

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

RECEIVED
MAR - 3 2008
BOONE COUNTY
PLANNING COMMISSION

(See Boone County
Zoning Regulations)

SECTION A (To be completed by applicant)

1. Name of Project Jeff Wyler Florence Dealerships
2. Location of Project Tract of land along Ky. Rte. 18
3. Total Acreage of Site 16.845 acres
4. Current Zoning of Site SR-2 and SR-1
5. Proposed Zoning (Classification being requested) Rezoning of 11.444 acres to C-3 Commercial District
6. Proposed Uses (please specify each use) 11.444 acres along Ky. Rte. 18 to be used as a Honda dealership and other auto dealerships. Balance of property, consisting of 5.401 acres, will not be rezoned and will remain residential.
7. Names of Applicant(s) The Mountain Agency, LLC
Phone Number (513) 752-3447 Fax No. (513) 753-2290
8. Address of Applicant(s) 829 Eastgate South Drive, Cincinnati, OH 45245
Cincinnati Ohio 45245
City State Zip
9. Name of Property Owner(s) Allie Marie Moore, Trustee; Gary R. Moore Family Trust
Phone Number _____ Fax No. _____
10. Address of Property Owner(s) 11375 60th Street N
Pinellas Park Florida 33782
City State Zip
11. Proposed Building Intensities (please specify) Separate building will be constructed on each of the two (2) commercial lots which will be rezoned C-3 as depicted on the Conceptual Site Plan
12. Are there any existing buildings on the site? Residential Homes
How many? 2
13. Deed Book 833 Page No. 325 Group No. 2032 and 2033A
14. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance
15. Have you submitted a Concept Development Plan? Yes
16. Have you had a pre-application meeting with BCPC Staff? Yes
17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:
 Boone County Water and Sewer District
 Florence Water and Sewer Commission
 Union Light Heat and Power
 Cincinnati Bell
 Owen County Rural Electric
 Boone County Public Works Department
 Kentucky Transportation Cabinet
 City of Florence Public Services Department
 Boone County Building Department

EXHIBIT

“A”

STAFF REPORT

Request of The Mountain Agency, LLC (applicant) for Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners) for a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Services (C-3), and variances from Section 3413.4(2).d ("Free-standing/Monument Signs" in Commercial Two [C-2], Commercial Services [C-3], and Commercial Four [C-4] Districts) and from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations, in conjunction with the annexation of real property into the City of Florence, for a 11.444 acre tract located at 961 Burlington Pike, Boone County, Kentucky. The request is for a zone change to allow auto sales and variances from landscape buffer yard requirements and a variance to increase the height of a freestanding sign.

March 26, 2003

REQUEST

This request is for a change in zoning, from Suburban Residential Two (SR-2) to Commercial Services (C-3) for 11.444 acres of a 16.845-acre parcel. The applicant proposes retaining the existing residential zoning, which is zoned Suburban Residential One (SR-1) and Suburban Residential Two (SR-2), for the remaining 5.401 acres. The proposed Concept Development Plan indicates that the 11.444 acres to be re-zoned would be divided into two lots. The western lot consists of 6.21 acres; the eastern lot consists of 5.57 acres. The eastern lot would feature a 20,000 square foot building. On the western lot is a building totaling approximately 53,000 square feet. There are 315 parking spaces that are 9' in depth and 435 that are 8 feet in depth, totaling 750 parking spaces between the two lots. A thirty-foot high sign is shown on both lots, representing a variance in permitted sign height, as stipulated in Section 3413-4(2)d of the Zoning Regulations.

A detention area is shown at the southeastern corner of the site. Existing water and sewer lines will serve the site. There are 52 light poles total on the two lots, each 30 feet in height.

Two curb cuts are proposed for the site. The first of these is located approximately 330 feet east of the intersection of Kentucky 18 and Ridge Road and approximately 60 feet from the eastern curb cut into the Shell gas station on Kentucky 18. The second is shown about 150 feet east of the above-mentioned curb cut. An access drive serving the two lots is shown along the common property lines.

The applicant proposes the following variances from landscaping requirements:

- A variance from Section 3645 of the Boone County Zoning Regulations with regard to Buffer Yard width for the eastern property boundaries along the eastern lot. The applicant requests a reduction in the required width from 30-foot width with fencing to 20 feet with fencing. The required buffer yard width is 60 feet when no fencing, berming, or masonry walls are installed.
- A variance from Section 3645 of the Boone County Zoning Regulations with regard to Buffer Yard width for the western property boundaries along the western property lines. The applicant requests a reduction from the required width of 40 feet with fencing to 20 feet with fencing. If no fencing, berming, or masonry walls are installed, the required width is instead 80 feet.
- A variance from Section 3645 to omit a required Buffer Yard "A" between the two proposed lots on the Concept Development Plan.

