and there may be some inconsistencies. The question is whether Fiscal Court really knew what they were getting. Mr. White explained that it used to be a big platform and they just enclosed the platform they had been using all the time. Mr. Travis stated that the term "door" has been used, but it is actually a bay or an open platform. Mr. White stated that the square footage has always been the same and they just added the enclosure. Mrs. Poston repeated her question of why Fiscal Court allowed a facility that big if they were only going to allow twenty-eight trucks. Mr. Hicks responded that some of the space is used for storage. Mr. Travis stated that it is an open bay facility and nothing is warehoused there. It has no walls – it is an open bay transfer dock.

Ms. Gramer stated there are trailers that set there all the time – they are not moved and have things in them, such as carpets – which would be storage. She stated that they have records and trailer numbers. They are licensed in Tennessee and Tennessee gets the taxes. She stated that the site is full all the time. Mr. Hicks stated that there is no restriction on the number of trailers. Ms. Gramer stated that she is concerned about what Con-Way will bring in. Do they carry chemicals? She questioned what they are bringing in and why they need to be allowed more trucks.

Mrs. Kegley stated that in Mr. Wall's interpretation he said that the condition pertains to the number of trucks used in the business operation which are parked on the site at any given time. She stated that they can only have twenty-eight

parked there – but the rest could be on the road and the number could be considerably higher than twenty-eight even with the restriction. Mr. Wall agreed.

Mr. Ries stated that it is hard for him to believe that a truck comes in and at the same instant a truck hauls the load away. He believes that the load at times probably sets there for a week or a month and that is storage. Anything that does not come in one door and out the other, is storage. He is sure some of the loads set there for months. Mr. Barlow agreed. He stated that this discussion is about what can be done to put more money in the pocket of a trucking company, rather than the proper zoning. He asked a representative of Con-Way to speak to the number of trucks. Attorney Monica Kohnen responded that they cannot say today how many trucks would go in there. She introduced Mr. Rick Benedict with Con-Way in Florence.

Mr. Barlow stated that this is basically negotiating a deal and not zoning.

Mr. Schwenke questioned the possibility of a company coming in there with eighty rusty trailers setting around with flat tires. He stated that Averitt keeps their equipment up very well, but Con-Way might resell the site.

Mr. Don Davis read from the Fiscal Court minutes of April 4, 1989 and reviewed his comments when he asked the applicant whether the developer would commit to no more than twenty-eight trucks per day being based at this facility and was advised by the applicant that that would be agreeable. He stated that that was twenty-eight single-axle trucks – a tractor trailer is not a truck. He stated that the trucks were described as similar to a UPS delivery truck. He stated that there is nothing in the minutes that addresses aesthetics and that was not part of the discussion. Mr. Newman asked if the minutes state “single-axle” or “UPS”. Mr. Davis responded “no”, but added that that was what was expressed and that is what the brochures were all about. That is what Averitt showed to Fiscal Court. He stated that when the application was denied, it was denied because they wanted to use tractor trailers. The Planning Commission voted for denial because a facility with tractor trailers should be in an industrial park. Mr. Newman asked again if there is anything in the minutes that substantiates what Mr. Davis is saying about UPS trucks and single-axle trucks. Mr. Davis responded “no” but stated that the Staff Reports talk about tractor trailers, not about trucks – they changed it to “trucks” when they got to Fiscal Court.

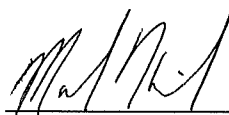
Mr. Hicks stated that before the Committee meeting, the Commissioners need to have the Staff Reports, Committee Reports, and Fiscal Court minutes. Mr. Light stated that he will get the minutes from the Public Hearings and Business Meetings, the Committee Reports, and Fiscal Court minutes (the ones he has currently start on Page 10). He will get the information to the full Commission and makes sure the Committee members receive it a day or two before the Committee meeting.

Mr. Hicks reminded the applicant that he agreed to get information to the Planning Commission regarding how many trucks go in and out of the site per day, how many are there at 8 AM and how many are there are 5 PM. He advised the applicant to be prepared to discuss what a fair number might be in case there is discussion of changing the limit to another number.

There being no further comments, the Mr. Hicks stated that the Committee Meeting for this item will be on December 5, 2001 at 4:00 PM in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on December 19, 2001 at 7:30 PM.

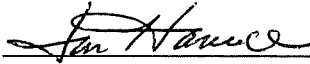
Mr. Hicks closed this Public Hearing at 8:25 PM.

APPROVED:



Mark Hicks
Temporary Presiding Officer

Attest:



Jan Hancock, Recording Secretary

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
January 2, 2002
7:30 P.M.**

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:34 PM.

COMMISSION MEMBERS PRESENT:

Mr. Randy Barlow
Mr. Arnold Caddell, Chairman
Mr. Richard Knock
Mr. Don McMillian
Mrs. Susan Poston
Mr. Charlie Reynolds
Mr. Robert Ries
Mr. Bob Schwenke
Mrs. Lisa Wilson, Secretary/Treasurer
Mr. David Zimmer

COMMISSION MEMBERS NOT PRESENT:

Mr. Mark Hicks, Temporary Presiding Officer

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

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

ANNOUNCEMENT:

Chairman Caddell stated that the terms of three of the Commissioners appointed by the City of Florence expired at the end of December and a representative from Boone County has resigned. The three Commissioners from the City of Florence are not able to attend meetings until the city reappoints them or makes new appointments. Therefore, the Planning Commission is four members short at this time.

ACTION ON PLAN REVIEWS:

1. Change in Concept Development Plan

The request of Dee Travis (applicant) for Averitt/SDG Properties (owner) to consider an application for a Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The request is to remove a prior condition of zone change approval which limits the number of trucks that are kept on the site.

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

Mr. Zimmer moved by resolution to Boone County Fiscal Court to approve the request based on the Committee Report with the conditions. Mrs. Poston seconded the motion.

Mr. Knock questioned the reason for Condition #4 which states that the trailers will not be used for storage. Mr. Zimmer responded that the two reasons the previous condition was replaced were 1) traffic concerns and 2) appearance of the facility. The traffic concerns are mitigated by Condition #3. He stated that part of the reason it is currently a nice looking facility is that they do preventative maintenance, they do not store dilapidated trailers, and they do not use trailers for storage. The conditions maintain the facility the way it is now. Mr. Knock responded that he is familiar with this type of industry and questioned why it would be a problem if the trailers were loaded since the doors are closed. He questioned not being able to use the trailers for storage being an economic drain.

Mr. Dee Travis, speaking on behalf of Averitt/SDG Properties, stated that in discussion with the Committee, there was some concern that the trailers could be used to temporarily expand the dock. The purpose of the condition was so that they could not artificially expand the size of the dock by using trailers with doors cut on the sides. He stated that there will always be trailers on the yard – some of which are totally empty and some of which may have something in them for a period of time – but that was not the focus of the discussion. The point was that no one attempt to expand the dock by using trailers. Mr. Knock asked that the record show that the Planning Commission is not opposed to storage inside of a trailer as long as the material is inside the trailer and the doors are closed and preventing that is not the purpose of the condition. He stated that there could be a trailer moved from

Alabama to Cincinnati and they might want to park it there for ten days because the customer does not want to receive it yet. Mr. Zimmer responded that the Committee's intention was to prevent a trailer from becoming a building in which goods are stored and the trailer never leaves – such as a trailer that is not roadworthy and continues to deteriorate on the site. The concept was to keep the appearance of the site as it is currently.

Mr. Knock suggested a condition that the property owner agrees the trailers will not be used for storage other than for storage of goods in transit. The only members of the Committee present were Mr. Zimmer and Mrs. Poston and they had no objection. Mr. Zimmer amended Condition #4 to read "The property owner agrees that the trailers will not be used for storage other than for storage of goods in transit". Mrs. Poston seconded the amendment. The applicant indicated his agreement.

Chairman Caddell suggested using a word other than "dilapidated" in Condition #2 as it can be subject to interpretation. Mrs. Poston responded that the Committee was talking in terms of "unroadworthy". Mr. Zimmer agreed to change the word "dilapidated" to "unroadworthy" in Condition #2. Chairman Caddell stated that Condition #2 as amended reads "The property owner agrees that there will be no storage of unroadworthy trailers on this property". Mr. Travis agreed to the amendment to Condition #2.

Mr. McMillian stated that the request was to change the number from twenty-eight trucks and asked if the Committee determined a number other than twenty-eight. What is that number? Mrs. Poston responded that the Committee discussed taking off the restriction of twenty-eight, but not putting another limit on. She stated that they have sixty-eight bays. Mr. Costello stated that the facility has been there for awhile. He stated that Fiscal Court originally imposed the condition, perhaps not knowing what the effect of the condition was. The project was built and has been in operation and the Committee decided to eliminate the condition. He noted that the applicant indicated that the proposed business will be initially smaller in operation and may have less of an impact compared to the current operation. Mr. McMillian stated that when they first made application, they wanted ten trucks and then that was not enough and we gave them twenty-eight trucks. He questioned the definition of a truck. He stated that there were a lot more than twenty-eight trucks there and nobody seemed to care. He questioned enforcement. Mr. Light responded that the Planning Commission never approved the concept for Averitt. It was approved by Fiscal Court in 1988 or 1989 and Fiscal Court imposed the limit of twenty-eight trucks. Mr. Costello questioned when the site was last inspected and if we were aware that they violated the condition of twenty-eight trucks. Mr. Wall responded that he does not recall the site being inspected recently and the last problem he recalls was a pavement issue that was corrected. He stated that Floyd Sharp contacted them six or seven years ago, but he does not recall there being any enforcement.

Chairman Caddell asked if there is no maximum on the number of units that can operate there. Mr. Zimmer responded that the condition is to establish that the

current level of operation will remain – whether it is twenty-eight trucks, trailers, or half-trucks, which is a moot point. He stated that the Committee’s opinion was that there does not seem to be a traffic/infrastructure problem at the current level of use and, therefore, the Committee wants that level of use to continue. There has been assurance from the current and proposed owners that the level of activity cannot be any greater than it is currently.

Counselor Wilson referred to the Public Hearing and advised that the condition Fiscal Court imposed was “twenty-eight trucks” and the Zoning Administrator did not find more than twenty-eight trucks. There were more than twenty-eight trailers, but not more than twenty-eight trucks and, therefore, the Zoning Administrator determined that they were not in violation. He stated that we are now removing that ambiguity and it is just the level of activity, not whether it is a truck or a trailer. Mr. Wall agreed. Mr. McMillian questioned the definition of a truck. He stated that at the Public Hearing it was brought out that there was a problem with the tractor trailers/trucks on Mt. Zion Road. Mr. Knock responded that the reference is to power units – if they only have twenty-eight power units they can only make twenty-eight movements in and out of the facility. He stated that the power units make the deliveries. He does not think Fiscal Court was referring to trailers.

There being no further discussion, the Chairman asked for a vote on the motion made by Mr. Zimmer with the amendments to Conditions #2 and #4. The vote found Mr. Barlow, Mr. Knock, Mrs. Poston, Mr. Reynolds, Mr. Schwenke, Mr. Zimmer, and Chairman Caddell in favor. Mr. McMillian, Mr. Ries, and Mrs. Wilson were opposed. The motion carried by a vote of 7 to 3.

2. Zoning Map Amendment

The request of HKR Enterprises (owner) to consider an application for a Zoning Map Amendment from Industrial One (I-1) to Commercial Services (C-3) for a 0.3896 acre site at 10824 Dixie Highway, Boone County, Kentucky. The request is for a zone change to allow auto sales (Hebron Auto Sales).

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

Mrs. Poston moved by resolution to Boone County Fiscal Court to approve the request based on the Committee Report with the conditions. Mr. Schwenke seconded the motion.

Mr. Knock questioned the word “predominately” in Condition #2. Ms. Bachman responded that the word was taken from the Staff Report for the adjacent site. Chairman Caddell stated that “predominantly” is something that is more than a majority of the area.

The Chairman asked for a vote on the motion made by Mrs. Poston and it carried unanimously.

EXHIBIT
“B”

**APPROVED WITH AMENDED CONDITIONS # 2 AND 4
ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT**

TO: Boone County Planning Commission

FROM: Mark Hicks, Chairman

DATE: January 2, 2002

RE: Request of **Dee Travis (applicant)** for **Averitt/SDG Properties (owner)** to consider a Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The request is to remove a prior condition of zone change approval which limits the number of trucks that are kept on the site.

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

1. The Committee has concluded that the request is in general agreement with the 2000 Boone County Comprehensive Plan for the following reasons:
 - A. The 2000 Boone County Comprehensive Plan's Future Land Use Map designates the site for "Industrial" uses. This designation is described by the Comprehensive Plan as "manufacturing, wholesale, warehousing, distribution, assembly, mining, and terminal uses."
 - B. The Committee has concluded that the proposal is in agreement with the text of the Land Use Element ("Richwood Area" area, pg. 167) as it relates to this request. Specific references to the Land Use Element are outlined in the Staff Report for this request.
 - C. The Committee has concluded that the proposal, with the agreed conditions outlined below, demonstrate agreement with the Land Use Element's Future Land Use Development Guidelines as well as the applicable Goals and Objectives.

2. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2000 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 property owner has signed a letter demonstrating agreement with these conditions.

CONDITIONS

1. The property owner agrees to only preventive maintenance of the trucks and trailers on this property.
2. The property owner agrees that there will be no storage of un-road worthy trailers on this property.
3. The property owner agrees to no future expansion of the truck dock area or truck and trailer circulation/storage area without prior approval of the Boone County Planning Commission and the Boone County Fiscal Court.
4. The property owner agrees that the trailers will not be used for storage other than the storage of goods in transit.

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. Attached is the signature page for the Zone Change Committee Vote.

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
November 28, 2001
7:30 P.M.

PUBLIC HEARINGS

Commission Members Present: Mr. Barlow, Mr. Hicks – Temporary Presiding Officer, Mrs. Kegley, Mr. McMillian, Mr. Newman, Mrs. Poston, Mr. Ries, Mr. Schwenke, Mr. White, Mrs. Wilson - Secretary/Treasurer, and Mr. Zimmer.

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

Legal Counsel Present: Mr. Dale Wilson

Mr. Mark Hicks, Temporary Presiding Officer, called the meeting to order at 7:30 PM and introduced the first item on the Agenda:

1. Applicant: Dee Travis for Averitt/SDG Properties (owner)

Request: Change in Concept Development Plan

The request of Dee Travis (applicant) for Averitt/SDG Properties (owner) to consider an application for a Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The request is to remove a prior condition of zone change approval which limits the number of trucks that are kept on the site.

Staff Member Mitch Light presented the Staff Report which included a Power Point presentation (see Staff Report). Mr. Light reviewed the history of the site when in 1986 there was a request to change the zoning from SR-1 to I-1, which was denied. In July, 1986 there was a request to change the zoning from SR-1 to C-3 for crane rental and it was approved with conditions – but it did not develop. The history of the site after that time is included in the written Staff Report.

Mr. Hicks asked for the applicant's presentation.

Mr. Dee Travis, 5309 Meadow Lake Road, Brentwood, Tennessee, stated that the new Averitt project on Turfway Road is under site development at this time, pending the resolution of this issue. He stated that he was not present in 1989 and is limited to evaluating the restriction as written. He stated that they have put in the accel/decel lanes and have complied with the restriction regarding on-site maintenance. He stated that the condition of twenty-eight trucks per day does not define "trucks" and Mr. Wall's memorandum gives the definitions. They are not sure what all of the issues were in 1989, but it appears that the concerns were largely aesthetic. Over the last thirteen years, Dixie Highway has developed such that Averitt is one of the lesser noticeable projects in terms of aesthetics and it is set back from the road. He stated that if the subject restriction were strictly imposed, it would be impossible to operate a sixty-five door facility there. In the thirteen years Averitt has been there, the restriction has never been referenced. They request that the restriction be removed so that they can sell the facility and complete construction on their new site. Con-Way Transportation Services is the proposed buyer of the property and their representatives are present to respond to questions. He stated that whether the buyer be Con-Way or another buyer, this restriction would prevent the sale of the facility. He stated that the restriction has never come into play and there is a long history of the site being operated for its intended use. He offered to answer any questions.

Mr. Hicks asked if there was anyone else present who wished to speak in favor of the request.

Ms. Monica Kohnen, attorney for Con-Way Transportation Services, stated that Con-Way is a potential purchaser of the property – but they will not purchase the property if the restriction is not removed.

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

Mr. Don Davis, owner of the property across the street from Averitt Express, stated that he is responsible for the fact that Averitt is in its present location. In the early 1980's, he was a member of this Planning Commission and the request came before the Planning Commission on different occasions and it was denied. Then in 1987 he became a County Commissioner and voted on this request in 1988. He stated that the request was denied the first time based on the Staff Report (he has a copy). He feels that it was his doing that the request came back in another six months as he had met with a representative of Averitt Express, Jerome Terrill, and Mr. Terrill gave him brochures and information on the company. Mr. Terrill also presented that information to Fiscal Court and Fiscal Court members on different occasions. Mr. Davis stated that the pictures were of vehicles and the operation was represented as being like UPS – a local delivery company with all single-axle trucks. He referred to the Fiscal Court minutes and stated that they agreed to twenty-eight trucks – they did not agree to twenty-eight

trailers or twenty-eight tractors. They agreed to twenty-eight trucks because Averitt led Fiscal Court to believe that all the vehicles were single-axle trucks with the primary purpose of local delivery, and there would be a couple of tractor trailers per day for delivery. Mr. Davis referred to his comments in the April 4, 1989 Fiscal Court minutes, which Averitt agreed with, and noted that his comments and the motion state "trucks". He stated that today there are about 128 trailers parked on the site. He cannot say how many tractor trailers go in and out today, but he has no doubt that it is a couple of hundred. He commented that they are nice trucks and trailers. He stated that there are no signs on U.S. 25 that advertise Averitt and the trucks are rolling right along with light loads. With the addition of the rock quarry and the block company trucks that carry heavy loads and run slowly, there will be major accidents some day. He stated that the conditions Fiscal Court put on were because of the trucks. He still today agrees with both Staff Reports when the request was denied in 1988 and 1989 because the primary reason for denial was that this type of facility needs to be in an industrial park -- but then Averitt demonstrated that it was single-axle trucks -- and Fiscal Court took their word and overturned it. We have since found out that they did not do what they said they would do. He stated that the sixty-five door facility did not start out that way and they expanded it to sixty-five doors.

Mr. Light stated that the information referenced by Mr. Davis will be brought to the Committee Meeting.

Ms. Rebecca Gramer, owner of property at 192 Frogtown Road, stated that she was not notified when Averitt went into construction. She was the property owner in 1989 when the Planning Commission's decision was overturned by Fiscal Court. She bought the property in 1988 when there was beautiful farmland there and the home is now worth nothing. Her house is one of the two houses that can be seen when looking at the Averitt site. The property on one side sold for \$580,000 -- but they cannot get \$140,000 for their house and are now renting it. She has approached Averitt and spoken to Mr. Travis several times about the problems there. She offered Averitt her property, but they were not interested. She stated that she is against this application unless her property is also purchased by Con-Way. She stated that the decel lanes are not slow down lanes and a truck cannot get through over there. She is against this request.

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

Mr. McMillian asked what they want the restriction lifted to. Mr. Travis responded that they are asking that the restriction be removed. He stated that they are in ninety-five markets around the country and this is the only one that has attempted to limit the number of tractors or trailers on a site. He stated that there is a limitation as to how many they can physically fit on the site. Mr. McMillian stated that they do not want more parking spaces for Averitt, they want to sell the

property. Mr. Travis agreed and stated that the restriction would keep them from being able to sell the property. There is no restriction on the number of trucks at the Turfway site. He stated that they are asking that the restriction be removed because it is an encumbrance and would prevent the sale.

Mr. Costello questioned why they agreed to the restriction. Mr. Travis responded that he has no idea. Mr. Costello asked if there is anyone still with the company who could speak to that question. Mr. Travis responded that there is no one at the company who was involved in the hearings thirteen years ago.

Mr. Zimmer asked if the only use that can be on this site in this zone is a freight service center. Mr. Wall responded "yes" and explained that the site is limited to this use unless they come back through the Concept Plan process.

Mr. Zimmer stated that he did not see in the packet of information where it says that only the front end of a tractor trailer is restricted to twenty-eight and questioned where that came from. Mr. Light responded that he went over the letter Con-Way wrote to Kevin Wall and Mr. Wall's response. He stated that he did not read the 1989 Fiscal Court minutes as well as Mr. Wall did. He stated that there have always been more than twenty-eight trailers out there. He added that after hearing Mr. Davis say that he thought they were single-axle UPS-type trucks, he now understands why Fiscal Court said "trucks". Mr. Zimmer asked Mr. Wall if he was changing his interpretation. Mr. Wall responded "no" and stated that he was not here in 1989 either, but he did research the record. He does not recall the single-axle issue and the condition did not include the type of trucks. He has reviewed the Fiscal Court minutes and they are not as direct as they could be. He stated that there was a statement that the concern regarding the number of trucks was not oriented to traffic issues – it was aesthetics. He spoke with the Staff people who were here at that time because the record was not completely clear. Mr. Zimmer asked Mr. Wall if his opinion has now changed. Mr. Wall responded that Mr. Davis is the third person he has heard from who was there at the time and the stories are not completely dovetailing together. Mr. Zimmer asked if it is possible that he would have a different opinion if he were to read through the Staff Reports, Committee Reports, and minutes from 1988 and 1989. Mr. Wall responded that Mr. Zimmer might have a different opinion – but Mr. Wall is the Zoning Administrator and so his opinion is the one that counts. Counselor Wilson advised that the Zoning Administrator's interpretation is the legal decision, subject to review by a court.

In response to questions from Mr. Zimmer regarding the accel/decel lanes, Mr. Light stated that they were required by Fiscal Court, they are in the right-of-way and are owned by the state.

Mr. Zimmer asked that the Committee be provided with the Staff Reports, Committee Reports, and Fiscal Court minutes.

Mr. Zimmer stated that the request is to lift this restriction and during the review process, other conditions for the property could be discussed and agreed upon. One of his concerns is the setback from U.S. 25. He questioned the effect on the Concept Plan if the number of trucks is changed. Mr. Light responded that the Concept Plan would not change. Mr. Wall stated that his recollection of the Concept Plan is that the site improvements are maxed out and there is not much else that could fit on the site.

Mr. Zimmer asked if there is any restriction regarding outside storage on the parcel across the street. Mr. Light responded that Staff is investigating that site and will relocate the things that are too close to the road.

Mr. Ries stated that the only reason he heard as to why this restriction should be changed is that they want to be able to sell the property. Mr. Light agreed. He stated that Averitt does not want to sell it to someone and then claim that they did not know about the restriction. They are trying to sell it free and clear of restrictions. They want to sell it to finance their new business.

Mr. Ries stated that the Planning Commission is not in the business of helping people to improve their property to sell it. He stated that he knows what Richwood Road is like now and an apartment complex was defeated basically because of the traffic issue. There are three truck stops there now and it is a major traffic disaster. He has a problem with adding trucks there and, unless they go to another exit, they will be adding fuel to the fire. He can see more against this change than just allowing the property to be more saleable.

Mr. Barlow stated that the sixty-five doors were additions to the original building and asked if those additions came through the Planning Commission. Mr. Light responded that the overall Concept Plan was approved by Fiscal Court and it had the large facility on it. There was nothing approved by Site Plan Review over and about that. Mr. Wall advised that the limit was not number of doors, it was square footage of the facility.

Mr. Barlow questioned the number of trucks at the facility on an average day. Mr. Travis responded that he will have to get a count from their operations people. Mr. Barlow noted that Mr. Travis made the comment that the restriction has never been referenced and asked if that means that they have honored the twenty-eight limit. Mr. Travis responded that it means that nobody has brought up the restriction in the thirteen years they have been there. He stated that Con-Way will initially have a smaller operation than Averitt has now. Mr. Barlow asked if the number of trucks currently is greater than one hundred per day. Mr. Travis responded that his involvement is real estate as a third party and he is not as associate of Averitt. Mr. Barlow stated that he would like to have the information. Mr. Travis responded that he will provide the information to the Committee. He stated that for the Turfway Road application, they broke the data down to number of trucks/per time/per day and they will do the same for this site.

Mr. Barlow stated that aesthetics might have been the issue twelve years ago, but today there is a traffic issue because of the very large number of trucks. There are Averitt trucks at the Mt. Zion interchange every hour of every day. He stated that the traffic issues are more of a factor for maintaining this limit than they were twelve years ago and the Committee should look closely at the traffic.

Mr. Newman questioned the definitions of "truck", "trailer", and "tractor". Mr. Travis responded that the "tractor" is the cab, a "trailer" sets independently without being motorized or able to move, and when they are hooked together it is a "truck". He stated that they are not defined in the Fiscal Court minutes in 1989 and they are not sure what Fiscal Court was referencing. Mr. Newman asked if they hook the trailers and tractors together, are there less than twenty-eight coming and going per day? Mr. Travis responded that he is sure there are more than twenty-eight. He stated that the restriction has not been referenced in the years Averitt has been there and arose as a title issue. Mr. Newman stated that they are in violation of the condition. Mr. Travis stated that technically there are more than twenty-eight trucks.

Mrs. Poston stated that the facility was approved with enough square footage for sixty-five bays and only twenty-eight trucks were approved. Why did they approve this size building? Mr. Costello responded that normally those issues would be reviewed by the Planning Commission, but the application went to Fiscal Court and they made a decision and there may be some inconsistencies. The question is whether Fiscal Court really knew what they were getting. Mr. White explained that it used to be a big platform and they just enclosed the platform they had been using all the time. Mr. Travis stated that the term "door" has been used, but it is actually a bay or an open platform. Mr. White stated that the square footage has always been the same and they just added the enclosure. Mrs. Poston repeated her question of why Fiscal Court allowed a facility that big if they were only going to allow twenty-eight trucks. Mr. Hicks responded that some of the space is used for storage. Mr. Travis stated that it is an open bay facility and nothing is warehoused there. It has no walls – it is an open bay transfer dock.

Ms. Gramer stated there are trailers that set there all the time – they are not moved and have things in them, such as carpets – which would be storage. She stated that they have records and trailer numbers. They are licensed in Tennessee and Tennessee gets the taxes. She stated that the site is full all the time. Mr. Hicks stated that there is no restriction on the number of trailers. Ms. Gramer stated that she is concerned about what Con-Way will bring in. Do they carry chemicals? She questioned what they are bringing in and why they need to be allowed more trucks.

Mrs. Kegley stated that in Mr. Wall's interpretation he said that the condition pertains to the number of trucks used in the business operation which are parked on the site at any given time. She stated that they can only have twenty-eight

parked there – but the rest could be on the road and the number could be considerably higher than twenty-eight even with the restriction. Mr. Wall agreed.

Mr. Ries stated that it is hard for him to believe that a truck comes in and at the same instant a truck hauls the load away. He believes that the load at times probably sets there for a week or a month and that is storage. Anything that does not come in one door and out the other, is storage. He is sure some of the loads set there for months. Mr. Barlow agreed. He stated that this discussion is about what can be done to put more money in the pocket of a trucking company, rather than the proper zoning. He asked a representative of Con-Way to speak to the number of trucks. Attorney Monica Kohnen responded that they cannot say today how many trucks would go in there. She introduced Mr. Rick Benedict with Con-Way in Florence.

Mr. Barlow stated that this is basically negotiating a deal and not zoning.

Mr. Schwenke questioned the possibility of a company coming in there with eighty rusty trailers setting around with flat tires. He stated that Averitt keeps their equipment up very well, but Con-Way might resell the site.

Mr. Don Davis read from the Fiscal Court minutes of April 4, 1989 and reviewed his comments when he asked the applicant whether the developer would commit to no more than twenty-eight trucks per day being based at this facility and was advised by the applicant that that would be agreeable. He stated that that was twenty-eight single-axle trucks – a tractor trailer is not a truck. He stated that the trucks were described as similar to a UPS delivery truck. He stated that there is nothing in the minutes that addresses aesthetics and that was not part of the discussion. Mr. Newman asked if the minutes state “single-axle” or “UPS”. Mr. Davis responded “no”, but added that that was what was expressed and that is what the brochures were all about. That is what Averitt showed to Fiscal Court. He stated that when the application was denied, it was denied because they wanted to use tractor trailers. The Planning Commission voted for denial because a facility with tractor trailers should be in an industrial park. Mr. Newman asked again if there is anything in the minutes that substantiates what Mr. Davis is saying about UPS trucks and single-axle trucks. Mr. Davis responded “no” but stated that the Staff Reports talk about tractor trailers, not about trucks – they changed it to “trucks” when they got to Fiscal Court.

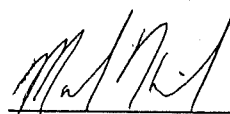
Mr. Hicks stated that before the Committee meeting, the Commissioners need to have the Staff Reports, Committee Reports, and Fiscal Court minutes. Mr. Light stated that he will get the minutes from the Public Hearings and Business Meetings, the Committee Reports, and Fiscal Court minutes (the ones he has currently start on Page 10). He will get the information to the full Commission and makes sure the Committee members receive it a day or two before the Committee meeting.

Mr. Hicks reminded the applicant that he agreed to get information to the Planning Commission regarding how many trucks go in and out of the site per day, how many are there at 8 AM and how many are there are 5 PM. He advised the applicant to be prepared to discuss what a fair number might be in case there is discussion of changing the limit to another number.

There being no further comments, the Mr. Hicks stated that the Committee Meeting for this item will be on December 5, 2001 at 4:00 PM in the Fiscal Courtroom. This item will be on the Agenda for the Business Meeting on December 19, 2001 at 7:30 PM.

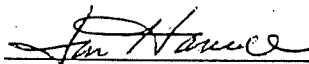
Mr. Hicks closed this Public Hearing at 8:25 PM.

APPROVED:



Mark Hicks
Temporary Presiding Officer

Attest:



Jan Hancock, Recording Secretary

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Mark Hicks, Committee Chairman

DATE: December 19, 2001

RE: Request of Dee Travis (applicant) for Averitt/SDG Properties (owner) to consider an application for a Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The request is to remove a prior condition of zone change approval which limits the number of trucks that are kept on the site.

REMARKS:

We, the Committee Members were present at the Committee Meeting and voted on the above request or else were absent from voting. Further, based upon the vote, the Committee directs the Staff to draft the findings of fact and conditions if deemed necessary in order to complete the Committee Report.

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE
December 19, 2001
Dee Travis/Averitt/SDG Properties
10755 Dixie Highway

Mark Hicks

Mark Hicks, Chairman
For Against _____
Abstain _____ Absent _____
Deferred _____

Bob Newman

Bob Newman
For Against _____
Abstain _____ Absent _____
Deferred _____

Susan Poston

Susan Poston
For Against _____
Abstain _____ Absent _____
Deferred _____

Earl White

Earl White
For Against _____
Abstain _____ Absent _____
Deferred _____

David Zimmer

David Zimmer
For Against _____
Abstain _____ Absent _____
Deferred _____

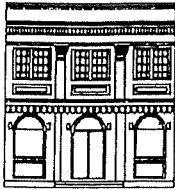
Randy Barlow (Alternate)*
For _____ Against _____
Abstain _____ Absent _____
Deferred _____

Don McMillian (Alternate)*
For _____ Against _____
Abstain _____ Absent _____
Deferred _____

TOTAL: _____ DEFERRED 5 FOR _____ AGAINST _____ ABSTAIN
_____ ABSENT

SUPPORTING INFORMATION

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

January 2, 2002

Mr. Dee Travis
Travis Development Company
5309 Meadowlake Road
Brentwood, TN 37027

RE: Conditions of Approval for the request of **Dee Travis (applicant)** for **Averitt/SDG Properties (owner)** to consider a Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The request is to remove a prior condition of zone change approval which limits the number of trucks that are kept on the site.

Dear Mr. Travis:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their December 19, 2001 meeting. If you, as the authorized representative of the property owner, agree to these conditions, please indicate by signing in the space provided at the end of this letter, and return the original letter to the Planning Commission's office by Friday, December 28, 2001.

CONDITIONS

1. The property owner agrees to only preventive maintenance of the trucks and trailers on this property.
2. The property owner agrees that there will be no storage of ~~dilapidated~~ ^{un-road worthy} trailers on this property. DTT
01/02/02
3. The property owner agrees to no future expansion of the truck dock area or truck and trailer circulation/storage area without prior approval of the Boone County Planning Commission and the Boone County Fiscal Court.

4. The property owner agrees that the trailers will not be used for storage. ^{other than} ~~the storage of goods in transit.~~

Sincerely,

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

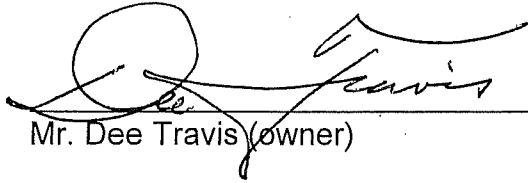
DTT
01/02/02

MALpr

Mr. Dee Travis
December 20, 2001
Page 2

Agreement

I, Dee Travis, do hereby agree to the conditions of approval stated above for the Change in an Approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky to remove a prior condition of zone change approval limiting the number of trucks that are kept on the site.


Mr. Dee Travis (owner)

01/02/02
(date)

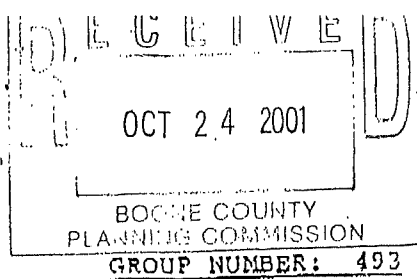


EXHIBIT "A"

Located generally in Boone County, Kentucky, on the west side of U.S. Highway No. 25 about 200 feet north of Frogtown Road (Kentucky Highway No. 536) and described particularly thus:

Beginning at an iron pipe on the northeast corner of Lot No. 4 of the Theo. Carpenter Estate Farm division in the West line of U.S. Highway No. 25; thence along said line of said highway (30 feet from centerline) S. 8-00 W., 450.80 feet to a corner therein of Lot No. 4 of the Theo. Carpenter Estate Subdivision; thence with the north line of Lots No. 4 to 22 inclusive of said subdivision N. 84-12-45 W., 1110.11 feet to a point in the east right-of-way line of Interstate Highway No. 75; thence with said east line N. 6-29-45 W., 651.70 feet, N. 18-44 E., 276.66 feet to a point in the north line of Tract No. 4 of the Carpenter Estate Farm Division; thence therewith S. 47-17-30 E., 492.68 feet, S. 46-31 E., 252.21 feet, S. 83-41-45 E., 610.86 feet or sufficient to reach the place of beginning, containing 15.6538 acres of land subject to legal easements of record and in existence.

There is excepted from the foregoing that certain .330 acres conveyed to the Commonwealth of Kentucky for the use and benefit of the Transportation Cabinet, Department of Highways, by Deed dated the 28th day of June, 1988, and recorded in Highway Deed Book 15, Page 117 of the Boone County Clerk's records at Burlington, Kentucky, which is more particularly described as follows:

Situated in Boone County, Kentucky on the east side of I-75 and in the vicinity of the I-75 Northbound Boone County Rest Area, which lies approximately 1.2 miles north of the Richwood Interchange (KY 338) and being more particularly described as follows:

Beginning at a point 158.77 feet right of Station 520+25.00 in the centerline of I-75 as now staked, said point being the point of intersection of the proposed easterly control of access and right-of-way line, and the existing easterly right-of-way of I-75; thence S. 19 deg. 23'-05" E., along said proposed control of access and right-of-way line a distance of 200.41 feet to a point 205.00 feet right of I-75 Centerline Station 518+30.00; thence S. 6 deg. 02'-47" E., continuing along said proposed easterly control of access and right-of-way line a distance of 90.00 feet to a point 205.00 feet right of I-75 Centerline Station 517+40.00; thence S. 18 deg. 34'-38" W., continuing along said proposed easterly control of access and right-of-way line a distance of 132.00 feet to a point 150.00 feet right of

I-75 Centerline Station 516+20.00, said point being in the existing easterly right-of-way line of I-75, said point also being in grantors' westerly property line; thence N. 6 deg. 02'-47" W., along said existing easterly right-of-way line and along grantors' westerly property line a distance of 386.07 feet to a point 150.00 feet right of I-75 Centerline Station 520+06.07; thence N. 18 deg. 48'-01" E., continuing along said existing easterly right-of-way line and the grantors' westerly property line a distance of 20.86 feet to the point of beginning, containing 0.330 acres, more or less.

STAFF REPORT

REQUEST OF AVERITT EXPRESS FOR A ZONING MAP AMENDMENT FOR PROPERTY ON U.S. 25 NORTH OF FROGTOWN ROAD

This is a request for a Zoning Map Amendment by Averitt Express to rezone a 15.65 acre site from Commercial Services (C-3) to Industrial One (I-1), to allow the construction of a freight transportation distribution center. The property is owned by Gorman Dillingham and is located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road.

Background

This property has been the subject of two previous Zoning Map Amendment requests. On May 7, 1986, the Planning Commission recommended denial of a request to rezone this property from Suburban Residential One (SR-1) to Industrial One (I-1). On July 2, 1986, a second application to rezone the property, from Suburban Residential One (SR-1) to Commercial Services (C-3) for use as a crane rental business, was approved with conditions. The crane rental business was never developed, however, and the property is currently undeveloped.

Surrounding Land Uses and Zoning

north: SR-1; single-family residences fronting on U.S. 25, mostly agricultural uses
south: C-3; a bearings business, single-family residences, a dog kennel, and a mobile home park is located on the opposite (south) side of Frogtown Road
east: C-3 and I-1; a gasoline service station, clothing store, and restaurant, I-1 and I-2 zoning beyond
west: I-75 forms the west boundary, beyond is zoned SR-1

Site Features

The majority of the site is fairly level or gently sloping, although the northwest corner of the site slopes down approximately 30 feet to a natural drainageway. Soils on this site are of the Rossmoyne series, between 0 and 12 percent slopes, and are generally suitable for industrial development. The approximate elevation of this site is 920 feet.

Currently the majority of the site is fallow fields. There are the foundations of old farm out-buildings and a burned-down house, as well as a small paved area and driveway.

Relationship to the Comprehensive Plan

The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of this property to be Commercial along U.S. 25 and High Density Residential (greater than eight dwelling units per acre) on the remainder of the site.

The Land Use Element of the Plan makes the following statements about the general area:

"The growth of this area will be impacted in several ways. The major influences will be the Northern Kentucky Industrial Park to the north, the proposed Mt. Zion interchange on I-75, the Hopeful Road connection to the Industrial Park, development pressures along US 25, and the Southern Railroad Line. Because of the development pressure, all necessary types of infrastructure will increase in scale...The Mt. Zion interchange will have the single largest impact on this area...Commercial activity associated with the interchange should be concentrated on the northeast quadrant. Most of the existing residential development is south of Mt. Zion although the Mobile Home Park Uses will experience pressure from high land values in the future...Because of the various land uses along US 25, it will carry a wide selection of traffic types. For this reason any traffic intensive or truck-oriented uses should locate near connections to the interstate."

(pp. L-20, 21)

The Business Activity Element of the Comprehensive Plan states:

"The Richwood and Walton interchanges will serve an increasing amount of industrial traffic along the US 25 and I-75 corridor. Most of the industrial activity should locate near the interchanges to minimize travel on non-interstate roads." (p. B-16)

Goals and Objectives for Industrial uses include:

1. Industries shall be organized in clusters or similarly grouped to permit benefits of agglomeration and reduce traffic congestion in other areas.
2. Industrial development shall be encouraged to locate near railroads, highways, airports and/or the Ohio River.

3. Amenity for industrial uses and a favorable relationship with adjoining uses should be fostered by means of design. Industrial nuisances such as smoke, dust, noise, and odor should be controlled.

The Transportation Element of the Comprehensive Plan states:

"As urbanized areas expand and increase in population, some rural roads experience enough through traffic that they become functionally more important in the road classification hierarchy. For this element and the comprehensive plan, several of the rural major collectors have been reclassified to rural major arterials. These include U.S. 25, U.S. 42-127, KY 18 from the urban line to Burlington, and KY 237 from I-275 to KY 18...The arterials should be regarded as the roadways most suitable for planned land use development in the county. Arterials close to the urbanized areas are prime for commercial development although intense development can impede through traffic...The resurfacing of U.S. 25 at the Richwood Exit and the proposed connection of the I-75/I-71 junction to U.S. 25 north of Walton makes the Kensington area very favorable for industrial development while offering the Walton area a resurgence of population growth."

Staff Concerns

1. The proposed use of this property, should the zone change be approved by the Commission and the Fiscal Court, would generate a high volume of truck traffic on a portion of U.S. 25 which is projected for increased traffic of all kinds. The Staff is concerned that the traffic generated by this site would adversely impact existing and future non-industrial traffic on U.S. 25, creating traffic congestion and stacking problems.
2. The applicant has not provided any trip generation figures to allow analysis of the potential traffic impact of the proposed use on this portion of U.S. 25. Further, the applicant has not provided for any improvements to the portion of U.S. 25 that the site would access, such as widening or creation of sufficient turning radius.
3. The proposed use of this property substantially deviates from the use projected for the area in the Boone County Comprehensive Plan. The Staff feels the proposed Industrial One (I-1) zoning is not appropriate at this location on the

west side of U.S. 25, as it is not compatible with the commercial/residential land uses and zoning of the surrounding properties and with the Comprehensive Plan. The Staff further feels this use would be better located in a clustered industrial area, such as, but not limited to, the Richwood Industrial Park, which is located approximately 3000 feet south of the subject property. This would place the use closer to the Richwood Exit access to I-71/I-75, thus reducing truck travel on U.S. 25.

4. The Concept Development Plan submitted with this request indicates approximately 43% of the total area will be paved. This could create a negative visual impact on the surrounding properties, particularly the residential areas to the north and south of the site. The proposed landscaped areas are of insufficient width to meet with the requirements of the Boone County Zoning Regulations.

Conclusion

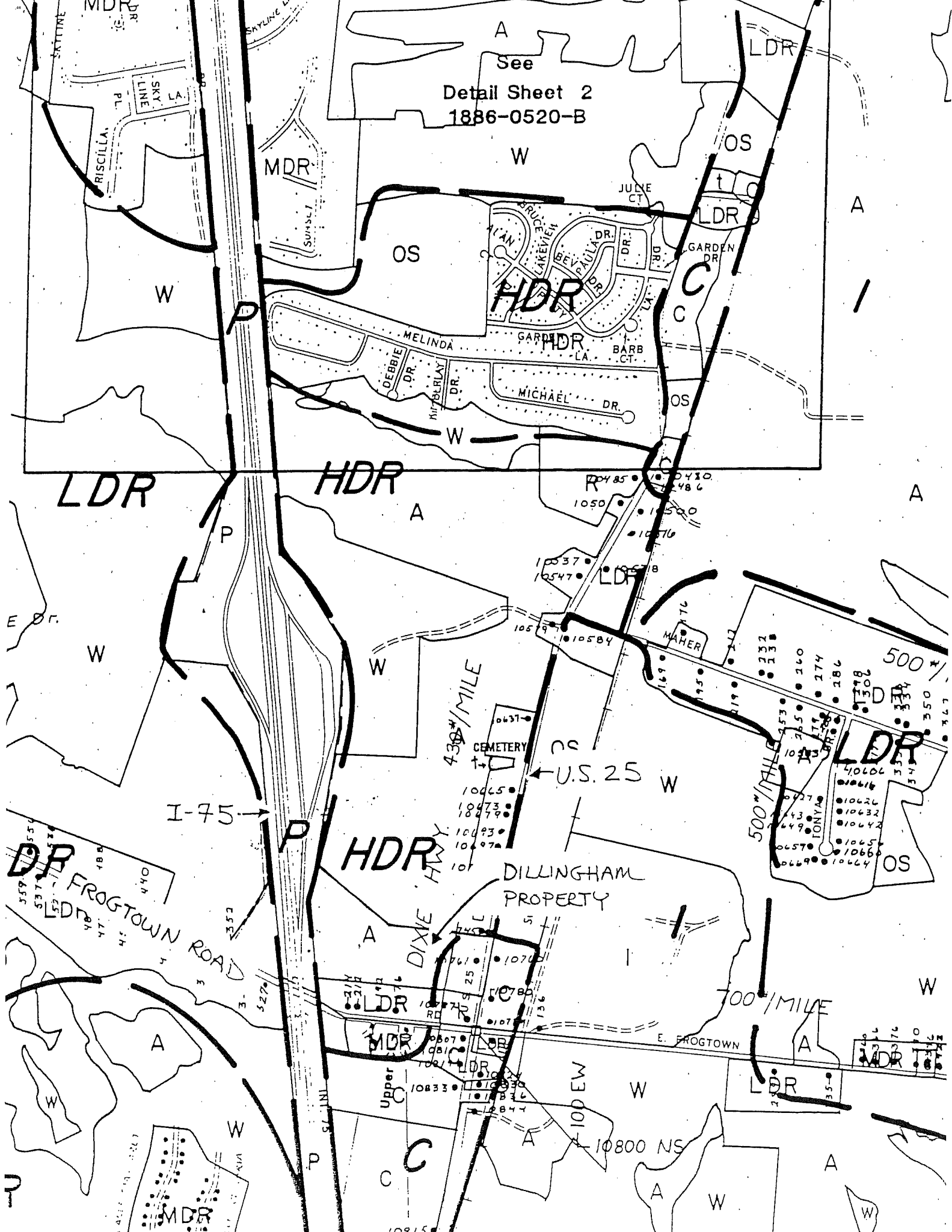
Should the Planning Commission recommend, and the Fiscal Court subsequently approve, this Zoning Map Amendment, the Boone County Comprehensive Plan will need to be amended.