The applicant also requests a reduction in the number of plant materials required. Rather than following the requirements for Buffer Yard "A" as specified in Article 36 (i.e. Landscaping for the Cities of Florence, Union, and Walton), the applicant proposes following the requirements of Article 37 (Landscaping in Unincorporated Boone County). Additionally, the applicant would like to reduce the number of plants required in the buffer yards adjoining the residential properties. For each 100 linear feet of buffer yard, 10 evergreen trees, 5 small trees, and 30 shrubs would be installed.

Pending approval of the proposed Zoning Map Amendment, the City of Florence will annex the property.

SITE HISTORY

1988 The Boone County Planning Commission approved a request to re-zone an adjoining 2.29 acre site, located at the southeast corner of Ridge Road and Kentucky 18, on September 21, 1988, changing the zoning from Suburban Residential Two (SR-2) to Commercial Two (C-2). Four parcels were included in the request. The northernmost parcel, "Parcel E," is the site of a Shell station and car wash. The applicant had no uses proposed on the other parcels. The Planning Commission approved the request, imposing five conditions upon the development. Among these conditions was one that "Parcel B," the southernmost parcel, remains SR-2 to provide a buffer between the commercial development and the commercially-zoned property. Additionally, the Planning Commission required that the applicant provide right-of-way and construct a future frontage for a road through the site if the property to the east were developed (i.e. the subject property of the Zoning Map Amendment request). The Committee Report, which details all the conditions, is attached. The Boone County Fiscal Court passed the ordinance allowing the zone change on November 8, 1988.

2002 The Boone County Fiscal Court approved a request is for a Zoning Map Amendment for an adjoining 0.63 acre site between 985 Burlington Pike and 6062 Ridge Road. The site's zoning was changed from Suburban Residential Two (SR-2) to Commercial Two (C-2) to allow the construction of a parking lot to be used as an accessory use to a veterinary clinic. The clinic was to be located on Parcel "C" of the former Whaley's Baby Farm, which was zoned Commercial Two (C-2). The subject parcel was Parcel "B" of Whaley's Baby Farm. The resolution was approved on October 22, 2002.

SITE CHARACTERISTICS

The site's topography is rolling. Elevations range from 880 feet to 920 feet above sea level. There are two existing residences on the property at this time, as well as a barn, all of which would be removed if the Concept Development Plan were approved. A pond, located about 350 feet south of the street frontage on Kentucky 18, would be filled in. Of the 16.845 acres comprising the project, about 9.8 acres are currently undeveloped and appear to be used for agricultural purposes. A 30-foot-wide sanitary sewer easement, located approximately 620 feet from the property's street frontage on Kentucky 18, extends for about 863 feet along the west property boundary of the western lot. Along the east property boundary of the eastern lot is a 30-foot-wide utility easement, extending the length of the property.

ADJACENT LAND USES

North: Greenview subdivision, zoned Suburban Residential One (SR-1) and Commercial One (C-1)

Northeast: Merchants' Square subdivision, zoned Commercial Two/Planned Development (C-2/PD)

South: Undeveloped remainder of subject tract, zoned Suburban Residential One (SR-1) and Suburban Residential Two (SR-2)
Florence Alliance Church, located on Cayton Road, zoned Suburban Residential One (SR-1)

East: Ridgeview Lincoln Mercury, located on Burlington Pike, zoned Commercial Services (C-3)
Single-family residential property, located on Hopeful Church Road and not part of a subdivision, zoned Suburban Residential One (SR-1)
Chancellor Estates Subdivision, with single-family homes, located on Hopeful Church Road, zoned Suburban Residential One (SR-1)
Hopeful Heights Subdivision, with single-family homes, located on Hopeful Church Road, zoned Suburban Residential One (SR-1)

West: Shell filling station, located on Burlington Pike, zoned Commercial Two (C-2)
Veterinary clinic (under construction), located on Ridge Road, zoned Commercial Two (C-2)
Whaley's Baby Farm Subdivision, with single-family homes, located on Ridge Road, zoned Suburban Residential Two (SR-2)
Persimmon Grove Subdivision, with single-family residences, zoned Suburban Residential One (SR-1)

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The 2000 Boone County Comprehensive Plan's Future Land Use Map designates the majority of the site as "Urban Density Residential," which is described in the Comprehensive Plan as follows:

"Attached housing, generally condominiums or apartments, of over 8 dwelling units per acre (p. 158, '2000 Existing and Future Land Use Classifications')."

The Land Use Element provides the following quotes that are applicable to the site:

- A. "The Mall Road area should continue to develop as a regionally-oriented commercial district. This regionally-oriented growth should be confined to Mall Road and Houston Road and should not expand onto U.S. 42, KY 18 or Hopeful Church Road. However, the highway-scaled, automobile-oriented appearance of this growth should be minimized through the provision of pedestrian improvements, smaller facilities within out lots in conjunction with larger strip-style centers, multiple, scattered parking areas in lieu of large central parking areas, and street trees along Mall Road (p. 162, 'Florence Commercial Area')."
- B. "Commercial development in this section should remain near the arterial roads or close to the interstate. These consumer service and traffic-oriented developments must be contained to specific areas adjacent to the arterial roads and interstate. The coordination of curb cuts and parking lot connections in the already-developed areas must occur in order to maintain a reasonable ease of travel along these roads (p. 162-163, 'Florence Commercial Area')."
- C. "This section of Boone County includes some of the western growth areas of Florence, including Mall Road and KY 18. It also contains some of the most rapidly growing residential areas in the county, particularly from KY 18 south to Union (p. 163 'Pleasant Valley-West Florence Area')."

- D. "Hopeful Church Road should continue to serve as a residential corridor, and no commercial uses should occur past the KY 18 or US 42 frontage properties. The proposed commercial land uses on KY 18 should be planned with careful access management, including continuous parallel roadways. Development should create commercial clusters rather than strip centers which parallel KY 18. These commercial uses must also be designed to be compatible with existing and proposed residential developments along KY 18. A specific study should be conducted regarding the connection of the northern half of Hopeful Church Road with Merchants Street. In addition connections should be provided between Hopeful Church Road and Mall Road (p. 163 'Pleasant Valley-West Florence Area)."
- E. "The large area between Hopeful Road and Oakbrook Road, south of KY 18 to Pleasant Valley Road, should develop in a Suburban Residential fashion. The area must develop with local access and limited access collector road connections as a high priority (p. 163 'Pleasant Valley-West Florence Area)."

The Land Use Element's Future Land Use Development Guidelines provide the following general statements that relate to the proposal:

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

- “Developments along major roadways in Boone County must include landscaping and/or the use of berms between the development and the right-of-way in order to promote the aesthetic appearance from the roads and to facilitate the compatibility of differing uses (p. 159, ‘Landscaping’)”
- C. “Developments in Boone County must recognize the potential impacts of stormwater run off. Developments must design and incorporate adequate provisions for the channelization and control of the rate of stormwater flow on and from the site. Further, control and mitigation practices for erosion associated with developments must be provided. At a minimum developments must seed and mulch all graded areas and provide siltation controls. Stormwater management and erosion control measures must be concurrent with site work in order to be effective (p. 159 ‘Stormwater Management and Erosion Control’).”
- D. “Developments in Boone County must recognize the potential impacts of associated traffic on adjoining properties and transportation systems. The need exists to protect the capacity of the existing roadway network, and to plan improvements to accommodate new development and travel patterns. Access management provisions include the coordination of curb cuts, adequate corner clearance and site distance for access points, adequate space between access points, shared access points and parking facilities, and provisions for access connections to adjoining properties, and dedication of public right-of-way. In subdividing property, arterials or collectors should not be used for direct access to lots, rather a system of local streets should feed into the collector and arterial system (pg. 159, ‘Access Management’).”
- E. “Developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify specific development, but should not be used as a means to compete for motorist attention (pg. 160, ‘Design, Signs, and Historic Preservation’).”

The Business Activity Element provides the following remarks relating to the general area:

- A. “Since the immediate Florence area figures so prominently in Boone County’s Commercial activity, this region has the momentum to continue dominating any expansion of commercial activity. Currently, “big box” retail has been overbuilt in the county. As a result, building vacancies are visible along the major commercial corridors in Florence. The market and infrastructure impacts of future large scale or regional commercial uses on the existing Florence commercial districts must be considered. Furthermore, it is important to encourage the reuse of vacant commercial buildings instead of creating new commercial districts (p. 70, ‘Areas of Commercial Activity’).”