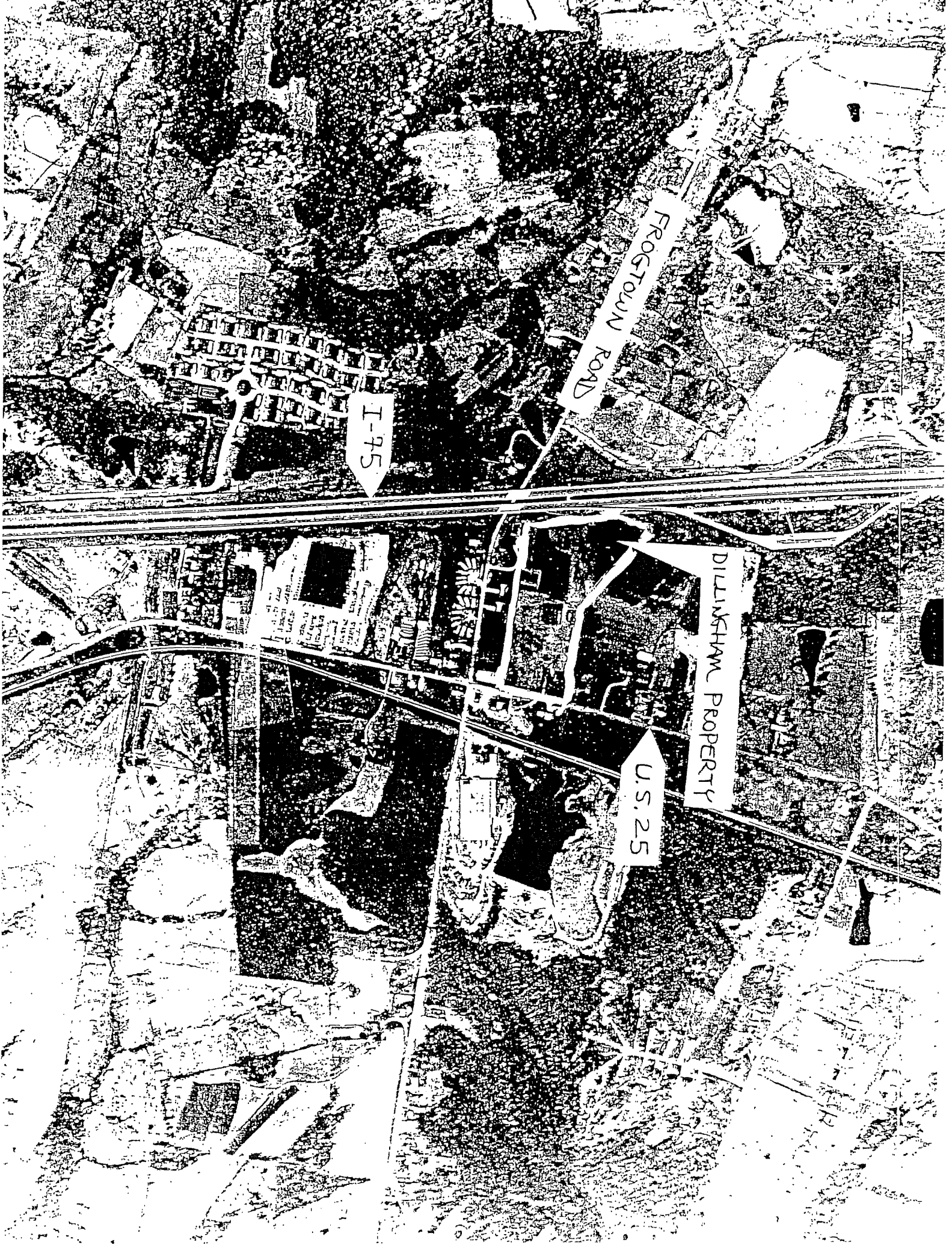


Paul R. Miller
Plans Examiner/Planner

PRM:mcb

Detail Sheet 2
1886-0520-B





FROSTOWN ROAD

I-75

DILKINHAM PROPERTY

U.S. 25

Small illegible label

AVERRITT EXPRESS ZONING-MAP AMENDMENT

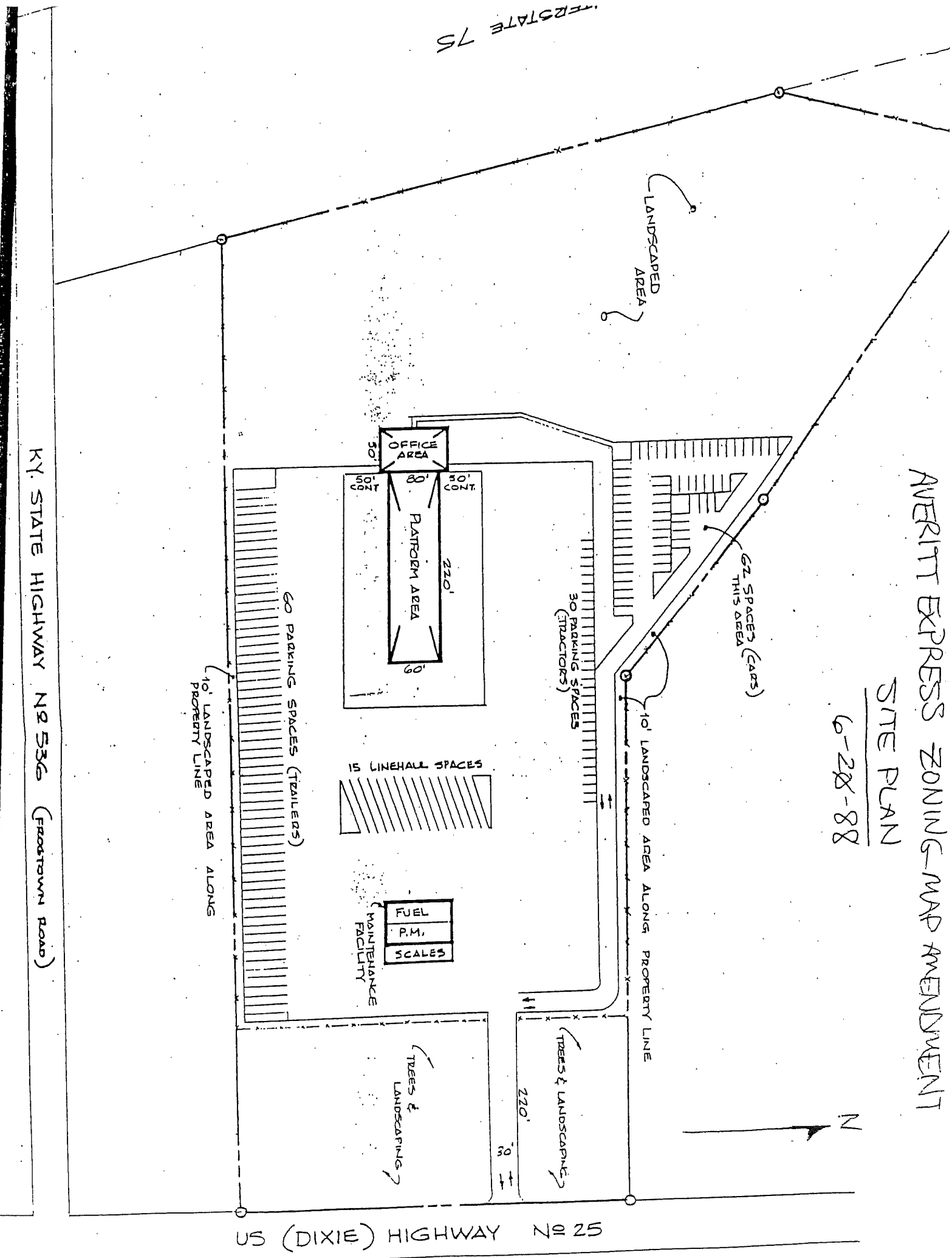
SITE PLAN

6-28-88

KY. STATE HIGHWAY NO 536 (FRODTOWN ROAD)

US (DIXIE) HIGHWAY NO 25

STATE 75



BOONE COUNTY PLANNING COMMISSION

Public Hearing Item #5
June 29, 1988

Page 1

Following a five-minute recess, Chairman Viox introduced the last item on the Agenda:

5. Applicant: Averitt Express
Request: Zoning Map Amendment

This was a Public Hearing on the request of Averitt Express for a Zoning Map Amendment for property located on the west side of U.S. 25 (Dixie Highway) approximately 300 feet north of Frogtown Road. The 15.65-acre site is presently zoned Commercial Services (C-3) and the request is to rezone the site to Industrial One (I-1).

Staff Member, Paul Miller, presented slides of the site and surrounding area.

Chairman Viox asked if there was a representative of the applicant present who wished to comment.

Mr. Jerome Terrill, Regional Director for Averitt Express, stated that they are a transportation company operating in eight states. They currently have six facilities in Kentucky. They have over 1,400 associates, each of whom has ownership in the company. Their facilities and equipment are state-of-the-art. Mr. Terrill stated that they have received safety awards and offered to show them to the Commission. He presented an artist's rendering of a facility in Knoxville, which would be similar to the proposed facility except for the location of the parking. He stated that an addition to their Site Plan based on the suggestion of an adjoining property owner, Mr. Don Davis, are turning lanes to give the equipment more turning room.

Chairman Viox asked that the Site Plan be provided to the Commission.

Chairman Viox asked if there was anyone else present who wished to speak in favor of the request.

Mr. Floyd Kells, owner of a farm adjoining this property on the north side, stated that this would be an improvement to the area and a good project for the county. He stated that the project will also benefit him.

Ms. Jane Wershan, representing the property owner in the sale of the property, asked that Mr. Terrill explain the nature of their business more fully so that there will be no misunderstanding. She stated that this company would enhance Boone County.

Mr. Terrill stated that their operation is like a warehouse, but it is a short-term warehouse since items are only stored until they are delivered. The warehouse is emptied twice a day. Their business is a delivery service of all types of shipments.

Chairman Viox asked if there was anyone else present who wished to speak. There being no one, he asked if there were any comments from the Commission.

Mr. Damstrom questioned the square footage of the proposed building. Mr. Terrill advised that it will be approximately 20,000 sq. ft..

Mr. McMillian asked if this was a delivery-type service or a distribution center. He asked if trucks were stored on the site. He asked what activities there were on the site besides shipping parcels.

Mr. Terrill stated that the trucks would be fueled and lubricated on the site, but there will be no major repairs. He stated that there would be only preventative maintenance of the trucks. There will also be storage of the equipment.

In response to a question from Mr. Collins, Mr. Kells advised that there is a building next to the site used for plumbing materials. Mr. Collins noted that this operation is in a single-family residential area. Chairman Viox asked that this be investigated.

Mr. Moore questioned the number of trucks going to and from the site in a 24-hour period.

Mr. Terrill advised that there would be ten to twelve trucks going out in the morning and returning in the evening, with possibly a few trips during the day. They expect to grow to about 25 trucks per day.


Mr. Neltner questioned the parking on the site, noting there are 62 parking spaces.

Mr. Terrill stated that they encourage their customers to visit the site. There may also be people who will take a tractor out and be gone four or five days and need a place to park their car. The operation is expected to grow to 40 or 50 employees in two years. He added that their working hours are from about 5 a.m. to 9 p.m..

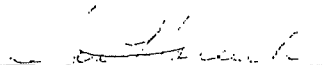
At this time, Mr. Miller completed the Staff Report (see Staff Report).

There being no further discussion, Chairman Viox advised that this item will be on the Agenda for the Business Meeting on July 6, 1988 at 8 P.M. and closed this Public Hearing.

APPROVED:


William R. Viox, Chairman

ATTEST:


Jan Hancock, Recording Secretary

COMMITTEE REPORT

2

TO: Boone County Planning Commission

FROM: Donald McMillian, Chairman

DATE: July 20, 1988

RE: Request of Averitt Express for a Zoning Map Amendment for property located on the west side of U.S. 25 (Dixie Highway) approximately 300 feet north of Frogtown Road. The 15.65 acre site is presently zoned Commercial Services (C-3) and the request is to rezone the site to Industrial One (I-1).

REMARKS:

We the Committee, recommend denial based upon the following findings of fact. These findings are based upon the statements made at the June 27, 1988 Public Hearing.

1. The requested zone change is not in agreement with the 1986 Boone County Comprehensive Plan which recommends the future land use of this property to be Commercial along U.S. 25 and High Density Residential on the remainder of the site.
2. The applicant has failed to show that the existing Commercial Services (C-3) zoning classification is inappropriate and that the proposed Industrial One (I-1) classification is appropriate.
3. The applicant has failed to show there have been major changes of an economic, physical, or social nature not anticipated in the 1986 Boone County Comprehensive Plan that substantially alter the area's character.
4. The Committee feels the proposed use of this site would create a high volume of truck traffic which would have a substantial adverse impact on the current and future traffic volume and patterns on U.S. 25. The Committee further feels this type of use would be better located in a clustered industrial area closer to the major interstates as stated in the 1986 Boone County Comprehensive Plan. Finally, the Committee feels the proposed use would be in conflict with the adjoining residential uses to the north of the subject property.

(Committee member signatures on following page.)

Don McMillian

Donald McMillian, Chairman

Larry Barnett

Larry Barnett

Fred Burch

Rector Jones

Carol Smith

Carol Smith

DM:kat

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

July 20, 1988

8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:00 P.M..

COMMISSION MEMBERS PRESENT:

Mr. Larry Barnett, Vice Chairman
Mr. Fred Burch
Mrs. Rita Bushelman
Mr. Lawrence Collins
Mr. Phil Damstrom
Mr. Rector Jones
Mr. Don McMillian
Mr. Charles Moore
Mr. Barry Neltner
Mr. Ralph Rush
Mr. Floyd Sharp
Mrs. Carol Smith
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

Mr. Melvin DeLong
Mr. R. N. Greene

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

The Chairman advised that Mr. Greene's wife had passed away on Saturday, July 16, and expressed the deepest sympathy of the Commission to the Greene family in their loss. Services for Mrs. Greene were on Tuesday, July 19.

Chairman Viox asked if there were any comments from the Commission.

There being no discussion, Mr. Burch moved by resolution to the Boone County Fiscal Court that the request be approved based on the Staff and Committee Reports, subject to the conditions. Mr. Collins seconded the motion.

The Chairman asked for a vote on the motion made by Mr. Burch which found all those voting to be in favor.

Mrs. Bushelman stated that she had abstained from voting as she was not present at the Public Hearing and could not make the proper judgment. Mr. Rush stated that he was present but not voting as he was not present at the Public Hearing.

The motion carried.

Mr. Barnett moved that the Land Use Plan be changed to reflect the Committee Report following final action on the zone change for adoption. Mrs. Smith seconded the motion and it carried unanimously.

2. Zoning Map Amendment

The request of Averitt Express for a Zoning Map Amendment for property located on the west side of U.S. 25 (Dixie Highway) approximately 300 feet north of Frogtown Road. The 15.65-acre site is presently zoned Commercial Services (C-3) and the request is to rezone the site to Industrial One (I-1).

Mr. Gerald Newton, Director, read the Committee Report which recommended denial of the request based on the findings of fact (see Committee Report).

The Chairman asked if there was a representative of the applicant present. There being no response, he asked if there was anyone else present who wished to speak in regard to this request.

There being no discussion, Mr. McMillian moved that the request be denied based on the Committee Report. Mr. Neltner seconded the motion.

The Chairman asked for a vote on the motion which found all voting members in favor. Mr. Rush stated that he was present and not voting as he was not present at the Public Hearing.

The motion carried.

3. Concept Development Plan and Conditional Use Permit

The request of Flying J, Inc. for revision of a previously approved Concept Development Plan and Conditional Use Permit for a truck stop and travel plaza. The 10.286-acre site is located at the southwest quadrant of the I-75/Walton Interchange, Walton, Kentucky, and is zoned Commercial Services (C-3).

RESOLUTION 08-88-01

A RESOLUTION OF THE BOONE COUNTY FISCAL COURT FOR A ZONING MAP AMENDMENT TO THE BOONE COUNTY, KENTUCKY ZONING MAP, SUCH MAP AMENDMENT BEING A ZONE CHANGE FROM COMMERCIAL SERVICES (C-3) TO INDUSTRIAL ONE (I-1) FOR A 15.65 ACRE SITE GENERALLY LOCATED ON THE WEST SIDE OF U.S. 25 (DIXIE HIGHWAY) APPROXIMATELY 300 FEET NORTH OF FROGTOWN ROAD, BOONE COUNTY, KENTUCKY, BEING REQUESTED BY AVERITT EXPRESS (APPLICANT) AND BEING RECOMMENDED FOR DENIAL BY THE BOONE COUNTY PLANNING AND ZONING COMMISSION VIA RESOLUTION R-39-88.

WHEREAS, the Boone County Fiscal Court received a request for denial for a Zoning Map Amendment to the Boone County zoning map and such Zoning Map Amendment being a zone change from Commercial Services (C-3) to Industrial One (I-1) for a 15.65 acre site generally located on the west side of U.S. 25 (Dixie Highway) approximately 300 feet north of Frogtown Road, 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 denial for the zoning map amendment.

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

SECTION I

That the zoning map amendment for the real estate which is more particularly described below shall be and is hereby recommended for denial, this Zoning Map Amendment being a zone change from Commercial Services (C-3) to Industrial One (I-1) for a 15.65 acre site generally located on the west side of U.S. 25 (Dixie Highway) approximately 300 feet north of Frogtown Road, Boone County, Kentucky. The real estate which is the subject of this zoning map amendment recommendation for denial is more particularly described in attached "Exhibit A."

SECTION II

That as a basis for the recommendation of denial for the zoning map amendment request is the findings of fact of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Resolution and marked as "Exhibit B."

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

RESOLUTION 08/88/01
PAGE 2

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

Introduced, seconded and given First Reading on the _____ day of _____, 19 _____.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the _____ day of _____, 19 _____, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the the County Fiscal Court Clerk and declared to be in full force and effect.

BRUCE FERGUSON
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:

R. SCOTT KIMMICH
FISCAL COURT CLERK

SUBMITTED BY:

LARRY CRIGLER
BOONE COUNTY ATTORNEY

DATE PUBLISHED

STAFF REPORT

#4

REQUEST OF AVERITT EXPRESS FOR A ZONING MAP AMENDMENT
FOR PROPERTY ON U.S. 25 NORTH OF FROGTOWN ROAD

JANUARY 25, 1989

This is a request for a Zoning Map Amendment by Averitt Express to rezone a 15.6538 acre site located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road. The site is currently zoned Commercial Services (C-3), and the request is to change the zone to Industrial One (I-1) to allow the development of an express freight service center. The property is owned by Gorman Dillingham.

Background

This property has been the subject of three previous Zoning Map Amendment requests. On May 7, 1986, the Planning Commission recommended denial of a request to rezone this property from Suburban Residential One (SR-1) to Industrial One (I-1). On July 2, 1986, a second application to rezone the property, from Suburban Residential One (SR-1) to Commercial Services (C-3) for use as a crane rental business, was approved with conditions. The crane rental business never opened, however, and the property was not developed. On June 7, 1988, an application was made to rezone the property from Commercial Services (C-3) to Industrial One (I-1) to allow an express freight service center on the site. This zone change was recommended for denial by the Planning Commission on July 20, 1988, and the application was withdrawn before the request was heard by the Fiscal Court.

The present request for rezoning the Dillingham property is by the same applicant as the June of 1988 request, Averitt Express, and for the same proposed use. The applicant has submitted a Concept Development Plan as part of this application which varies from that submitted as part of the 1988 request, and information concerning traffic generation.

Surrounding Land Uses and Zoning

- north: SR-1; single-family residences fronting on U.S. 25, mostly agricultural uses
- south: C-3; a bearings business, single-family residences, and a dog kennel. A mobile home park is located on the opposite (south) side of Frogtown Road
- east: C-3 and I-1; a gasoline service station, clothing store, and restaurant, I-1 and I-2 zoning beyond
- west: I-75 forms the west boundary, beyond is zoned SR-1

=====

Site Features

The majority of the site is fairly level or gently sloping, although the northwest corner of the site slopes down approximately 30 feet to a natural drainage way. Soils on this site are of the Rossmoyne series, between 0 and 12 percent slopes. The approximate elevation of this site is 920 feet. Currently the majority of the site is fallow fields. There are the foundations of old farm out-buildings and a burned-down house; as well as a small paved area and driveway.

Relationship to the Comprehensive Plan

The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of this property to be Commercial along U.S. 25 and High Density Residential (greater than eight dwelling units per acre) on the remainder of the site.

The Land Use Element of the Plan makes the following statements about the general area:

"The growth of this area will be impacted in several ways. The major influences will be the Northern Kentucky Industrial Park to the north, the proposed Mt. Zion interchange on I-75, the Hopeful Road connection to the Industrial Park, development pressures along US 25, and the Southern Railroad Line. Because of the development pressure, all necessary types of infrastructure will increase in scale...The Mt. Zion interchange will have the single largest impact on this area...Commercial activity associated with the interchange should be concentrated on the northeast quadrant. Most of the existing residential development is south of Mt. Zion although the Mobile Home Park Uses will experience pressure from high land values in the future...Because of the various land uses along US 25, it will carry a wide selection of traffic types. For this reason any traffic intensive or truck-oriented uses should locate near connections to the interstate (pp. L-20, 21)."

The Business Activity Element of the Comprehensive Plan states:

"The Richwood and Walton interchanges will serve an increasing amount of industrial traffic along the US 25 and I-75 corridor. Most of the industrial activity should locate near the interchanges to minimize travel on non-interstate roads (p. B-16)."

Goals and Objectives for Industrial uses include:

1. Industries shall be organized in clusters or similarly grouped to permit benefits of agglomeration and reduce traffic congestion in other areas.

- =====
2. Industrial development shall be encouraged to locate near railroads, highways, airports and/or the Ohio River.
 3. Amenity for industrial uses and a favorable relationship with adjoining uses should be fostered by means of design. Industrial nuisances such as smoke, dust, noise, and odor should be controlled (p. G-4)."

The Transportation Element of the Comprehensive Plan states:

"As urbanized areas expand and increase in population, some rural roads experience enough through traffic that they become functionally more important in the road classification hierarchy. For this element and the comprehensive plan, several of the rural major collectors have been reclassified to rural major arterials. These include U.S. 25, U.S. 42-127, KY 18 from the urban line to Burlington, and KY 237 from I-275 to KY 18...The arterials should be regarded as the roadways most suitable for planned land use development in the county. Arterials close to the urbanized areas are prime for commercial development although intense development can impede through traffic...The resurfacing of U.S. 25 at the Richwood Exit and the proposed connection of the I-75/I-71 junction to U.S. 25 north of Walton makes the Kensington area very favorable for industrial development while offering the Walton area a resurgence of population growth (p.T-3 and T-4)."

Concept Development Plan

The submitted Concept Development Plan indicates the construction of an office, loading platform, and fuel station. Access to the site would be by a single curb cut onto U.S. 25. Parking spaces for trailer-trucks and employee cars are provided. Improvements to U.S. 25 would consist of constructing a deceleration lane for southbound truck traffic of approximately 210 feet, and an acceleration lane for southbound trucks of approximately 300 feet. Landscaped buffer yards would be placed between the subject property and the properties to the north and south, as well as a landscaped yard to be located between the proposed paving on the site and U.S. 25.

Staff Concerns

1. LAND USE CONCERNS

The proposed use of this site substantially deviates from the use projected for the area in the Boone County Comprehensive Plan, which indicates commercial and residential uses for this property. The Staff feels the proposed Industrial One (I-1) zoning is not appropriate at this location on the west side of U.S. 25, as it would constitute an intrusion of an industrial use into the existing and projected commercial and residential land uses and zoning of the surrounding properties. The Staff

=====

believes a mutually compatible mixture of industrial, commercial, and residential uses on the west side of U.S. 25 from Maher Road to Frogtown Road can only be achieved with great care and coordinated development to insure harmonious land uses. Further, the proposed use is not compatible with the Comprehensive Plan, which calls for light industrial uses to be located almost exclusively on the east side of this portion of U.S. 25.

The Staff also believes this use would be better located in a clustered industrial area, such as, but not limited to, the Richwood Industrial Park, which is located approximately 3000 feet south of the subject property. This would place the use closer to the Richwood Exit access to I-71/I-75, thus reducing truck travel on U.S. 25. It would also be in greater compliance with the Comprehensive Plan, which encourages industrial uses to locate in clustered areas, encourages truck-oriented uses to be located close to interstate accesses in order to reduce travel on non-interstate roads, and indicates that the area near the Richwood exit is ideal for industrial development on U.S. 25.

2. TRAFFIC AND ACCESS CONCERNS

The Staff concerns regarding traffic relate to the land use concerns discussed above. The concern is the is the appropriateness of locating the proposed development on this site. At present, U.S. 25 is a two lane roadway that handles a significant amount of traffic, and will have increased demands placed upon it in the future. With only two through lanes, the efficiency of the roadway is decreased by additional curb cuts. This is especially true for a driveway that will serve semi-truck traffic.

The Concept Development Plan indicates that acceleration and deceleration lanes will be constructed along U.S. 25. This will benefit traffic entering the site from the north or exiting to the south. The Staff's concern is that the majority of the traffic will be entering from the south, having to turn left across traffic. A vehicle stopping to make this turn into the proposed development will have the immediate effect of backing up traffic along U.S. 25.

The site distance is adequate at this point on U.S. 25, however, traffic entering and exiting the site will cause traffic problems and delays. Staff believes that it is inappropriate and unsafe to locate a truck-oriented operation at this site, due to the existing traffic volumes and capacity of the roadway.

=====
Traffic Volume

The amount of traffic as estimated by the applicant for the development will be:

		24 hr ADT	AM Peak	PM
Truck Terminal	Trucks	114	15	14
	Cars	56	20	16
	Total	170	35	30

All of the traffic generated by the proposed use will be new, or additional, traffic on U.S. 25. As stated above, the Staff is concerned with the amount of truck traffic that will be generated, impacting the current traffic volume on this portion of U.S. 25.

The latest traffic count for this portion of U.S. 25 is 7,000 vehicles per day, as determined by the Kentucky Transportation Cabinet in 1984. Although the traffic on this roadway has not been recently measured, the volume has surely grown substantially over the past four years, given the increase in residential and industrial uses located to the north and south of the U.S. 25/Frogtown Road intersection. Great care must be taken to insure that the roadway capacity will continue to be sufficient to meet existing and future demands.

Access Management

The Access Management Regulations identify U.S. 25 as a Class I Arterial roadway. This road is to provide medium to high speeds and traffic volumes over medium to long distances. The primary function of U.S. 25 is to move traffic through the area, access to adjoining property being subordinate. Proposed developments on U.S. 25, therefore, should be analyzed in terms of traffic movement impacts first.

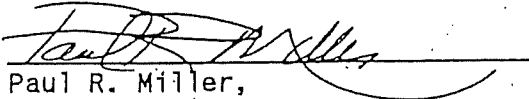
Section 1740A of the Boone County Zoning Regulations speaks to the need to maintain the capacity of existing roadways. "The Planning Commission may require that upon completion of a development all traffic requiring access to and from the development shall operate in such a manner as to not adversely affect the capacity of the roadway." The Staff is concerned that the proposed use, because of the volume and type of traffic that will be generated, will adversely affect the capacity of the roadway. Finally, if approved, the applicant should be required to provide access to adjoining properties. Dependant upon the development of the properties along U.S. 25, provisions for locating and construction a frontage road may also be required.


=====

Conclusion

Should the Planning Commission recommend, and the Fiscal Court subsequently approve, this Zoning Map Amendment, the Boone County Comprehensive Plan will need to be amended to reflect the industrial use.

Respectfully submitted,


Paul R. Miller,
Plans Examiner/Planner


Douglas S. Powell,
Transportation Planner

PRM/DSP:kat

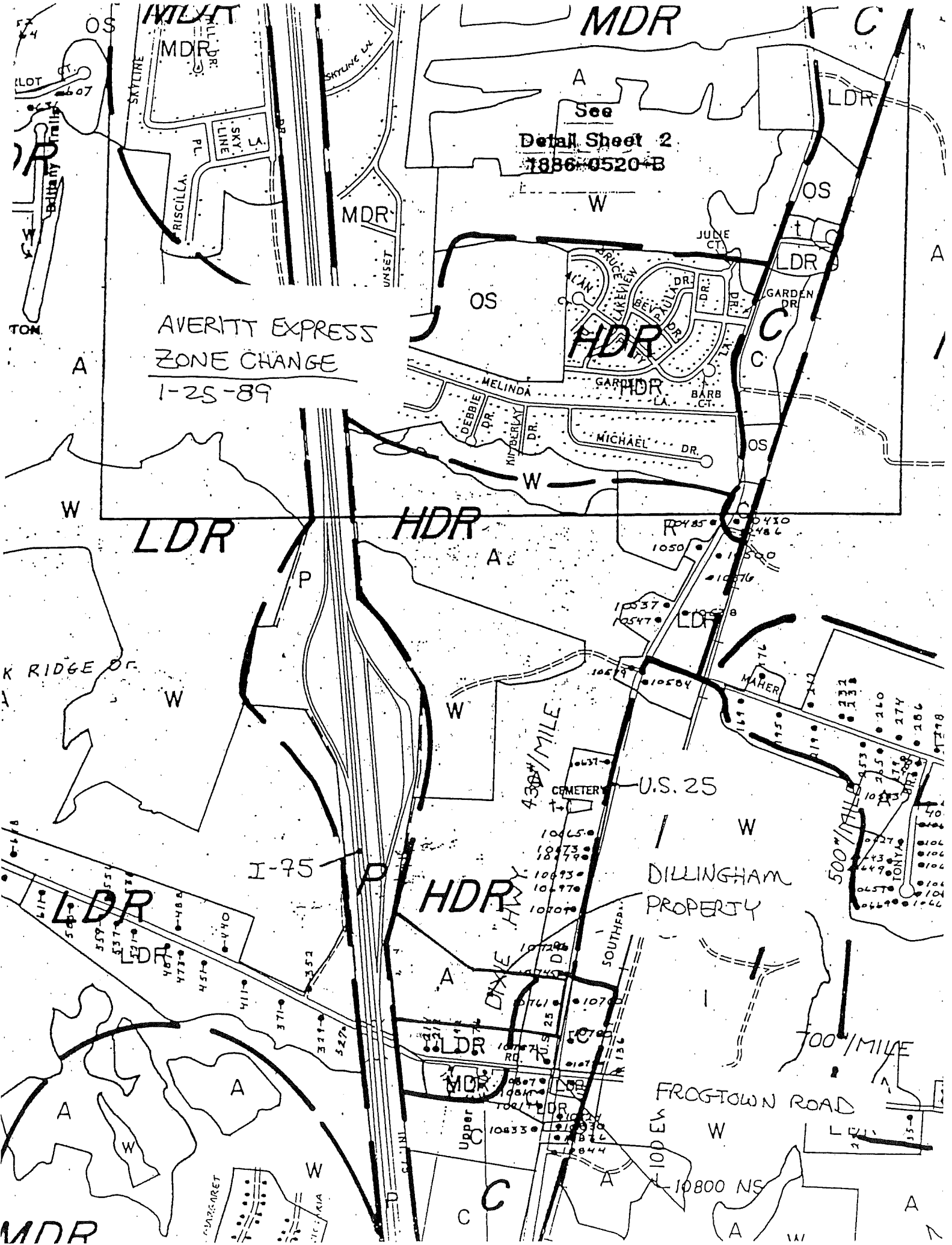
← U.S. 25

— DILLINGHAM PROPERTY

FROGTOWN ROAD

I-75 →

AVERITT EXPRESS
ZONE CHANGE
1-25-89



**AVERITT EXPRESS
ZONE CHANGE
1-25-89**

**Detail Sheet 2
1886-0520-B**

MDR

MDR

LDR

HDR

HDR

W

K RIDGE DR

LDR

HDR

**DILLINGHAM
PROPERTY**

I-75

A

A

MDR

Upper C

FROGTOWN ROAD

10800 NS

4300' / MILE

500' / MILE

100' / MILE

1100 EW

CEMETERY

U.S. 25

SOUTHERN

DIXIE HWY

D

MDR

LDR

C

W

A

A

W

A

A

LDR

W

A

A

W

W

W

A

W

A

A

W

W

W

W

A

W

A

A

A

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

108

LDR

OS

LDR

OS

LDR

OS

OS

LDR

LDR

MAHER

TONYA

101

102

103

104

105

106

107

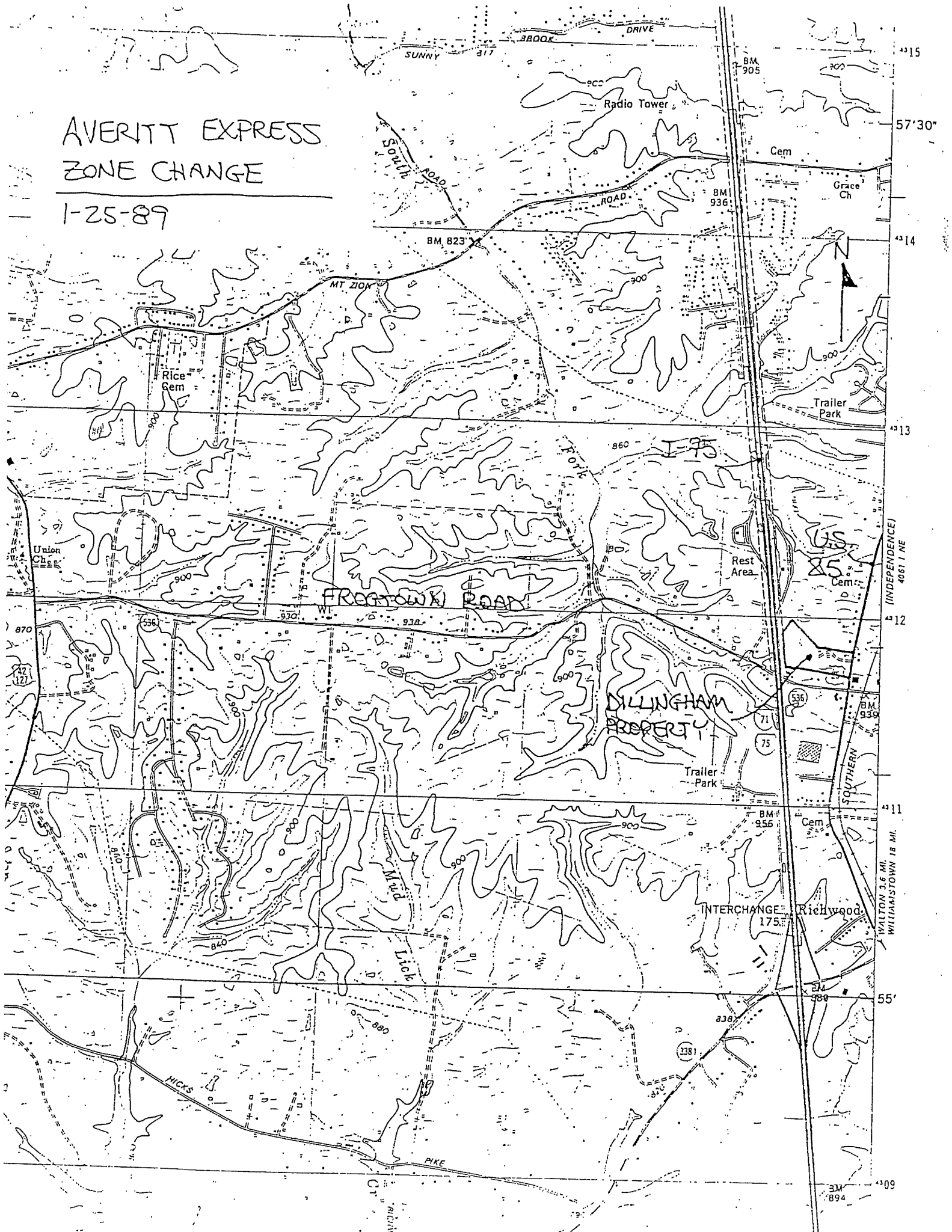
108

LDR

<

AVERITT EXPRESS ZONE CHANGE

1-25-89



(INDEPENDENCE)
4061 NE

WALTON 3.5 MI
WILLIAMSTOWN 1.8 MI

ADAMS, BROOKING, STEPNER, WOLTERMANN & DUSING,

Attorneys and Counselors at Law

CHARLES S. ADAMS
1908-1971
C. GORDON WALKER
1911-1967
JOHN R. S. BROOKING *
DONALD L. STEPNER
JAMES C. WOLTERMANN
GERALD F. DUSING
MICHAEL M. SKETCH *
DENNIS R. WILLIAMS
JAMES R. KRUER *
MARC D. DIETZ *
TIMOTHY M. RUTTLE *
KIMBERELY I. ADAMS
GREGORY S. SHUMATE
CHRISTINE M. VISSMAN

January 19, 1989

421 CARRARD STREET
P. O. BOX 861
COVINGTON, KENTUCKY 41012-0861
AREA CODE 606-291-7270
—
8100 BURLINGTON PIKE-SUITE 400
P. O. BOX 576
FLORENCE, KENTUCKY 41042-0576
AREA CODE 606-371-6220
*ALSO ADMITTED IN OHIO

PLEASE REPLY TO:
FLORENCE

HAND DELIVERED

Mr. Paul Miller
Planner
Boone County Planning Commission

RE : AVERITT EXPRESS - ZONE CHANGE REQUEST

Dear Paul:

The following was provided by Averitt Express today for your information:

(1) Traffic Study - The information provided in our traffic study was based on our actual data that we maintain on a daily basis. From our Service Center Dispatch, we maintain accurate records of the movements of our equipment (tractor trailers and smaller straight trucks), each time a truck is dispatched to and from our service area.

(2) Comparison of Louisville Service Center and the Proposed Florence (Boone County) Service Center - The volume of traffic flow in and out of these two Service Centers are not comparable.

The Louisville Service Center is a regional hub serving numerous subsequent service centers. The Florence Service Center is a spoke of the Louisville hub.

Louisville Service Center is a "relay" Service Center which means that Louisville "collects" freight from Cincinnati, Lexington, Corbin, Bowling Green, Chicago, Owensboro, Nashville, etc., that is destined either north or south. Florence, on the other hand, will be a regular service center not a relay point.

Mr. Paul Miller
January 19, 1989
Page Two

This means it will basically cover only its own service area and not be subject of the additional collection of freight from other service centers. Therefore, the traffic study information shown for Louisville is 50% - 70% higher than what Florence will generate (even after the Center matures to capacity in two or three years). Florence will collect and deliver only within its service area without the additional relay function.

(3) Expected Automobile Traffic Impact

Approximately 25-30 Automobiles (after 1 year maturity), which will be employees only, approximately 6-8 Automobiles (office and administration): typical 8:00 A.M. to 6:00 P.M.

Balance of Automobiles:

10-12 (First Shift) - Begin 4:00 A.M. to 7:00 A.M.
Depart 12:00 P.M. to 3:00 P.M.

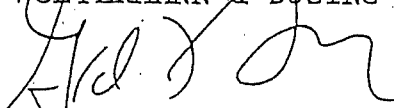
5-8 (Second Shift) - Begin 3:00 P.M. to 5:00 P.M.
Depart 8:00 P.M. to 10:00 P.M.

(4) The Louisville Regional Service Center is located in a mixed use suburban location in Louisville, per the attached map. You are invited to inspect it - just give me a call. It is in an area of single family and apartment residential, regional shopping mall, retail and light industrial.

I hope this is helpful. If you any additional information, please advise.

Very truly yours,

ADAMS, BROOKING, STEPNER,
WOLTERMANN & DUSING



GERALD F. DUSING

GFD:dw
Enclosure
cc: Mr. Jerome Terrell

BOONE COUNTY PLANNING COMMISSION

Public Hearing Item #4
January 25, 1989

Page 1

Following a short recess, the Chairman introduced the next item on the Agenda:

4. Applicant: Averitt Express for Gorman Dillingham (owner)
Request: Zoning Map Amendment

This was a Public Hearing on the request of Averitt Express (applicant) for Gorman Dillingham (owner) for a Zoning Map Amendment on a 15.65-acre site located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road, Boone County, Kentucky. The request is to rezone the property from Commercial Services (C-3) to Industrial One (I-1) to allow the establishment of an express freight service center.

Staff Member, Paul Miller, presented the Staff Report which included a slide presentation. Mr. Doug Powell, Transportation Planner, presented Staff's Concerns in regard to traffic and access. (See Staff Report).

Mr. Raymond Bogucki introduced those present in behalf of Averitt Express, including: Mr. Jerome Terrell, Director of Regional Services; Mr. George Sasser, Executive Vice President of Operations; Mr. Butch Bryet, Director of Property; and Mr. Bob Greenwood, Service Center Director in Cincinnati.

Mr. Bogucki gave each commissioner a folder containing items written by other people about Averitt Express. He stated that also in the folder is a study of their fuel savings and idling policies for the trucks due to their state-of-the-art diesel equipment. He noted that this information was included due to environmental concerns. He discussed the previously requested zone changes for the site, noting that the C-3 zoning for the crane rental was approved. Averitt withdrew their request in 1988 for additional data. They now have that additional data.

Mr. Bogucki distributed copies of pictures of a facility which closely resembles the proposed facility and asked that they be a part of the record. He stated that the present zoning is inappropriate due to major concerns, such as the environment and the traffic. He noted the Principally Permitted Uses in the C-3 Zone which he stated generate more traffic than Averitt. The proposed facility will have eight trucks making two trips per day. Over a period of two years, that hope that will increase to a maximum of 25 trucks, which is 50 trips per day. When they reach that number, they take eight of the trucks and create another branch elsewhere. He stated that they would

not have oversized loads like the crane rental business, but they would have semi's. He stated that their peak hours are 5 A.M. to 9 A.M. with the peak being 6 A.M.. Their evening peak hours are 5 P.M. to 9 P.M. with the peak being 8 P.M.. No hazardous materials are stored or moved. He stated that less than 50% of the property is being developed. There is 43% parking plus the facility. The run-off goes to a retention area. There are landscaping buffers. He stated that I-1 zoning is appropriate.

Mr. Bryet reviewed the Site Plan and stated that Averitt proposes a 132,000 sq. ft. building with a dock and maintenance facility. He stated that 49% will be under blacktop. They will have white pines along the borders with permanent landscaping in the front. There will be plant beds and timbers. The platform is not enclosed. The maintenance area is basically enclosed for the equipment to drive through.