- B. "Commercial developments that occur in the KY 18 and U.S. 42 corridors should be limited in scale (e.g. building, intensity, use, etc.) and clustered to serve growing residential neighborhoods. Planned Unit Developments should be encouraged so that commercial construction is incorporated within new residential areas. These commercial clusters should not function as an extension of Florence and Mall Road but as a distinct unit serving the Burlington and Union areas. This principle should apply to the Limaburg area and surrounding area as well. The commercial development in this area should coordinate closely with the projected high and medium density residential development to form a more coherent community rather than just a strip extending out of Florence. An example of this type of design is the Oakbrook Marketplace, which ties into the subdivision while serving a larger trade area (p. 71, 'Areas of Commercial Activity')."

The following quote from the Housing Element applies to the area in question:

- A. "New subdivisions throughout the west Florence and Burlington areas should provide interconnections between their developments and adjacent developments to promote safe and easy transportation access. Overall the KY 18 Corridor represents a prime opportunity to promote high density uses in a transit corridor (p. 87 "Geographic Housing Issues, " 'Florence-Burlington Area')."

The 2000 Boone County Comprehensive Plan Goals and Objectives include the following pertinent statements:

- A. "Development issues shall be viewed in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, within appropriately planned and designed neighborhood developments ("Overall" Objective 2, p.4).
- B. "Proper design principles shall be applied in development ("Overall" Objective 3, p.4)
- C. "Future growth shall be accompanied by adequate infrastructure and services ("Overall" Objective 4, p.4)"
- D. "Boone County shall strive to achieve both a diversity and balance in land use ('Overall' Objective 6, p. 4)."
- E. "The needs of Boone County's population base are measured and fulfilled through the provision of orderly growth ('Population' Goal, p. 5)."

- F. "New development or redevelopment within Boone County is designed, constructed, and operated in such a way that the quality of the existing physical environment and social environment are protected and enhanced. Development within Boone County preserves and promotes a better quality of life ('Environment' Goal, p. 5)."
- G. "New development or redevelopment shall attempt to design sites utilizing existing topography and vegetation and encourage preservation of the existing character of the land. New development shall be designed in harmony with the physical environment in such a way that each site's existing physical assets are used... Existing trees and pasture land shall be evaluated during the design and construction process as a visual and economic benefit to the community ("Environment" Physical Objective 2, p. 6)."
- H. "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ('Business Activity' Goal, p. 8)."
- I. "Compact, efficient development patterns shall be encouraged for business districts (e.g. industrial, Commercial, and office) with appropriately-sized and well-maintained buffer spaces between the business use and other land usage ('Business Activity' Overall Objective, p. 8)."
- J. "Commercial uses shall be limited to strategic locations serving trade areas and neighborhood needs and shall have safe and effective access and ample parking space (Business Activity,' Commercial [Retail and Office] Objective 1, p. 8)."
- K. "The large scale mixing of commercial and non-commercial uses shall occur in planned developments or in areas where consideration has been given to assure compatibility with surrounding land uses. The location of large scale commercial uses shall take into consideration existing or planned infrastructure conditions so as to protect the existing and future population and businesses. Small scale mixing of commercial uses within residential areas shall be carefully assessed and properly placed so as to enhance the neighborhood('Business Activity,' Commercial [Retail and Office] Objective 2, p. 8)."
- L. "Highway commercial uses shall be in close proximity to highway interchanges for maximum convenience and economy to the traveling public, while minimizing impact to the community in terms of traffic congestion, local commuting, patterns, and access ('Business Activity,' Commercial [Retail and Office] Objective 2, p. 8)."

- M. "Proper access to adjoining property shall be provided and/or retained when a property develops or redevelops ('Transportation' 2nd Goal, Objective 3, p. 14)

STAFF COMMENTS / CONCERNS

1. The Planning Commission and Florence City Council will need to determine whether the proposal is in agreement with the Comprehensive Plan. Highlights of issues raised in this review include the following:
 - A. The Future Land Use Map classifies most of the area in which the site is located primarily as Urban Density Residential. The Land Use Element notes that the Mall Road area should continue to develop as a regional commercial center but that this commercial growth should not extend to the Kentucky 18 corridor. Commercial development in the area should be contained to areas near arterial roads and the interstate. In order to allow efficient access management, curb cuts and parking lot connections should be coordinated. Similarly, access roadways should be provided. The Element states that the area between Oakbrook Road and Hopeful Road, south of Kentucky 18, should be developed in a Suburban Residential manner. Additionally, the Element notes that a study of road connections between the northern half of Hopeful Church Road and Merchants Street should be conducted.
 - B. The Business Activity Element states that commercial developments in the KY 18 corridor should be clustered, should be of a limited scale and should be designed to serve the developing residential neighborhoods. This development should coordinate with the residential development in the area, creating a distinct commercial area rather than extension of Florence or Mall Road.