Mr. Gerry Dusing stated that he takes issue with the Staff Report in the areas of land use and traffic. He stated that the quotations in the Staff Report exist in the Comprehensive Plan but, as indicated by the history of the site, it has not worked out. He noted that a C-3 use was approved for the site when the Plan has high-density residential. He stated that the economics of the 15-acre site, especially the 10 or 11 acres to the rear indicated for high-density residential, do not work. The Plan calls for more than eight units per acre and you will not get the type of living units the community will anticipate.

Mr. Dusing stated that the proposed use is not the common industrial use. He stated that this is more of a C-2 use with in and out trucks. There is no manufacturing or fabricating. There are no smokestacks. He stated that this area north of Walton, due to improvements planned on U.S. 25 and the proposed I-75/71 connection, is favored for industrial development.

Mr. Dusing noted that the packet distributed contains a case study synopsis from Harvard Business School that Averitt was selected to show how to run a service type industry. He stated that this use is not to be compared to a truck stop type use. This is a service center. Every item of freight that comes in goes out the same day.

Mr. Dusing stated that the traffic study in the Staff Report was misleading. They presented traffic data from their Louisville hub, which serves five states and twelve other service centers, to Staff. Mr. Miller asked that the data be correlated. He stated that the traffic is minuscule compared to the C-3 uses approved for the front of the site, such as convenient type stores and shopping centers. Their data was submitted to the Staff on January 19, which must have been after the Staff Report was prepared. He asked that their Louisville actual count study and letter of explanation be included for the record. He stated that the Louisville site has the relay function and this site is a "spoke" having about 70% less volume. Louisville is not a suburban area. He disagreed with Staff's assumption in the Staff Report that Richwood Industrial Park is down the road and they could locate

there. He stated that it is inappropriate for this type of use and against their safety policy to go across an arterial highway and across a trunk line railroad to the site. The proposed site is far safer.

Chairman Viox asked if anyone else wished to speak in favor of the request.

Mr. Floyd Cosgoff, an adjacent property owner to the north, stated that he is in favor of the request as there would be less noise and less equipment. He stated that additional revenue is needed in the county and this use would provide a good tax base. They will hire employees at a good wage.

Mrs. Adele Riffett, a property owner to the west of the site, stated that she is in favor of the request. She noted that C-3 zoning would allow uses with low pay scales, such as McDonald's and dog grooming. This use would upgrade the entire area. Mrs. Riffett stated that a trailer court is considering asking to go on the site. There will be more traffic with a trailer court or a McDonalds'. She noted that the Averitt drivers would be more responsible drivers.

Mr. Gerald Newton, Director, advised that the current zoning is Commercial Services with a Concept Development Plan. There is only one use allowed on the property at this time. Any other use would require a public hearing.

The Chairman asked if there was anyone present in opposition to the request or having questions. There being no response, he asked if there were any comments from the Commission.

Mr. Barnett commented that the applicant should probably have asked for a text amendment. He noted the comment that Averitt was not really an industrial use and that the proper request may have been to ask that Averitt Express be allowed in the C-3 Zone and to ask for a change of the Concept Plan.

Mr. Sharp stated that he is concerned about the traffic flow in the area.

Chairman Viox asked if the traffic volume figures in the Staff Report were accurate.

Mr. Dusing stated that they should be cut in half and that the times of day must also be considered.

Mr. Doug Powell stated that Mr. Dusing had indicated that this development would be about half of the Louisville development, but the numbers were for a four-day period. The ADT number is correct but the peak in and out numbers for the trucks should be divided by four. Using Mr. Dusing's numbers, table #5 is incorrect.

Mr. McMillian asked if this trucking company would be the only one using this facility. He asked if other trucking companies would be bringing packages to the facility.

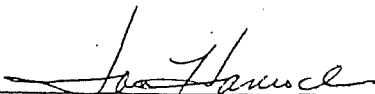
Mr. Dusing stated absolutely not. This is not a general warehouse. Their trucks go to their customers and bring the packages to the facility. The only in and out automobile traffic would be the employees.

Chairman Viox asked if there were any further comments or questions. There being none, he stated that this item will be on the Agenda for the Business Meeting on February 1, 1989 at 8 P.M. and closed this Public Hearing.

APPROVED:


William R. Viox, Chairman

Attest:


Jan Hancock, Recording Secretary

COMMITTEE REPORT

#2

TO: Boone County Planning Commission

FROM: Fred Burch, Chairman

DATE: February 15, 1989

RE: Request of Averitt Express (applicant) for Gorman Dillingham (owner) for a Zoning Map Amendment on a 15.65 acre site located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road, Boone County, Kentucky. The request is to rezone the property from Commercial Services (C-3) to Industrial One (I-1) to allow the establishment of an express freight service center.

REMARKS:

While the Committee believes Averitt Express to be a high quality business, we do not believe this site is an appropriate location for the business discussed below. Therefore, we, the Committee, recommend denial of this Zoning Map Amendment based the following Findings of Fact.

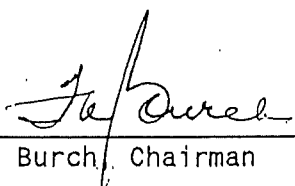
Findings of Fact

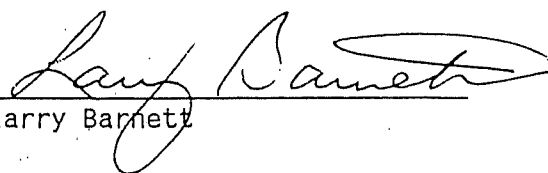
1. The requested Zoning Map Amendment from C-3 to I-1 is not in agreement with the 1986 Boone County Comprehensive Plan, which indicates the future use of this property to be Commercial along U.S. 25, and High Density Residential on the remainder of the site. Further, the Comprehensive Plan is clear on the importance of locating new industrial uses near interstate connections and in areas where industrial uses may be grouped together, as stated on page G-4 of the Goals and Objectives Element. The Comprehensive Plan also specifically states that because of existing and future traffic on U.S. 25, "truck-oriented uses should locate near connections to the interstate (p. L-20)," and that "industrial activity should locate near the interchanges to minimize travel on non-interstate roads (p. B-16)." Further references to the Comprehensive Plan are contained in the Staff Report. The applicant has not demonstrated that the Comprehensive Plan is incorrect.

The applicant has not demonstrated that there have been changes of an economic, physical, or social nature not anticipated in the 1986 Boone County Comprehensive Plan that substantially alter the area's character. Further, the Committee believes that a zone change for this property to Industrial One would constitute a change not anticipated by the Comprehensive Plan which would substantially alter the area's character. Such a change would be artificial rather than the natural result of economic, physical, or social forces, and as such would compromise the intent of the Amendment provisions of the Boone County Zoning Regulations.

2. The applicant has failed to show that the existing zoning classification of C-3 with the approved Concept Development Plan, which is the result of a previous Zoning Map Amendment request, is inappropriate and that the proposed zoning classification of I-1 is appropriate at this location.

3. The Committee believes the proposed use, being a truck-oriented use, would create a negative traffic impact on the existing and future traffic patterns on the existing road network (U.S. 25). The improvements to U.S. 25 shown on the submitted Concept Development Plan are insufficient to insure traffic back-ups will not be created by trailer trucks entering the site from the south, which is the likely direction for most truck traffic to this site. Further, the Committee believes this use would be better located in a clustered industrial area located closer to the interstates, as explained in the Comprehensive Plan, and followed by the zoning order.

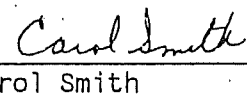

Fred Burch, Chairman


Larry Barnett

Phil Damstrom

Rector Jones


Barry Neitner


Carol Smith

FB:kat

2. Zoning Map Amendment

The request of Averitt Express (applicant) for Gorman Dillingham (owner) for a Zoning Map Amendment on a 15.65-acre site located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road, Boone County, Kentucky. The request is to rezone the property from Commercial Services (C-3) to Industrial One (I-1) to allow the establishment of an express freight service center.

Mr. Gerald Newton, Director, read the Committee Report which recommended denial of the request based on the findings of fact (see Committee Report).

The Chairman asked if the applicant wished to comment.

Mr. Gerry Dusing, attorney for Averitt Express, stated that they disagree with the Committee Report based on the facts. He requested approval of the application. He stated that they disagree with the Committee's finding that the request is not in conformity with the Comprehensive Plan based on the text of the Plan. They feel that this site should be the natural barrier between industrial growth from Kenton County, the railroad, U.S. 25, and the residential area to the east. The narrow strip of land between U.S. 25 and I-75 is "no where land" in the Comprehensive Plan. It is not realistic to expect this area to develop as high density residential or commercial based on the social and economic forces. He noted that the Comprehensive Plan recommends commercial use to the front of the site and high-density residential use to the rear. He noted the locations of industrial uses in the area. He stated that the text of the Comprehensive Plan justifies their proposed use, which is in compliance with the Transportation Plan. He stated that the Kensington area is appropriate for industrial use. Mr. Dusing stated that he objects to the Committee Report in regard to the facts submitted in regard to traffic at the Public Hearing. They submitted facts that the traffic impact would be negligible. He stated that they were not able to give input at the Committee Meeting as the Committee felt the applicant's presence was not necessary. They submitted two documents but do not know if all of the Commissioners have seen them. They made an actual traffic pattern analysis of this use. There would be six left hand turns a day --- two between 3 a.m. and 5 a.m., two between 7 p.m. and 8 p.m., and two between 5 p.m. and 6 p.m.. He stated that this is not negative traffic impact on existing and future traffic. He stated that there is no proof otherwise, only unfounded speculation. He stated that Averitt Express is a high-quality business and if it is not on this site, it will not be in this community. He stated that he reads between the lines in the Committee Report that they could locate in Richwood at the industrial park. This is not an alternative due to the railroad crossing and company policy. He noted that there are no opponents to this request and that adjoining property owners spoke in favor of the request.

Chairman Viox noted that the Kensington area is further south than this area and asked Mr. Newton for his comments.

Mr. Newton stated that when they worked on that part of the Comprehensive Plan, they were looking at trying to recreate a resurgence of Walton and assess the impact of the road improvements. They looked at all of the area between I-75 and East Frogtown Road. They put the area from U.S. 25 down to Walton into industry. This area, which is south of the subject site, was rezoned from Agricultural to Industrial. The thinking in regard to the property to the north was that there needed to be a location for low-income/high-density housing in the area of the industry. They also considered the center area and its proximity to Florence and the thinking was to have a location for mobile home parks or apartments. If they were to have the residents there, they needed a place to meet their local needs. Therefore, they took a small area in front of the high-density residential area and designated it for commercial use. He stated that the idea was to allow the extension of the industrial park south; have a breaking point at Mt. Zion Road, and then go to high-density residential. Then, from that point, to allow industry to begin to occur again.

In response to questions from the Chairman, Mr. Dusing stated that this use needs to be at the I-75 and I-71 interchange to work. They cannot be on the other side of the railroad tracks. He stated that they are in the same basic area as the industrial uses and there is a buffer zone of I-75. They did not find an appropriate site in the Northern Kentucky Industrial Park. Mr. Dusing stated that they prefer to be in this end of the county at I-75 and I-71.

Mr. Greene agreed with Mr. Dusing that the traffic impact would be minimal. He stated that the area is filled with industrial uses to the north and the south. He noted that the neighbors were in support of the project at the public hearing.

Mr. Barnett stated that the Comprehensive Plan was adopted in 1986 and this is a question of land use. He noted the basis for change -- a major change in the area of a physical, social, or economic nature. He stated that these elements had not been demonstrated in order to recommend a change. He noted that as soon as this corner is changed to industrial, a change will have been created to allow other pieces of property in the area to also change. He stated that a decision needs to be made on the basis of land use, not the merits of Averitt Express.

Mr. Greene moved that the request be approved.

The Chairman asked for findings of fact to support this motion.

Mr. Greene stated that it is natural for this area and there is not much difference between C-3 and I-1. He stated that there are C-3 uses that would create more traffic than this use.

Counselor Wilson stated that it appears Mr. Greene has determined that facts have been presented to indicate that industrial use is more appropriate.

Mr. Jones seconded the motion made by Mr. Greene.

Mr. Moore stated that he would abstain from voting as Mr. Bogucki has rendered legal services to the applicant and he is associated with Mr. Bogucki in the practice of law.

The Chairman asked for a roll call vote on the motion which found Mr. Greene, Mr. Jones, Mr. Rush, and Chairman Viox in favor. Mr. Barnett, Mr. Burch, Mrs. Bushelman, Mr. Collins, Mr. Damstrom, Mr. DeLong, Mr. McMillian, Mr. Neltner, and Mrs. Smith were opposed. Mr. Moore abstained. The motion did not carry.

Mr. Barnett moved that the request be denied based on the findings of fact in the Staff and Committee Reports. Mrs. Smith seconded the motion.

Mr. Damstrom questioned the possibility of a text amendment to allow this use.

Mr. Dusing stated that there are two zones on the parcel and two text amendments would be required. These amendments would be applicable to any properties in the counties with these zones. He stated that a more honest approach is that the Comprehensive Plan recommendation for this tract is inappropriate and the proposed change is more appropriate.

Mr. Newton noted that there is a Concept Development Plan for this property zoned C-3 and it probably would not be affected by a text change. He noted that a text change is a good idea, but it is hard to implement and is time-consuming.

The Chairman asked for a roll call vote on the motion made by Mr. Barnett which found Mr. Barnett, Mr. Burch, Mrs. Bushelman, Mr. Collins, Mr. DeLong, Mr. McMillian, Mr. Neltner, and Mrs. Smith in favor. Mr. Damstrom, Mr. Greene, Mr. Jones, Mr. Rush, and Chairman Viox were opposed. Mr. Moore abstained. The motion carried.

3. Site Plan Review

The request of Nancy McFarland (applicant) for Janet Schoenbachler and Nancy McFarland (owners) for Site Plan Review to construct a driveway and a parking lot on a 0.5-acre site located at 14 Shelby Street, Florence, Kentucky. The site is zoned Commercial Two (C-2).

Staff Member, Paul Miller, presented the Staff Report (see Staff Report).

Mr. Gerald Newton read the Committee Report which recommended approval of the request based on the Staff Report, but subject to conditions. Mr. Miller stated that the applicant is aware of the conditions and has indicated his agreement.

MINUTES
BOONE COUNTY FISCAL COURT
APRIL 4, 1989
3:00 P.M.

Commissioner Robinson stated there is an extremely noisy section along I-75 and he cannot imagine any one wanting to building residences nearby which are what would be called for in the current Comprehensive Plan.

Mr. Duesing advised that Shirley Johnson, of the Walton Fire Protection District, was also in support of this project.

Commissioner Raverty questioned whether the developer would agree to no truck maintenance on the lot and was advised that the only maintenance performed would be preventive maintenance.

Commissioner Davis questioned Mr. Floyd Kells as to how many acres the state planned to use for the expansion of the loadometer station. Mr. Dillingham stated that the state has taken approximately one-half acre of his property and Mr. Kells advised that they have taken a couple of acres of his land.

Commissioner Davis said there is currently a significant change in the use of the land surrounding this facility in the increased size of the loadometer station and, therefore, would see a justification for the zone change. As far as the trips per day, he stated that it would be negligible to the amount of traffic currently on the road. He also questioned whether the developer would commit to no more than twenty eight trucks per day being based at this facility and was advised that would be agreeable.

Mr. Floyd Kells said that he has come to the conclusion that this firm will be a good neighbor and he would like to see the county approve this as a means of increasing the county's tax base and at the same time drawing quality industry to Boone County.

Ms. Adele Reffitt stated that her property also borders that which is requested by Averitt Express and that she, too, is in support of the project as a means of offering jobs to Boone Countians and offering quality development in our community.

Commissioner Raverty moved approval of the zone change on the following finding of facts would be:

- 1) The land is not conducive to residential planning as had been drafted in the Comprehensive Plan and, therefore, the Comprehensive Plan may be in error in it's original drafting.
- 2) Significant change has occurred along that corridor of I-75 and U.S. 25 since the adoption of the Comprehensive Plan.
- 3) Additional industrial zones have been created in the area since the adoption of the Comprehensive Plan.

MINUTES
BOONE COUNTY FISCAL COURT
APRIL 4, 1989
3:00 P.M.

*This means units
we can have more
trailer
there
GHD*

Commissioner Robinson seconded the motion under the condition that there be only preventative maintenance at the facility, that Averitt Express be limited to twenty eight (28) trucks per day and that acceleration and deceleration lanes be constructed as designed by the traffic planners and approved by the Kentucky Department of Transportation at the expense of the developer.

Hearing no further discussion on the motion, Judge Ferguson called for a vote on the motion, ALL VOTING AYE.

Judge Ferguson declared the public hearing closed at 5:03 P.M.

Judge Ferguson called for a recess and reconvened from recess at 5:27 P.M.

OLD RABBIT HASH ROAD

Judge Ferguson recognized Ms. Jan Garbett of Old Rabbit Hash Road, who requested the closing of same near McVille in Boone County. Judge Ferguson asked for a motion to proceed with the closing of the right of way at the expense of the property owner. Commissioner Raverty said that he would move approval on condition that Mr. Jim Walton be given the option of closing his portion of road and absorbing the cost for said closing. Commissioner Robinson seconded the motion. Hearing no further discussion, Judge Ferguson called for a vote on the motion, ALL VOTING AYE.

GRADISON & COMPANY

Judge Ferguson recognized Mr. Patrick Applegarth, Gradison & Company, who was present at the meeting to discuss bond financing with the county for financial situations that exist in the county, such as the additional funding for the new nine at the Boone Links Golf Course and the financing of the Boone County Health Center facility. Judge Ferguson advised that Mr. Applegarth was representing the firm for which former State Senator John Weaver had worked during the time that the court had previously discussed this matter.

Mr. Applegarth advised that bond anticipation notes would be appropriate to be issued at this time as interest rates are at a five year high now, making the bond market not conducive to such sales. He stated the anticipation notes can be renewed annually for five years and would be tax free bonds and bank eligible. He stated that Gradison could serve as underwriter or as fiscal agent.

Commissioner Davis questioned what the interest rates were presently and Mr. Applegarth advised they are between seven and seven point five to day, which are a five year high.

A ZONING MAP AMENDMENT TO THE BOONE COUNTY, KENTUCKY, ZONING MAP, SUCH MAP AMENDMENT BEING A ZONE CHANGE FROM COMMERCIAL SERVICES (C-3) TO INDUSTRIAL ONE (I-1) FOR A 15.65 ACRE SITE GENERALLY LOCATED ON THE WEST SIDE OF U.S. 25, APPROXIMATELY 300 FEET NORTH OF FROGTOWN ROAD, BOONE COUNTY, KENTUCKY, SUCH MAP AMENDMENT BEING REQUESTED BY AVERITT EXPRESS (APPLICANT) FOR GORMAN DILLINGHAM (OWNER). SAID ZONE CHANGE APPROVED BASED ON THE FINDINGS OF FACT ESTABLISHED THROUGH A PUBLIC HEARING HELD BY THE FISCAL COURT OF THE COUNTY OF BOONE, KENTUCKY ON MARCH 21, 1989.

WHEREAS, the Boone County Fiscal Court received a request fro a Zoning map Amendment to the Boone County zoning map and such Zoning map Amendment being a zone change form Commercial Services (C-3) to Industrial One (I-1) for a 15.65 acre site generally located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road, 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 denial for the zoning map amendment.

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

SECTION I

That the zoning map amendment for the real estate which is more particularly described below shall be and is hereby recommended for approval, this Zoning Map amendment being a zone change from Commercial services (C-3) to Industrial One (I-1) for a 15.65 acre site generally located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road, Boone county. Said zone change approved based on the findings of fact as established through a public hearing held by the Fiscal Court of the County of Boone , Kentucky on March 21, 1989.

SECTION II

That as a basis for the recommendation of approval and adoption of the zone change request the findings of fact of the Boone County Planning and Zoning Commission as set forth in its Minutes and official records for this zone change request, and the finding of facts of the Boone County Fiscal Court, if any, and any conditions and/or stipulations mandated by the Boone County Fiscal Court, if any, as set forth in its Minutes and official records for this zone change request, shall be and are hereby incorporated by reference as if fully set out in the Ordinance (ATTACHED - EXHIBITS "B" AND "C")

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

ORDINANCE 920.177

Introduced, seconded and given First Reading on the fourth day of April, 19 89.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the second day of May, 19 89, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.

Bruce Ferguson
BRUCE FERGUSON
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:

R. Scott Kimmich
R. SCOTT KIMMICH
FISCAL COURT CLERK

SUBMITTED BY:

Larry Crigler
LARRY CRIGLER
BOONE COUNTY ATTORNEY

DATE PUBLISHED _____

BOONE COUNTY PLANNING COMMISSION

BOONE COUNTY ADMINISTRATION BUILDING

P.O. BOX 697 — 2950 WASHINGTON STREET

BURLINGTON, KENTUCKY 41005

(606) 334-2196

FAX (606) 334-2264

MR. WILLIAM R. VIOX
CHAIRMAN

MR. FRED BURCH
VICE CHAIRMAN

MRS. CAROL SMITH
SECRETARY-TREASURER

MR. GERALD A. NEWTON
DIRECTOR

MR. D. T. WILSON
ATTORNEY

MEMORANDUM

CONDITIONS FROM FISCAL COURT

TO: Staff

FROM: Gerald A. Newton, Director

DATE: April 17, 1989

RE: Fiscal Court Activities, April 4, 1989

Here is a list of Fiscal Court activities in which you may be interested.

1. A traffic light at KY 18 and Bullittsville Road was approved by Frankfort after a letter from Fiscal Court was sent asking that District 6 recommendation be overturned. As you have already noticed, the street is already being cut and the car sensors are being put in place on Bullittsville Road and Rogers Lane.
2. Averitt Express has been approved by Fiscal Court with conditions that:
 - a) only preventative maintenance occur at the facility;
 - b) only 28 trucks per day be parked at the facility;
 - c) that acceleration and deceleration lanes are to be constructed.
3. The Union Golf Course was approved with changes to three conditions and an additional condition. These conditions are attached.
4. Off-premises signs were approved in the Commercial Services (C-3) and Industrial One (I-1) zoning districts only.
5. The Open Space Plan was approved unanimously.
6. Commissioner Robinson has requested that a different form of notification letter be used to inform the residents on procedure and the information available. I will be working on a new notification letter to be used.

GAN:jdh

Attachment

CALL TO ORDER

Judge Ferguson called to order the April 4th meeting of the Soone County Fiscal Court.

Present: Bruce Ferguson, County Judge Executive
Patrick Raverty, Commissioner District 1
Ronald Robinson, Commissioner District 2
Donald Davis, Commissioner District 3
Larry Crigler, County Attorney
Vaughn Rogers, Finance Director
R. Scott Kimmich, Court Clerk

Judge Ferguson asked that Commissioner Ron Robinson lead in the invocation and pledge to the flag.

ITEM II. MINUTES

Judge Ferguson presented the minutes of the meeting held March 21, 1989 for approval. Commissioner moved to approve the minutes with the following correction:

Page 3 - Last Paragraph through first complete paragraph on Page 4 should read as follows:

Commissioner Davis advised that due to having received this information from the Planning Commission after the packets had gone out that the court members had not yet had an opportunity to review the information. Commissioner Davis further stated that he wants it understood that his vote in the affirmative on first reading is simply a means by which the ordinance will be moved along in the process and does not necessarily reflect the way he will vote on second reading.

Judge Ferguson then questioned the court members as to whether they would like to pass the ordinance on first reading and have a presentation from the developer at the time of second reading. The court members agreed that it would be best if they could ask questions of the developers after they had an opportunity to review the information that has been placed before them.

ITEM IV. JUDGE'S REPORT

ASSISTED HOUSING AUDIT

Judge Ferguson advised that he had received a communication from the Department of Housing and Urban Development in which it was transmitted that the audit had been completed and that the books for that department were in order.

MINUTES
BOONE COUNTY FISCAL COURT

APRIL 4, 1989

3:00 P.M.

TRAFFIC LIGHT - KY 18 & BULLITTSVILLE ROAD

Judge Ferguson presented a letter from O.G. Newman to inform the court that a traffic light will be constructed at the intersection of Bullittsville Road and Kentucky 18 in Burlington.

LETTER FROM P.V.A.

Judge Ferguson presented a letter from Chester L. Henderson advising of the new growth in the county as it relates to the annual property valuation.

JAIL INSPECTION

Judge Ferguson presented a letter from Robert Powell advising the court that the county jail had undergone all inspections and that the operation of the facility met all state standards for the operation of a jail in Kentucky.

ITEM III.

DELEGATIONS

KNOLL - MAIN STREET & KY 18

Judge Ferguson advised the court that Joe Kearnes's office has been contacted but due to schedule conflicts could not be present for this meeting. Mr. Kearnes will be contacted to be at the next regular meeting to discuss the removal of the knoll in the road on Main Street in Burlington.

TRANSIT AUTHORITY OF NORTHERN KENTUCKY

Judge Ferguson recognized H.S. "Duke" Faulconer on the Transit Authority of Northern Kentucky who came before the court to request additional funding for 1989-90 Fiscal Year. The amount of the increase requested would be the difference between the 297,000 that had been budgeted last year and the 339,000 that has been requested for this year. According to Faulconer this funding is necessary to replace busses that are currently in the fleet which are extremely old, and for which there is no state or federal funding.

Commissioner Raverty stated that the additional request would amount to a 50% increase in funding and that he found that to be out of line. He said that he would like to see TANK utilize some of the reserve that they have built up to accommodate the new bus purchases and restrict this years allocation to TANK to 300,000.

Mr. Faulconer advised that the formula which has been devised to pay for the buses already calls for the use of the reserve accounts in addition to the funds requested from the county.

Commissioner Raverty stated that it is not common practice for the court to allow the subsidiary agencies to maintain reserves and that he thinks TANK should not do so either, when they are requesting funds from the General Fund of the County.

Commissioner Robinson questioned the age of the buses and was informed that the buses were 12 to 14 years in age at this current time. He also queried Mr. Faulconer as to the future reductions in state and federal funding.

Mr. Faulconer advised that it is certain that state and federal funding will continue to be reduced as it has in the past.

Commissioner Robinson asked what the long range plan for the elimination of the problems would be and Faulconer responded that the Transit Authority would have to look a reductions in service such as that which is offered on Saturdays and Sundays.

Commissioner Robinson asked how many buses were in the fleet and how many were to be replaced.

Mr. Faulconer stated that there are currently 100 buses in the fleet and that it is anticipated that they would replace 34 this year, all of which have in excess of 600,000 miles, and some of which have already had the frames welded back together.

Commissioner Robinson requested a list of the buses that are in the he fleet and the year that each was purchased.

Judge Ferguson advised Mr. Faulconer that the court would meet to discuss the budgets again on April 11 in a budget caucus and that at that meeting the court would decide about this funding.

OPEN BIDS - FISCAL YEAR 1989-90

Judge Ferguson called upon Robert Martin to open the bids for the supplies for the Boone County Road Department:

Guardrail	-	Safety Road Materials
Culvert Pipe Metal		St. Regis Culvert Midwest Culvert Oldfield Equipment
Culvert Pipe Plastic		Advance Drainage Systems Oldfield Equipment Treaty Company

MINUTES
COUNTY LEGAL COURT
APRIL 4, 1989
3:00 P.M.

Aggregates

- Nally & Gibson
- No. Ky. Aggregates
- Medusa Aggregates
- Belleview Sand & Gravel

Salt, De-Icera

- Domtar Industries
- Cargill
- International Salt
- Morton Salt Company

Bituminous Liquids - Rebid on April 18, 1989

Concrete

- Walton Concrete
- All-Rite Ready Mix
- Atlas Concrete

Asphalt - Rebid on April 18, 1989

Steel

- Boone Steel
- Riverfront Steel

Fuel (Gasoline, Diesel, Heating Oil) - Bobby L. Harper Dist

Sign Material

- Newman Traffic Signs
- U.S. Standard Sign Company
- Kleen, Inc.

Precast Box Culvert - Bids Due April 18, 1989

Judge Ferguson called upon Robert Martin to open bids for the Shelter House for the Boone Links Golf Course, the bids received were:

Centers Maintenance	41,580.00
Fanthrop Construction	52,340.00
Hemmer Industries	40,900.00
L.W. White Company	37,455.00
Globe Construction Co.	33,013.00
B.L. Spille Construction Co.	35,838.00

Judge Ferguson advised that there will be a recommendation submitted at the net meeting.

Judge Ferguson called upon Martin to open bids for the equipment at the Boone Links Golf Course, bids were received from:

Item #1 - 72" Out-front Rotary Mower	
Kenney Machinery Corporation	15,875.00
Century Equipment, Inc.	14,927.00

BOONE COUNTY FISCAL COURT

APRIL 11, 1989

3:00 P.M.

Item #2 - Toro Greensmaster 3000, Model #04350
Kenney Machinery Corporation 12,479.00
Century Equipment, Inc. 11,860.00

Item #3 - 3 Wheel Drive, Tri-plex, Lightweight Reel Mower
Kenney Machinery Corporation 11,378.00
Century Equipment, Inc. 10,687.00

Judge Ferguson requested a recommendation on the portable striper for the Boone County Road Department and it was recommended to purchase the equipment from Brewer Products. Commissioner Davis moved approval of the recommendation and Commissioner Raverty seconded the motion. Hearing no discussion on the matter Judge Ferguson called for a vote on the motion, ALL VOTED AYE.

SENIORS TAX COMMITTEE

Carol Marek of the Northern Kentucky Area Development District presented the recommendation that the court allow 3,185.00 to be awarded to Comprehensive Care for the replacement of a boiler in the old Renaker Building, that Comp Care be permitted to transfer 13,328 from their Partial Hospitalization Program to the out Patient Treatment Program, and that the court allow an expenditure by SCNK of 10,000 for rent supplement for the rental of the old health facility for a senior citizens center. Commissioner Robinson moved approval of the tax committee's recommendation and Commissioner Davis seconded the motion. Judge Ferguson called for the vote, and ALL VOTED AYE, except that Commissioner Raverty abstained from voting on the recommendations for Comprehensive Care.

DR. JOSEPH WILLET - COMPREHENSIVE CARE

Judge Ferguson recognized Dr. Joseph Willet, Executive Director of Northern Kentucky Comprehensive Care. Dr. Willet advised the fiscal court that it is the request of Comprehensive Care to build a facility on approximately two acres of ground located on Kentucky 18 near the Boone County Health Center. Also present with Dr. Willet were representative of his staff and Mr. Bruce Sanders of the architectural firm of Burgess & Niple. Mr. Sanders stated that Comprehensive Care would like an easement from the Boone County Kentucky Public Properties Corporation to allow for the new facility to tie into the storm sewer system operated by the Boone County Health Center, which is owned by the Boone County Kentucky Public Properties Corporation.

Commissioner Robinson questioned the water run off and said that when the Health Center had been built a retention basin was required to prevent flooding in the area. Commissioner Robinson further stated that he would assure that this additional

MINUTES
BOONE COUNTY FISCAL COURT
APRIL 4, 1989
3:00 P.M.

construction will not cause a problem as far as flooding. Mr. Sanders advised that it would not be a problem.

Dr. Willet stated that with the consolidated services that are presently offered on Turfway Road, Main Street and also in Burlington, it would enable them to offer a one stop service center for mental health needs in Boone County.

Commissioner Robinson stated that he was not quite sure what Dr. Willet was asking for requested reaffirmation of Dr. Willet's plans. He further questioned whether the funds that are going to be received are enough to cover the consolidated services and the cost of construction of this facility.

Commissioner Raverty stated that he does want those services in the county, but the issue is not whether the services should be provided, but where. He stated he would prefer to see all the groups work together including Senior Citizens of Northern Kentucky, Northern Kentucky Comprehensive Care and others to build one large center which would service the needs of all the people in the community.

Dr. Willet said that this had been done in Alabama and it has failed there as well as in other places across the country. He said that, generally, those person who are suffering mental illness are not inclined to go where other persons are being treated for health purposes and that people with physical health problems are not generally comfortable around those persons who are suffering from mental illness.

Commissioner Robinson said that he does not feel that the court is ready to make a decision at this time and would like to see where the income will be coming from now and where it will be coming from in the future to provide for the amortization of the construction debt of the new facility.

Commissioner Raverty stated that he would like for the Northern Kentucky Area Development District to look at the areas where this has been tried, where it has been successful and where it has failed, and why.

Judge Ferguson stated that these are all services that we need in our community and that he feels confident that if the court can be shown that Comprehensive Care can amortize the debt, the court would be inclined to support this project.

Commissioner Robinson stated that he would like to have the figures by the next meeting of the court or at least in time to review them before the matter is brought on the floor for discussion.

MINUTES
BOONE COUNTY FISCAL COURT

APRIL 2, 1989

8:00 P.M.

Commissioner Raverty said that he would like to see the court set a meeting for 8:00 P.M. after the next fiscal court meeting to discuss the matter with the tax committee.

HAND ROAD

Judge Ferguson recognized Ms. Eloise Warnke, a resident of Hand Road. Mrs. Warnke stated that she had been before the court during the past six years and the eleven property owners (consisting of twenty five residents) were presenting a petition requesting that the fiscal court accept Hand Road into the Boone County Road Maintenance System. She said that the residents of Hand Road consider themselves to be the "stepchild" of Boone County. (Exhibit "A")

Mr. Gary Prather, employee of the Boone County Road Department and resident of Hand Road, stated that the only thing the residents were asking for was gravel and grading, not a black top surface.

Judge Ferguson stated that he had presented this matter to Harvey Pelley for review and would ask for a report at this time.

Mr. Prather stated that there are a lot of other gravel roads presently in the county road maintenance system with far fewer residents being served than would be served by the acceptance of Hand Road.

Mr. Pelley stated that Hand Road is shown on the 1883 atlas as an old county right of way. He further advised that there is evidence that it, at one time, ran through Woolper Road although he can find no direct evidence that it was ever accepted for maintenance by the county.

Commissioner Robinson stated that roads were accepted into the maintenance system under ordinance after careful examination of the records to ensure that those roads had been maintained by the county within a reasonable period of time. He stated the roads were based on the recommendation of the county attorney and was not based on political friends or insubstantiated documentation. He stated that he feels the court has been very fair in accepting roads and he pointed out that in Kenton County, even subdivision streets are not maintained by the county's government.

County Attorney Crigler stated that the county has accepted roads in the past if they have been maintained within fifteen years of the time that the request was made, otherwise, he stated that they would be in violation of the present ordinance.

Ms. Warnke stated that Hand Road was graded by the county on at

102-131
MINUTES
BOONE COUNTY COURT

APRIL 4, 1989
3:00 P.M.

least one occasion however, she could not remember the date on which the work was done.

Mr. Pelley stated that no one who currently works at the Boone County Road Department can ever remember have maintained this road although residents have stated that Mr. Wesley Bingham, who is now deceased, had graded the road on more than one occasion.

Mrs. Prather, daughter of Bill McCormick, stated that her father had also been involved in maintenance of the road and could advise as to the time that the maintenance could be done.

Commissioner Davis stated that if the residents can prove maintenance within the past fifteen years and if it is a county right of way, he would have no problem accepting it into the system.

Commissioner Raverty questioned Attorney Crigler as to whether he had heard enough information to make a decision at this meeting and Mr. Crigler stated that based on the information presented, he could not make a recommendation to accept the road into the county maintenance system. He said that maintenance has not been substantiated at this time. Mr. Crigler further stated that if the county were to accept this road into the system and be sued by citizens in the county, that he would not be able to defend the fiscal court as it would be his obligation to defend the tax payers of Boone County as the elected county attorney.

Commissioner Raverty stated that his feeling is that he would like to see Hand Road accepted as long as it can be done according to law.

Judge Ferguson asked Attorney Crigler and Harvey Pelley to submit a report at the next meeting regarding their findings of the information and research regarding this issue and that the residents of Hand Road be given an answer at that time as to whether their road will or will not be accepted into the county maintenance system.

PUBLIC HEARING - AVERITT EXPRESS

Judge Ferguson then moved to Averitt Express and recognized Scott Kimmich. Mr. Kimmich advised that the fiscal court had granted a public hearing to consider a reversal of the decision of the Boone County Planning & Zoning Commission and that after the public hearing the fiscal court would have the opportunity to vote summarily on the passage of this ordinance. He further advised that if the court chooses to pass that ordinance summarily at this meeting, it would stand for second reading on May 2nd, however, if the court chooses not to take action at

this meeting the court could take action for first reading on April 18th and follow with second reading thereafter.

Judge Ferguson recognized Mr. Raymond Bogucki, attorney representing Averitt Express. Mr. Bogucki stated that the current zone is Commercial Three (C-3) and Averitt Express is requesting to go to an Industrial One (I-1) zone. He stated that Kentucky Statute 100.213 is the applicable statute which would be utilized in granting this zone change. Mr. Bogucki said that he feels the proposed zoning would be appropriate for the land use in the area. He stated that the additional traffic would be negligible and that it would present no problem for anyone in the area. He further stated that adjoining property owners are in support of this plan and are present before the court this evening to express their views. The problem, according to Mr. Bogucki, was that Planning & Zoning had a philosophical problem in that they did not feel this would fit into the Comprehensive Plan of the county.

Judge Ferguson recognized Mr. Gerald Duesing who stated that Averitt Express is a highly recognized organization which is a leader in the industry of trucking. Mr. Duesing advised the fiscal court that the proposed zoning of the site is a better use of the land than that which is proposed in the Comprehensive Plan. Mr. Duesing stated that Averitt Express will agree to construct at their own expense an acceleration/deceleration lane at the site and this will not be a truck warehouse. He stated that whatever came in would go out in the same day and approximately thirty workers would be employed at this facility. He stated that after a five year period of time, a total of six left turns per day would be made at the facility. He further stated that the issue of land use was a concern of the Planning Commission was that the developer of this property could go to other sites in the county where it is currently zoned. He stated, however, that this trucking firm does not need a lot such as that which would be available in the Richwood Industrial Park and he does not feel that type of plan would be conducive to the needs of this firm and that safety with the railroad tracks is a concern of the corporation.

Commissioner Raverty said that Planning & Zoning based their decision on staff reports and the traffic was a major concern in that study.

Mr. Duesing advised the court that Mr. Doug Powell had given his report prior to the public hearing and that after the public hearing had stated that he was wrong at the time the staff report was made in the formula that was used in calculating the number of trucks that would be utilizing this facility each day.

MINUTES
BOONE COUNTY FISCAL COURT
APRIL 4, 1989
3:00 P.M.

Commissioner Robinson stated there is an extremely noisy section along I-75 and he cannot imagine any one wanting to building residences nearby which are what would be called for in the current Comprehensive Plan.

Mr. Duesing advised that Shirley Johnson, of the Walton Fire Protection District, was also in support of this project.

Commissioner Raverty questioned whether the developer would agree to no truck maintenance on the lot and was advised that the only maintenance performed would be preventive maintenance.

Commissioner Davis questioned Mr. Floyd Kells as to how many acres the state planned to use for the expansion of the loadometer station. Mr. Dillingham stated that the state has taken approximately one-half acre of his property and Mr. Kells advised that they have taken a couple of acres of his land.

Commissioner Davis said there is currently a significant change in the use of the land surrounding this facility in the increased size of the loadometer station and, therefore, would see a justification for the zone change. As far as the trips per day, he stated that it would be negligible to the amount of traffic currently on the road. He also questioned whether the developer would commit to no more than twenty eight trucks per day being based at this facility and was advised that would be agreeable.

Mr. Floyd Kells said that he has come to the conclusion that this firm will be a good neighbor and he would like to see the county approve this as a means of increasing the county's tax base and at the same time drawing quality industry to Boone County.

Ms. Adele Reffitt stated that her property also borders that which is requested by Averitt Express and that she, too, is in support of the project as a means of offering jobs to Boone Countians and offering quality development in our community.

Commissioner Raverty moved approval of the zone change on the following finding of facts would be:

- 1) The land is not conducive to residential planning as had been drafted in the Comprehensive Plan and, therefore, the Comprehensive Plan may be in error in it's original drafting.
- 2) Significant change has occurred along that corridor of I-75 and U.S. 25 since the adoption of the Comprehensive Plan.
- 3) Additional industrial zones have been created in the area since the adoption of the Comprehensive Plan.

3:00 P.M.

BOOK 102 PAGE 137

Commissioner Robinson seconded the motion under the condition that there be only preventative maintenance at the facility, that Averitt Express be limited to twenty eight (28) trucks per day and that acceleration and deceleration lanes be constructed as designed by the traffic planners and approved by the Kentucky Department of Transportation at the expense of the developer.

Hearing no further discussion on the motion, Judge Ferguson called for a vote on the motion, ALL VOTING AYE.

Judge Ferguson declared the public hearing closed at 5:03 P.M.

Judge Ferguson called for a recess and reconvened from recess at 5:27 P.M.

OLD RABBIT HASH ROAD

Judge Ferguson recognized Ms. Jan Garbett of Old Rabbit Hash Road, who requested the closing of same near McVile in Boone County. Judge Ferguson asked for a motion to proceed with the closing of the right of way at the expense of the property owner. Commissioner Raverty said that he would move approval on condition that Mr. Jim Walton be given the option of closing his portion of road and absorbing the cost for said closing. Commissioner Robinson seconded the motion. Hearing no further discussion, Judge Ferguson called for a vote on the motion, ALL VOTING AYE.

GRADISON & COMPANY

Judge Ferguson recognized Mr. Patrick Applegarth, Gradison & Company, who was present at the meeting to discuss bond financing with the county for financial situations that exist in the county, such as the additional funding for the new nine at the Boone Links Golf Course and the financing of the Boone County Health Center facility. Judge Ferguson advised that Mr. Applegarth was representing the firm for which former State Senator John Weaver had worked during the time that the court had previously discussed this matter.

Mr. Applegarth advised that bond anticipation notes would be appropriate to be issued at this time as interest rates are at a five year high now, making the bond market not conducive to such sales. He stated the anticipation notes can be renewed annually for five years and would be tax free bonds and bank eligible. He stated that Gradison could serve as underwriter or as fiscal agent.

Commissioner Davis questioned what the interest rates were presently and Mr. Applegarth advised they are between seven and seven point five to day, which are a five year high.

BOONE COUNTY FISCAL COURT

APRIL 4, 1989

3:00 P.M.

Commissioner Raverty questioned what Gradison's charge would be for such service and Mr. Applegarth advised that it would be approximately one to one point five percent.

Commissioner Raverty stated that he feels the court needs to do some competitive pricing regarding financial consultants. Commissioner Robinson agreed. Commissioner Raverty stated that the court first needs to determine exactly what money will be placed in this bond issue and then discuss with other fiscal agents to determine which companies may be interested in serving the county's need.

Judge Ferguson advised that other firms will be contacted as the budget procedure continues.

BICYCLE RACE

Judge Ferguson recognized Mr. Randy Foltz, present before the court to request the court's support for a bicycle race on the 4th of July weekend. Mr. Foltz advised the court that the only change from last year's race is in the track which will be utilized. He said the change will enable the racers to ride approximately twelve point five (12.5) miles per lap following Idlewild Road to Kentucky 20, to Bullittsville Road. Mr. Foltz stated that this is requested in an effort to get the county to support the road closings except to local traffic. He stated that he has been in touch with Joe Kearnes of the Kentucky Department of Transportation who understands the reason for the request and has asked that same be formalized in writing and submitted to his office. Mr. Foltz further stated that he would like to use the fairgrounds as the starting point and has been in touch with the Boone County Fair Board regarding this matter.

Commissioner Robinson questioned whether the county police had been contacted and Mr. Foltz advised that he felt the first step was to secure approval of the fiscal court before seeking outside assistance.

Commissioner Raverty questioned where the spectators would be and Mr. Foltz advised that most of the spectators would be at the fairgrounds although some may scatter along the course. Commissioner Raverty said that, perhaps, the residents should be notified of the event so that they are not surprised to find people standing along the roadway.

Commissioner Robinson then made a motion to approve the bicycle race project and the closing of Bullittsville Road to all but local traffic upon agreement by the Boone County Police. The motion was seconded by Commissioner Davis. Hearing no discussion, Judge Ferguson called for a vote on the motion, ALL

BOONE COUNTY FISCAL COURT

VOTED AYE.

ITEM V.

ORDINANCES & RESOLUTIONS

ORDINANCE 920.178 - BURNS/JAMESON

Judge Ferguson presented for second reading Ordinance 920.178, an ordinance of the Boone County Fiscal Court adopting a map amendment to the Boone County, Kentucky, Zoning Map, such map amendment being a zone change from Agricultural Estate (A-2) to Rural Suburban Estates/Recreation/Planned development (RSE/R/PD) for a 313 acre site generally located west of U.S. 42 and north of Rice Pike, Boone County, Kentucky as requested by Andy Burns/Ken Jameson (Applicants) for Walter, Shelley, and Cynthia Ferguson (Owners) and recommended for approval by the Boone County Planning Commission.

Mr. Ken Jameson, attorney for the developer, was present before the court and stated that he would have the entire course built by 1990. He stated that the road to the clubhouse, the water and sewer would be in place before lots can be sold.

Commissioner Robinson questioned whether there would be appropriate grading and seeding done and Commissioner Raverty stated that he would like the grading and seeding done by December, 1989.

Commissioner Robinson said that he would like to have September, 1990 in Condition #3 and Commissioner Raverty further included that the pesticide storage must be stored in the maintenance building on the course.

There was a lengthy discussion regarding fencing, roadways and access to this facility after which Commissioner Raverty made a motion approving the second reading of Ordinance 920.178 with the conditions of the Planning & Zoning set forth as conditions of the fiscal court in the zone change and:

Condition #3 be changed to state:

The proposed golf course and clubhouse shall be completed and operational by September, 1990; if not, the sale of all lots shall be suspended.

Amendment to Condition #4:

That the applicant shall install a breakway gate at Meiman Lane in order to allow emergency vehicles to access the project from the west. A gravel or cinder road shall be constructed and maintained by the applicant from Meiman Lane to the paved cul de

MINUTES
BOONE COUNTY FISCAL COURT

APRIL 4, 1989
3:00 P.M.

sac proposed to terminate at lot #36 and that said gravel road shall not be used for construction traffic.

Condition #7 would be added as follows:

The maintenance building, which includes pesticide storage, shall be constructed within four hundred feet of the clubhouse.

Condition #8 would be added as follows:

If the adjoining property owners determine that the existing fence cannot be repaired properly to restrict people land livestock, the applicant shall construct a new fence at the applicant's cost. The new fence shall consist of nonflammable wire, at least forty eight inches in height and shall have a one inch by six inch board on top. If the applicant elects to construct a more decorative fence, they shall obtain the approval of the design from the adjoining property owner prior to construction. Also, the applicant agrees to provide any maintenance of the fence for perpetuity.

Commissioner Robinson seconded the motion. Hearing no further discussion on the motion, Judge Ferguson called for a vote, Commissioner Raverty voted AYE, Commissioner Robinson voted AYE, Commissioner Davis voted AYE, Judge Ferguson ABSTAINED. (Exhibit "B")

Following the vote, Judge Ferguson made a statement regarding his feelings on this particular zone change. Judge Ferguson stated that he had invested most of his life on this farmland and had done so as if it were his own even though an individual never really owns the land, but merely keeps the land in trust. Judge Ferguson said he regrets to see this change take place as he feels that farmland is beautiful, however, he realizes that the natural order of things is change and he believes that this plan is a good one. He said that he hoped this would be of benefit to Boone County in the long range and he wished the developers the best of luck.

Mr. Ken Jameson said that Judge Ferguson had been fair and reasonable in his discussions regarding the fencing and regarding the zone change application. He further stated that the other property owners have been reasonable in their requests.

ORDINANCE 920.179 - OFF PREMISE SIGNS

Judge Ferguson presented for second reading Ordinance 920.179, an ordinance of the Boone County Fiscal Court adopting an amendment to the Boone County Regulations and such amendment being a change to Article 19, Section 1940 regarding the placement of off premises signs in Boone County.

Mr. Bob Clark, LaMar Advertising, was present before the court and stated that he feels this is a good amendment to the present zoning ordinance and that too many zones are currently useable for outside sign construction.

Commissioner Davis stated that he feels it should be restricted to Industrial One (I-1) and Commercial Three (C-3) zoning only and would request that Industrial Two (I-2) be removed from the present ordinance. He advised that he would move approval of Ordinance 920.179 with the condition that outdoor advertising only be permitted in Commercial Three (C-3) and Industrial One (I-1) zones. Commissioner Robinson seconded the motion.

Commissioner Raverty stated that he does not see a problem with this being utilized in I-2 zone.

Commissioner Davis said that this would allow for the construction of these signs in industrial parks.

Mr. Clark advised that there are not probably more than one or two Industrial Two (I-2) zones in the county would be good for this type of signs and requested that the court not add the additional condition to the ordinance.

Hearing no further discussion, Judge Ferguson called for a vote on the motion, which was to approve outdoor advertising in Commercial Three (C-3) and Industrial One (I-1) zones only, ALL VOTED AYE. (Exhibit "C")

ORDINANCE 920.180 - OPEN SPACE

Judge Ferguson presented for second reading Ordinance 920.180, an ordinance of the Boone County Fiscal Court approving the recreation element, entitled Boone County Open Space Master Plan, as part of the update or amendment of the current Boone County Comprehensive Plan. Commissioner Raverty moved approval of Ordinance 920.180, seconded by Commissioner Davis. Hearing no discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE. (Exhibit "D")

ORDINANCE 840.2D - ANIMAL ORDINANCE

Judge Ferguson presented for second reading Ordinance 840.2D, an ordinance relating to amending Ordinance 840.2C to provide for the disposition of stray animals found in Boone County, amendment regarding the stiffening of penalties for dogs running at large in the county. A motion was made by Commissioner Robinson, seconded by Commissioner Davis to approve same. Hearing no further discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE. (Exhibit "E")

ITEM VI.

OLD BUSINESS

BEEMON LANE

Judge Ferguson advising that the issue of Beemon Lane has been deferred to a future meeting.

CHILD CARE WORKER'S MANUAL

Judge Ferguson further advised that the Matter of the Child Care WORKER'S Manual had also been deferred.

ORIENT STREET

Judge Ferguson recognized Ms. Roberta Acra, resident of Orient Street, who was before the court requesting that a culvert be placed along the roadway and gravel be placed to allow for additional parking.

Mr. Pelley stated that he has been looking into the matter with Mr. Ridner and that the approximate cost of this construction project would be \$750.00.

Commissioner Robinson said this is not a cost that should be borne by the county as it is not the county's obligation to provide off street parking.

Commissioner Raverty stated that if the resident wants to put the culvert in, he has no problem with that, but stated that the present county ordinance provides for NO parking on the county roadway and that he feels this should be enforced by the county police.

Ms. Acra advised that the county police are frequently at her home regarding this matter.

Commissioner Davis stated that the best the county could do would be to allow the resident to place the culvert or to place the culvert and bill the resident, as is the common practice in the county.

It was agreed that Ms. Acra will work with AL Ridner, Codes Enforcement Officer, and Harvey Pelley, County Road Supervisor to find a solution to the problem.

ITEM VII.

ADMINISTRATIVE UPDATES

Judge Ferguson recognized Robert Martin relative to the Health Building located on Woodspoint Drive. Mr. Martin make the recommendation that the Health Building be utilized as a Senior

MINUTES
BOONE COUNTY FISCAL COURT

APRIL 4, 1989

3:00 P.M.

Citizens Center and also as an Adult Education facility.

Mr. Jack Neinabor said that he has met with the tax committee and they have agreed to the funding for one half of this project. The Boone County School Board will be working with the Senior Citizens of Northern Kentucky to work out details regarding the space to be utilized, with maintenance and renovation being done by the respective parties.

A motion was made by Commissioner Raverty, seconded by Commissioner Davis, to authorize the Judge/Executive to enter into a contract with the Senior Citizens of Northern Kentucky and the Boone County Board of Education for the rental of said facility at such time as the contract has been approved by the county attorney's office. The Senior Citizens of Northern Kentucky will be paying a ten thousand dollar (\$10,000.00) annual fee for rental of this facility. Hearing no further discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE.

AIR QUALITY BOARD

Mr. Martin gave an update on the Air Quality Board and advised that it is presently being operated by the Northern Kentucky District Health Department and that the counties, at this time, have not been requested to put forth any additional funding, and that it appears that Kenton County will need to put forth an additional twenty thousand dollars (\$20,000.00) before any other funds would be requested from other counties.

EASEMENT - U.L.H. & P. - DINSMORE

Judge Ferguson recognized Mr. Martin relative to the easement for U. L. H. & P. Mr. Martin advised that the Dinsmore Foundation has granted approval for the easement to be placed across the property for electric lines to be moved.

Commissioner Robinson moved to grant the easement and to reduce the sale price by \$1800.00 to the Dinsmore Homestead Foundation and that the \$1800.00 being paid for the easement by U.L.H. & P. Company be given to the County of Boone. Commissioner Raverty seconded the motion. Hearing no discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE.

C.T.I.C.

Judge Ferguson advised that C.T.I.C. would be sending their representative, Mr. Horn, to the next meeting of the Boone County Fiscal Court on April 18th to discuss the franchising of cable television in Boone County.

102 144
MINUTES
BOONE COUNTY FISCAL COURT
APRIL 6, 1989
3:00 P.M.

Commissioner Raverty stated that all the commissioners had asked for was that C.T.I.C. look at the current specs and advise if there were changes that would be necessary, and that no additional consulting work would be needed at this time.

Judge Ferguson questioned whether over build would be studied and Commissioner Raverty stated that he did not feel that an objective opinion could be obtained from any one in that it is a philosophical issue and can be substantiated either way.

SHELTER - BOONE LINKS GOLF COURSE

Also under Administrative Updates, Scott Kimmich requested approval by Boone County Fiscal Court for a starter shed to be located on Hole #1 of the New Nine at the Boone Links Golf Course. Mr. Kimmich advised the approximate cost of construction would be \$2,000.00.

Commissioner Robinson stated that he would like to see if the county can build it, and also ask that the county further look into whether it can be built by other builders at a reduced rate. He further stated that he felt it would be appropriate to determine if a structure of this nature could be built elsewhere and trucked in. This issue will be placed on the agenda for April 18th for consideration.

BRIDGE BEAMS - FEELEY ROAD

Harvey Pelley requested approval to secure bids for bridge beams on Feeley Road. A motion was made by Commissioner Raverty, seconded by Commissioner Robinson, to go bid for the bridge beams that would be necessary to protect the water table there. Hearing no further discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE.

ITEM VIII. DEPARTMENTAL INFORMATION

Judge Ferguson stated there was no Departmental Information to come before the court at this time.

ITEM IX. NEW BUSINESS

SLIPPAGE - LOWER RIVER ROAD

Commissioner Raverty stated he would like for the issue of Lower River Road and the sliding area to be discussed at this time. He said that immediately down from River Ridge Park, there is some slippage in the area.

Mr. Pelley advised that George J. Thelan has been called upon to

offer engineering advice in this area and that it is being monitored on a daily basis.

Commissioner Raverty stated that there are times that the road is in such disrepair that school buses will not travel them. He said that the court needs to continue to work with the school system on this matter.

PIONEER BLVD.

Commissioner Raverty brought forth concerns regarding the reconstruction of subdivision streets near Pioneer Blvd. Mr. Pelley advised the work will be done as funds are available as at the present time, the blacktop funds for the current fiscal year have been exhausted. Mr. Pelley stated they are planning a complete overlay throughout the entire subdivision and have planned to reinforce the cracks and joints in the streets.

Commissioner Raverty asked that at first opportunity, the funds be transferred within the budget of the Boone County Road Department to allow this project to be expedited as quickly as possible.

FISCAL YEAR BUDGET

Judge Ferguson presented the budget for the fiscal year 1989-90 and advised there will be a caucus at 3:00 P.M., April 11th, at which time the department heads will be given an opportunity to come forward and discuss their departmental budgets. It will also be necessary at that time to evaluate the actual requests by persons seeking contributions from the fiscal court of the County of Boone.

AUDIT - COUNTY CLERK/SHERIFF

Judge Ferguson presented the audit of the Sheriff and County Clerk for FY 87-88. A motion was made by Commissioner Davis, seconded by Commissioner Raverty, to approve same. Hearing no discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE.

ZONE CHANGES

Commissioner Robinson stated that people are notified of zone changes, however, they are not notified of the procedure by which zone changes take place and where information will be available. Commissioner Robinson made a motion that the fiscal court write a letter to the Planning & Zoning Commission and ask that they notify the adjoining property owners, not only of the fact that a zone change has been requested but what information is available

BOOK 10-110
MINUTES
BOONE COUNTY FISCAL COURT

APRIL 4, 1989

3:00 P.M.

to the Planning Commission, procedures that are followed and ways that information can be obtained to secure information regarding said zone changes prior to a public hearing. Commissioner Robinson stated that many people go to public hearings without adequate information with which to prepare themselves to ask questions. He stated that he feels it is very important that this line of communication be developed. Commissioner Raverty seconded the motion. Hearing no objection, Judge Ferguson called for a vote on the motion, ALL VOTED AYE.

ITEM X.

PERSONNEL MATTERS

Scott Kimnach requested approval of Mr. Raymond Dosch and Mr. Jim Steadham as seasonal employees of the Boone Links Golf Course. He also requested the approval of Mr. Adam Chaney in the Pro Shop and Mr. Clarence Stricker as a starter ranger at the Boone Links Golf Course. The motion was offered by Commissioner Robinson, seconded by Commissioner Davis, to approve said employees for hiring. Hearing no discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE.

ITEM XI.

FISCAL MATTERS

Judge Ferguson presented the fiscal court order for approval. A motion was made by Commissioner Robinson seconded by Commissioner Raverty, to approve Court Order #16 in the total amount of \$21,245.52. Hearing no discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE. (Exhibit "F")

Judge Ferguson presented the invoice report for approval. A motion was offered by Commissioner Robinson, seconded by Commissioner Raverty, to approve same. Hearing no discussion, Judge Ferguson called for a vote on the motion, ALL VOTED AYE. (Exhibit "G")

Commissioner Raverty said he would like to see those things of which the fiscal court has no control removed from the commissioner's budget. He said that he does not feel that it is appropriate for the fiscal court to accept responsibility for those things for which they have no control.

ITEM III.

RETURN TO DELEGATIONS

Judge Ferguson return to Delegations and recognized Bob Martin regarding the remainder of the bids received for the fiscal year 1989-90. Mr. Martin opened the bids as follows:

Cleaning Supplies

Seybold Supply Company
Oxford Chemicals, Inc.
Superior Janitor Supply
Zellerbach

Cleaning Supplies Cont'd.

Phillips Supply Company
Thompsons Sanitary Supply House

Heating, Plumbing, Electrical Services

Morris Heating & Air, Inc.
Glenway, Inc.

Paper Supplies

Redeker & Dick, Inc.
A. Bruce Crock, Inc.
Fred Felix Co., Inc.
Merchants Paper Company, Inc.
EDM Business Interiors
Beers Business Forms & Printing

Hardware

Burlington Hardware
Florence Hardware
Morris Heating & Air, Inc.

Lock Service

A. Vance Lock Service
Bonded Lock Service

Typewriter Ribbons & Correction Tapes

Redeker & Dick, Inc.
ABS Business Products
UNISYS Corporation
Fred Felix Co., Inc.
EDM Business Interiors

Office Supplies & Equipment

Village Square Office Products
A. Bruce Crock, Inc.
Redeker & Dick, Inc.
Fred Felix Co., Inc.
Madison Office Products, Inc.
Queen City Office Machines, Inc.
Gibson Perin Company
EDM Business Interiors

Weapons & Ammunition

Galls, Inc.

Police Uniforms

Roy Tailors Uniform Co., Inc.
R & R Uniforms

ITEM XII.

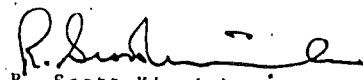
ADJOURNMENT

Hearing no further business to come before the court, Judge Ferguson called for a motion to adjourn. The motion was offered by Commissioner Raverty, seconded by Commissioner Davis. ALL VOTED AYE.

CLERK'S CERTIFICATION

I, R. Scott Kimmich, having been duly appointed to the office of Fiscal Court Clerk, do hereby certify that this is a true and accurate record of the actions taken by the Boone County Fiscal Court at the meeting of April 4, 1989.

SIGNED:



R. Scott Kimmich
Clerk of the Fiscal Court
County of Boone

Date: April 21, 1989

ITEM I.CALL TO ORDER

Judge Bruce Ferguson called to order the regular meeting of the Boone County Fiscal Court.

Present:

Bruce Ferguson, County Judge Executive
Patrick Raverty, Commissioner District 1
Ronald Robinson, Commissioner District 2
Donald Davis, Commissioner District 3
Larry Crigler, County Attorney
Vaughn Rogers, Finance Director
R. Scott Kimmich, Court Clerk

Judge Ferguson then led in the invocation and the pledge to the flag.

ITEM II.APPROVAL OF THE MINUTES

Judge Ferguson presented the minutes for approval by the court and Commissioner Robinson moved approval with a correction on Page 7, in the third paragraph from the bottom the last sentence should have read, "the court gets a minimum buffer as in effect from the Planning and Zoning regulations". Commissioner Davis seconded the motion with the correction and Judge Ferguson called for the vote on the motion and all voted AYE.

ITEM III.DELEGATIONSSHERIFF'S BUDGET SETTLEMENT

Sheriff Elmer Wright was before the court to present his annual settlement to the Fiscal Court for the year and advised that he would present to Judge Ferguson a check in the amount of \$103,140.74. Commissioner Raverty moved approval of the Sheriff's settlement and Commissioner Robinson seconded the motion, hearing no objections Judge Ferguson called for the vote on the motion and ALL VOTED AYE.

Sheriff Elmer Wright presented his budget for the next year and Commissioner Robinson moved approval of the \$615,00 budget and Commissioner Davis seconded the motion. Hearing no further discussion Judge Ferguson called for a vote on the motion and ALL VOTED AYE.

HAND ROAD

Mrs. Eloise Warnke was before the court for a final action on the acceptance of Hand Road. Judge Ferguson advised that due to a medical emergency in the family County Attorney Larry Crigler was not available to answer questions tonight and that the matter would have to be placed on the agenda for the next meeting. The

103 120
MINUTES
BOONE COUNTY FISCAL COURT
MAY 2, 1989
3:00 P.M.

court did discuss the right of way on the road and Commissioner Robinson said that he would like to discuss the matter further with Harvey Pelley County Road Supervisor before making a decision on same. Ruth Shaffer Executive Secretary to the County Judge will set up a meeting between County Attorney Larry Crigler and Mr., William McCormick to discuss the affidavit which must be recorded before work could be done on hand road .

TAX COMMITTEE RECOMMENDATIONS

Judge Ferguson called upon Kathy Hahn Thomas to present the recommendations for funding for the Mental Health Agencies for this fiscal year. Commissioner Robinson moved approval of the recommendation and Commissioner Davis seconded the motion for approval. Hearing no discussion Judge Ferguson called for the vote, Commissioner Raverty ABSTAINED, Commissioner Robinson voted AYE, Commissioner Davis voted AYE, and Judge Ferguson's vote is to be recorded as AYE to reflect the will of the majority.

Ms. Pat Tanner presented the recommendations for the Mental Health subcommittee and Commissioner Davis moved approval of the recommendation and Commissioner Robinson seconded the motion. Hearing no further discussion Judge Ferguson called for the vote and Commissioner Raverty ABSTAINED, Commissioner Robinson voted AYE, Commissioner Davis voted AYE, and Judge Ferguson vote is to be recorded as AYE to reflect the will of the majority of the court members.

Dr. Ferd Metzger presented the recommendations for the Senior Citizens Subcommittee and Commissioner Raverty moved approval of same, Commissioner Davis seconded the motion and ALL VOTED AYE
NOTE: THE TAX COMMITTEE RECOMMENDATIONS ARE AN EXHIBIT TO THESE MINUTES (Exhibit "A")

HUMAN SERVICES CONCEPT

Dr. Joe Willett was present before the court to discuss the construction of the Human Services Concept. Dr. Willett informed the court that he was confident that the Comprehensive Care Agency could finance the structure and was ready to proceed if the Boone County Public Properties Corporation will assist with the financing of same.

Commissioner Ron Robinson confirmed from Dr. Willett that the agency would need an additional \$60,000 of the tax funds to make this project feasible and Dr. Willett said that this was accurate. Commissioner Robinson then agreed with a remark made previously by Commissioner Raverty that Dr. Willett really needed to talk with the tax committee before coming to Fiscal Court. He said, "you are asking us to back a loan you don't have the funds to support."

BOONE COUNTY FISCAL COURT

MAY 2, 1989

3:00 P.M.

Commissioner Raverty said that if the fiscal court voted next year not to allocate this additional money then Comp Care would be in a box because they would not have the funds to meet the debts on the building.

Commissioner Raverty then made a motion that the tax committee review the information that Carol Marek is compiling from other agencies across the nation and advise whether the construction of the building such as the one requested by Dr. Willett is the best possible situation for the county. Commissioner Robinson seconded the motion for discussion.

Ms. Pat Tanner of the tax subcommittee said that she would like a clarification of the request from the tax committee.

Commissioner Raverty said that if the tax committee said to proceed with the building then they would be in effect committing the funds for the project.

Commissioner Robinson said that he did not necessarily agree with that scenario.

Ms. Thomas informed the court that the tax committee had said last winter that this process of determining the needs of the agencies would take at least one year.

After a lengthy discussion Commissioner Robinson withdrew his second of the motion and it was decided to further discuss this matter again on May 30, 1989, Commissioner Raverty withdrew his motion from consideration.

FLORENCE PARK CARE

Mrs. Kathy Brockman and her sister appeared before the court to advise the court that their mother had suffered from a debilitating stroke and had been at the Florence Park Care Center but due to the fact that she will soon become a Medicare patient she will have to leave the home. The court members informed Mrs. Brockman that there is pending litigation regarding the matter at this time and that there is no immediate relief. Jack Nienabor, of the Senior Citizens of Northern Kentucky agreed to investigate options that may be open to the family.

ROAD DEPARTMENT BIDS ACCEPTANCE

Robert Martin presented the Road Department bids for Fiscal Year 1989-90 and Commissioner Robinson moved approval of the recommendation Commissioner Davis seconded the motion. Hearing no further discussion Judge Ferguson called for the vote on the motion and ALL VOTED AYE. (Exhibit "B")

MINUTES
BOONE COUNTY FISCAL COURTMAY 2, 1989
3:00 P.M.FEELEY ROAD BRIDGE PROJECT

Judge Ferguson presented the recommendation from the County Road Supervisor that the bid for the Feeley Road Bridge Project be awarded to Universal Concrete Company at a cost of \$23,693.00. Commissioner Raverty moved approval of the recommendation and Commissioner Davis seconded the motion. Hearing no discussion on the matter Judge Ferguson called for the vote and ALL VOTED AYE. (Exhibit "C")

ROGERS LANE - DRAINAGE PROBLEM

Mrs. Pam Vu appeared before the court to complain about a drainage problem in that the water from the county lot on Rogers lane is draining across a swale in her front yard and that this is causing erosion in the yard. Furthermore she stated that she is having a problem in that there is sewage running through her backyard which is not sanitary. She informed the court that she had been in touch with the health department on this issue and that they had said that this matter needs to be resolved.

The Court members informed Mrs. Vu that there is nothing that can be done regarding the water runoff in that the water is following a natural path. However it was requested that the Health Department be notified and that the waste discharged from the package plant be tested on a monthly basis and the findings of said tests be forwarded to the fiscal court for their review. Commissioner Davis placed this in the form of a motion and Commissioner Robinson seconded the motion. Hearing no further discussion on the motion Judge Ferguson called for the vote and ALL VOTED AYE.

ITEM V.ORDINANCES AND RESOLUTIONSORDINANCE 920.182 - BAETEN

Judge Ferguson presented to the Fiscal Court for First Reading Ordinance 920.182, an ordinance of the Boone County Fiscal Court adopting a map amendment to the Boone County Kentucky, zoning map, such map amendment being a zone change from Suburban Residential One (SR-1) to Agricultural Estate (A-2) for a 22.82 acre site generally located north of Frogtown Road and West of I-75, Boone County Kentucky as requested by Earl Baeten (Owner) and recommended for approval by the Boone County Planning & Zoning Commission. Judge Ferguson recognized Mr. Thomas Nienabor, attorney for the applicant. Mr. Nienabor informed the court that the applicant would like to have the court defer this matter until a later date, to be determined by the applicant, and that the applicant would waive the 90 day passage requirement in asking for the delay in action by the court.

MINUTES
BOONE COUNTY FISCAL COURT

MAY 2, 1989

3:00 P.M.

Commissioner Davis moved to table the matter pending further notification from the applicant and Commissioner Raverty seconded the motion. Hearing no further discussion Judge Ferguson called for the vote on the motion and ALL VOTE AYE.

ORDINANCE 920.177 - AVERITT EXPRESS

Judge Ferguson presented for second reading Ordinance 920.177, a zoning map amendment to the Boone County Kentucky, Zoning Map, such map amendment being a zone change from Commercial Services (C-3) to Industrial One (I-1) for a 15.65 acre site generally located on the west side of U.S. 25, approximately 300 feet north of Frogtown Road, Boone County, Kentucky, such map amendment being requested by Averitt Express (Applicant) for Gorman Dillingham (owner), said zone change approved based on the findings of fact established through a public hearing held by the Fiscal Court of the County of Boone, Kentucky on March 21, 1989. Commissioner Davis moved approval with the conditions as set forth from Planning and Zoning Commission, Commissioner Raverty seconded the motion and ALL VOTED AYE. (Exhibit "D")

ORDINANCE 920.181 - SKILCRAFT

Judge Ferguson presented for second reading Ordinance 920.181, an ordinance of the Boone County Fiscal Court for the utilization of an underlying zone that zone being Industrial One/Planned Development (I-1/PD) on a 14.33 acre site generally located on the west side of Kentucky 237 and approximately 600 feet north of Conrad Lane, Boone County, Kentucky, as requested by Burgess and Niple, Limited (Applicant) for Skilcraft Sheetmetal, Inc. (Owner) and recommended for approval by the Boone County Planning & Zoning Commission. Commissioner Robinson moved approval for purposes of discussion and Commissioner Davis seconded the motion. With the motion on the floor Commissioner Robinson questioned the buffer that would be put in place beside the property of Mr. Regenbogen.

The applicant agreed to a change in Condition 1 of the Planning Commission that would provide that any trees removed along the driveway will be replaced by 12 foot evergreen trees. With the condition agreed upon Judge Ferguson called for a vote by the court and ALL VOTED AYE. (Exhibit "E")

Mr. Roger Peterman then asked that the fiscal court consider an inducement resolution for the purchase of equipment acquisition of property and construction of the facility in the amount of \$3,000,000. Commissioner Robinson moved approval and Commissioner Raverty seconded the motion. Hearing no further discussion Judge Ferguson called for the vote and ALL VOTED AYE. (Exhibit "F")

103 124
MINUTES
BOONE COUNTY FISCAL COURT

MAY 2, 1989

3:00 P.M.

ITEM IX.

NEW BUSINESS

GOLF COURSE - TENT

Mr. Jeff Kruepman appeared before the court to request permission to purchase a tent for the Boone County Golf Course. Commissioner Robinson moved approval of the purchase and Commissioner Raverty seconded the motion. Hearing no further discussion Judge Ferguson called for the vote and ALL VOTED AYE.

MILLER-OWENS ROAD

Judge Ferguson called upon Robert Martin regarding the acceptance of Miller Owens Road. Mr. Martin advised that he is recommending that the court accept the additional footage as requested. He said that the reason that this had not been done previously was that the court had not wanted to accept a road into the system that had a cattle crossing in the road.

Commissioner Robinson said that he could remember a great deal of discussion on this matter but that he did not remember the cattle crossing being an issue at the time the discussions took place.

Judge Ferguson said that he felt the cattle crossing should be removed. Commissioner Raverty agreed.

Commissioner Davis made a motion that this be tabled until the next meeting of the fiscal court, Commissioner Robinson seconded the motion and ALL VOTED AYE.

CABLE T.V. PROPOSALS

Judge Ferguson advised the court that the County Attorney's office had stated that the court could now move forward with accepting proposals for cable T.V. in the unincorporated areas of Boone County.

Commissioner Raverty moved that the fiscal court advertise for proposals to be accepted on June 20 for the unincorporated areas of Boone County. Commissioner Davis seconded the motion and ALL VOTED AYE.

CROSSING GATES - RAILROAD TRACK IN WALTON

Commissioner Raverty said that he had been contacted by Walton City Officials and that they are requesting that a letter of support from the court be sent to advise the state transportation officials that the county is in support of their placing crossing gates at the railroad tracks in Walton.

Executive Assistant R. Scott Kimmich informed the court that he had discussed this matter with the state and that the request has been forwarded from District Six to Frankfort.

Commissioner Raverty moved that the formal communication be sent and Commissioner Davis seconded the motion. Hearing no further discussion Judge Ferguson called for the vote and ALL VOTED AYE.

HEALTH CENTER CHANGE ORDER

Robert Martin requested approval of the court to proceed with the payment of Change Order #5 at the Boone County Health Center and advised that the architect said that this was not their fault in that the state inspectors had changed some of the requirements after the project was underway. Commissioner Robinson moved that the fiscal court authorize payment of the bill and that the court send a letter to the Cabinet Secretary over that division to advise them of this miscommunication. Commissioner Raverty seconded the motion and ALL VOTED AYE.

Judge Ferguson declared the court to be in recess at 5:22 P.M. and reconvened the court in open session at 5:28 P.M.

ITEM III.

RETURN TO DELEGATIONS

WOOLPERT CONSULTANTS - KY 18 STUDY

Upon calling the court back to order Judge Ferguson recognized representatives of the Woolpert Corporation regarding the Kentucky 18 Corridor Study.

As explained by the project consultants, "this report recommends short term and long term alternatives, considers the land development plans and brings relief to the congestion in the area of study. Short-term recommendations focus on intersection improvements involving lane designation and delineation of through intersections timing changes at the intersections with traffic signals and a check for possible interconnection of the signalized intersections to move traffic through the area more efficiently. Long range recommendations include partial bypass of the study area, increased exit ramp access from I-71/75, and the widening of the planned Houston/Hopeful road Connector to four lanes. The purpose of the long-range recommendations is to remove traffic from KY 18 and its intersections and to decrease congestion in the study area."

Judge Ferguson thanked the consultants for being present before the court and advised that the court will study the recommendations which in the long-range would cost and estimated \$16,000,000.

MINUTES
BOONE COUNTY FISCAL COURT
MAY 2, 1989
3:00 P.M.

Judge Ferguson declared the court to be in recess at 5:55 and advised that the court would reconvene at 7:30.

ITEM IV. JUDGE'S REPORT

Upon reconvening the court Judge Ferguson proceeded on the agreed a to the JUDGE'S report:

Judge Ferguson presented a letter from Ed Leab advising that PSCC is now on line with a faux machine and that the service is now available to anyone wanting to send them information.

Judge Ferguson presented a resolution to allow the Northern Kentucky District "Health Department to manage the Air Quality functions. Commissioner Robinson moved approval of the solution upon approval by the county attorney of same. Commissioners Raverty seconded the motion and ALL VOTED AYE. (Exhibit "G")

Judge Ferguson presented a letter from Secretary of State Bremer Ehrler advising of the importance of having all polling places accessible to the handicapped.

Judge Ferguson presented a letter he had presented to Mr. Bill Whitson of the Kenton County Airport Board advising that the county would very much like to have the airport reconsider the purchase of the Boh property and consider returning it to the tax duplicate.

ITEM IX. RETURN TO NEW BUSINESS

OPEN BIDS - AGGREGATES & STEEL

Judge Ferguson called upon Robert Martin to open the bids for the aggregate at the Boone County Road Department. Mr. Martin advised that bids were received from Medusa Aggregate, Believew Sand and Gravel, Nally & Gibson, Boone County Sand and Gravel Company, and Northern Kentucky Aggregate.

Judge Ferguson called upon Mr. Martin to open bids from the steel companies and Mr. Martin advised that bids had been received from Riverfront Steel and Boone Steel.

MINUTES

BOONE COUNTY FISCAL COURT

MAY 2, 1989

3:00 P.M.

WYNDY OF OAKBROOK - STREET ACCEPTANCE

Robert Martin advised the court that there had been a request that the Fiscal Court accept the streets in the Wynds of Oakbrook into the County Road Maintenance System. The Court advised that inasmuch as the county had no knowledge of the construction of the streets, they were never inspected by the county during construction of the streets, that it would not be possible for the court to accept them into the system at this time.

STREETS - CONTINUOUS MAINTENANCE

Harvey Pelley requested that the Fiscal Court take the following streets into the county road maintenance system: West Horizon Drive, Bridgette Lane, Heatherwood Drive, Misty Lake Drive, Tiburon (remainder thereof) and Lilac Drive in it's entirety. Commissioner Raverty moved approval of the streets as presented in the memorandum dated April 25, 1989 from County Road Supervisor Harvey F. Pelley and substantiated by George J. Thelen. Commissioner Robinson seconded the motion and ALL VOTED AYE. (Exhibit "H")

PROMOTORY DRIVE

Harvey Pelley recommended the acceptance of Promotory Drive into the County Road Maintenance System and advised that the county had not accepted it in the past because it did not meet the thickness, but that it now does meet the thickness of the requirements in the specifications. Commissioner Robinson moved approval of the acceptance of Promotory and Vantage Court, as recommended by Harvey F. Pelley. Hearing no further discussion Judge Ferguson called for the vote and ALL VOTED AYE.

STEPHENSON MILLS ROAD

Commissioner Raverty questioned the status of the widening of Stephenson Mills Road and was advised by County Road Supervisor Harvey F. Pelley that the project should be completed by the end of the summer. Judge Ferguson than advised the court that he feels it would be best if the county would give the street back to the city of Walton upon it's completion.

ITEM III.

RETURN TO DELEGATIONS

BEEHON LANE

Judge Ferguson recognized Mrs. Michelle Anderson who appeared before the court to advised that she did not think it was appropriate for the court to ask for an Attorney General's opinion nearly 10 months after she first came before the court.

MINUTES
BOONE COUNTY FISCAL COURT

MAY 2, 1989

3:00 P.M.

Commissioner Robinson stated that the court frequently seeks the Attorney General's opinion to ensure that the county is taking the proper course and said that he would contact the Attorney General to see if he could expedite the process.

Commissioner Don Davis moved that the fiscal court authorize Harvey Pelley to begin with the first phase of the problem resolution in the area which would be to eliminate the drainage problem. Commissioner Raverty seconded the motion and ALL VOTED AYE. Harvey Pelley will present a report at the next meeting as to how he intends to proceed with same.

MERRIE COURT & ASHER COURT

Judge Ferguson advised the court that he has received communication from Mr. George Stewart that a lawsuit is being filed regarding the county not being willing to take the Merrie Court and Asher Court streets in to the county maintenance system. He also stated that the documents forwarded from the attorney alleged that the county had been paid a fee of for the inspections.

Commissioner Robinson advised that he was unaware of the inspection fees and wanted to have the issue investigated.

ITEM X.PERSONNEL

Marilyn Young recommended the employment of Peggy Stephenson as a Secretary in the D.E.S. office. Commissioner Davis moved approval and Commissioner Raverty seconded the motion. Hearing no objections Judge Ferguson called for the vote and all voted AYE.

Marilyn Young recommended the hiring of a Parks Program Planner II for the Boone County Parks Department. Commissioner Robinson questioned Parks Director Ken Hund about the position and Hund informed the court that he would be calling on this person to assist in the management of the department. Commissioner Raverty moved approval of the position saying that he felt the additional person was needed. Commissioner Davis seconded the motion and without objections Judge Ferguson called for the vote on the motion and ALL VOTED AYE.

Marilyn Young recommended the appointment of Phil Hester for the position of Parks Program Planner I, Commissioner Robinson moved approval and Commissioner Raverty seconded the motion. Without further discussion Judge Ferguson called for a vote on the motion and ALL VOTED AYE.

MINUTES
BOONE COUNTY FISCAL COURT

MAY 2, 1989

3:00 P.M.

Marilyn Young recommended the appointment of Lance Brennan as a Program Leader for the Boone County Parks Department, Commissioner Raverty moved approval and Commissioner Davis seconded the motion. Hearing no objections Judge Ferguson called for a vote on the motion.

Marilyn Young presented a recommended change for the personnel policy regarding the overtime situation and it was confirmed that the overtime would be for any time worked in excess of the regularly scheduled work day, whether that day was 8 hours or whether that day was 10 hours.

The issue of the on call positions at the Boone County Animal Shelter were deferred until the next meeting pending information from the County Attorney's Office.

ITEM XI.FISCAL MATTERS

Judge Ferguson presented Court Order #18 for approval. Commissioner Robinson moved approval and Commissioner Robinson seconded the motion. Hearing no objections Judge Ferguson called for the vote and ALL VOTED AYE. (Exhibit "I")

Judge Ferguson presented the invoice report and the supplement to same for approval of the Fiscal Court and Commissioner Robinson moved approval with a second to the motion coming from Commissioner Don Davis, hearing no discussion on the motion Judge Ferguson called for the vote on the motion and ALL VOTED AYE. (Exhibit "J" & "J-1")

ITEM XII.ADJOURNMENT

Advising that there was no further business to come before the court Judge Ferguson called for a motion to adjourn, Commissioner Raverty moved and Commissioner Davis seconded the motion. Hearing no objections Judge Ferguson called for the vote and ALL VOTED AYE.

RSK:car

CLERK'S CERTIFICATION

MEMBERS
BOONE COUNTY FISCAL COURT

MAY 21 1989

3:00 P.M.

I, R. Scott Kimmich, having been duly appointed to the office of Fiscal Court Clerk, do hereby certify that this is a true and accurate record of the actions taken by the Boone County Fiscal Court at the meeting of May 2, 1989.

SIGNED:



R. Scott Kimmich
Clerk of the Fiscal Court
County of Boone

Date: May 16, 1989

CORRECTION

Page 11 - Fiscal Matters:

First Paragraph should read as follows:

Judge Ferguson presented Court Order #18 for approval. Commissioner Robinson moved approval and Commissioner Davis seconded the motion. Hearing no objections Judge Ferguson called for the vote and ALL VOTED AYE.

Page 9 - Streets - Continuous Maintenance:

Bridget Lane should be omitted from the list of those road which had been approved.

Signed:

Bruce Ferguson
Bruce Ferguson,
County Judge/Executive

Attest:

R. Scott Kinnich
R. Scott Kinnich
Fiscal Court Clerk

Date:

6-07-89

MEMORANDUM

RECEIVED
NOV 30 2001
Boone County
Planning Commission

TO: BOONE COUNTY PLANNING COMMISSION
FROM: DEE TRAVIS
DATE: 11/30/01
RE: AVERITT / SDG PROPERTIES, INC.

Please note the following as requested from the Public Hearing of November 28, 2001. I will be in attendance at the committee meeting on December 5, 2001 to respond to any questions or clarify any outstanding matters.

1. NUMBER OF TRUCKS

Averitt currently has thirty-two (32) tractors domiciled at this facility for a local service operation. They are rarely ever on site at the same time during the normal course of business operations. The restriction of twenty-eight (28) tractors being present on site all at once has never been addressed in the thirteen (13) years that Averitt has owned and operated this facility.

2. TIME OF INGRESS / EGRESS

This is an actual count of the local service operation of number of trucks for each time:

TIME	IN	OUT
6:00am	0	3
7:00	1	2
8:00	17	7
9:00	10	10
10:00	0	13
11:00	0	3
12:00 Noon	5	5
1:00pm	0	2
2:00	1	2
3:00	2	2
4:00	2	0
5:00	7	0
6:00	8	0
7:00	13	4
8:00	10	10

TIME (cont.)	IN (cont.)	OUT (cont.)
9:00pm	2	1
10:00	1	17
11:00	0	5
12:00 Midnight - 5:00am	0	0

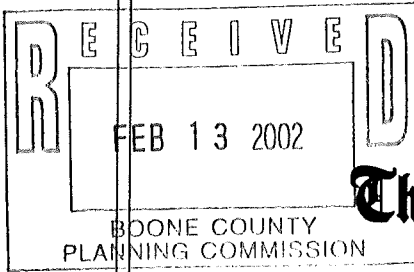
It is always possible to have an over the road truck come in or out but that is sporadic and would be different every day.

3. CON-WAY TRAFFIC IMPACT

If the restriction is removed and Con-Way begins operations, the traffic impact will reduce as they currently have fifteen (15) tractors for their city operation. Of course, there will be future growth but their current number is one-half of Averitt's. Lifting the restriction, allowing Averitt to move to Turfway, would lessen current traffic.

4. AVERITT TRUCKS

Averitt Express was founded in 1971. They have always had tractors and trailers. They have never been in the parcel delivery business. The minutes of the Fiscal Court from 1989 refer to trucks. The trucks of Averitt Express from 1971 or 1989 or 2001 are the same, tractors and trailers.



**Resolution
Of
The Boone County Fiscal Court**

Resolution No. 02-14

A RESOLUTION OF THE BOONE COUNTY FISCAL COURT APPROVING, WITH CONDITIONS, A REQUEST OF DEE TRAVIS (APPLICANT) FOR AVERITT/SDG PROPERTIES (OWNER) FOR A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN IN AN INDUSTRIAL ONE (I-1) ZONE AT 10755 DIXIE HIGHWAY, BOONE COUNTY, KENTUCKY, AS RECOMMENDED BY THE BOONE COUNTY PLANNING COMMISSION (7-3) VIA RESOLUTION NO. R-02-001-A.

WHEREAS, the Boone County Fiscal Court received a request for a change in an approved Concept Development Plan in an Industrial One (I-1) zone at 10755 Dixie Highway, 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 for a change in an approved Concept Development Plan, with conditions, in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky.

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

SECTION I

A. That the request for a change in an approved Concept Development Plan for the real estate which is more particularly described below shall be and is hereby approved, with conditions, in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky. The real estate which is the subject of this request for a change in an approved Concept Development Plan in an Industrial One (I-1) zone is more particularly described in DEED BOOK 410, PAGE NO. 121 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

B. For purposes of clarification to the conditions imposed by the Boone County Planning Commission, the following definitions shall apply:

"Un-road worthy" means equipment which lacks general compliance with Department of Transportation safety equipment standards and represents a threat to public safety.

"Goods in transit" means freight in the custody of the carrier, in the process of being transported pursuant to a bill of lading or other document.

**Resolution
Of
The Boone County Fiscal Court**

Resolution No. 02-14

SECTION II

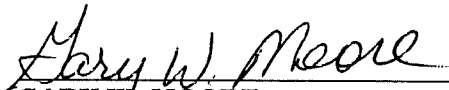
That as a basis for the approval for a change in an approved Concept Development Plan, with conditions, in an Industrial One (I-1) zone at 10755 Dixie Highway, Boone County, Kentucky, are the findings of fact of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Resolution and marked as "Exhibit A."

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

SECTION III

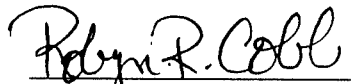
That this Resolution shall take effect and be in full force when passed and recorded according to law.

Adopted by the Fiscal Court of Boone County at a regular meeting on the 5th day of February, 2002, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested by the County Fiscal Court Clerk and declared to be in full force and effect.

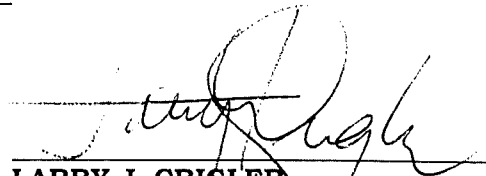


GARY W. MOORE
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:



ROBYN R. COBB
FISCAL COURT CLERK



LARRY J. CRIGLER
BOONE COUNTY ATTORNEY