The Governing Bodies will also need to consider alternate findings for a Zoning Map Amendment.

2. The Concept Development Plan indicates that there are two curb cuts shown on the lot. The centerline of the western curb cut is located approximately 60' east of the centerline of an existing curb cut on the adjoining Shell Station. The distance between the centerline of the eastern curb cut on the site's lot and the centerline of the western curb cut is about 147'. Section 3210 of the Boone County Zoning Regulations classifies Kentucky 18 as an arterial roadway, which is defined as follows:

"High volume roadways that serve primarily through traffic at relatively high speeds. The provision of direct access to abutting land is subordinate to providing service to through traffic as facilitate through the following conditions:

1. Direct private access to arterial roadways shall be permitted only when the property in question has no other reasonable access to the public roadway network;
2. The design and location of allowable private access points must comply with all applicable sections of this regulation;
3. Direct private access points to arterial roadways may be designated as "Temporary" and all requirements of Section 3234 shall apply (p. 32.2)."

Table 32.1 of the Boone County Zoning Regulations notes that the minimum distance between driveways that intersect arterial roadways shall be 275'. According to these regulations, there is neither sufficient distance between the western curb cut and the adjoining curb cut on the Shell station, nor between the western curb cut and the eastern curb cut. In fact the distance between the curb cut on the Shell station and the eastern curb cut on the site is only 206', which does not meet the minimum driveway spacing, irrespective of the curb cut at the west corner of the site. The current configuration of the site creates impediments to successful access management, such as limited visibility for turning vehicles and limited opportunity for deceleration and acceleration of vehicles entering and exiting the site. Staff recognizes that access to the site from Kentucky 18 will be necessary; however, the western curb cut should be eliminated. A condition was approved in the 1988 Zone Change to allow construction of the Shell station that adjoins the site on the west, stipulating that the applicant for that Zoning Map Amendment would provide right-of-way and construct a frontage road through the site when the adjoining property to the east develops. Please refer to the attached Committee Report and the attached Staff Report from the Site Plan. The development of this road would afford the access to the subject site via the signalized intersection of Ridge Road and Kentucky 18. Access to the site could be provided through this road.

3. Staff is concerned about the compatibility of the proposed automobile dealership with the existing residences on adjoining property, as well as with the proposed subdivision on the site. While there is buffering shown for the property, the applicant has requested a variance from the required buffer yard widths of 30 feet or 40 (because there is fencing. The required widths without fencing would be 60 feet and 80 feet, respectively) to 20 feet in the locations where the site adjoins residential property (except on the South, where the buffer yard is shown as 50 feet, which represents a reduction from the required buffer yard width of 60 feet without fencing). The Concept Development Plan indicates that there will be 52 light poles on the site, each 30 feet in height, which would impact surrounding residential property. Masts with downlit fixtures with a reserved level of light should be considered, especially at the rear of the property, adjoining the proposed subdivision. The applicant should bring in concepts of these lighting fixtures to the

Zone Change Committee Meeting, as well as concepts for the proposed building and any signage. The design of the signs and the building must be evaluated in light of the adjoining residential properties. Additionally, the noise from any loudspeaker systems could negatively effect the adjoining residences.

4. The Planning Commission will be required to evaluate the requested variances based on the criteria listed in Sections 250 and 251 of the Boone County Zoning Regulations. Section 250 states

"Variances are appropriate by reason of exceptional narrowness, shallowness, or unusual shape of a site on the effective date of these regulations or amendment thereof by reason of exceptional topographic conditions or some other extraordinary situation or condition of that site, the literal enforcement of the above dimensional terms of the zoning regulations would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone (p. 2.4)."

Section 251 notes the following:

"1. Before any variance is granted, the Board [of Adjustment and Zoning Appeals] must find that the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone;
- b. The strict application of the provision of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
- c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought (p. 2.4)."

Staff questions whether the justification for all of the variances as requested is immediately apparent. Section 250 notes that variances are appropriate when the dimensions or geographic conditions of the lot prevent it from being developed as would any other lot in the area or same zoning district. Section 251 states that the Board must decide if the need for a variance arises from special circumstances that generally do not apply to land in the area or alternately if the applicant would be deprived of reasonable use of the land when he or she if forced to strictly follow the provisions of the zoning regulations.

In this instance the need for variances seems to be related more to the "domino effect" than to any dimensional hardships. First the applicant proposes two lots on the site. The applicant then requests a variance to eliminate the buffer yard among the common property lines between these two lots. Because the property would be developed as two lots, the applicant can now request two signs rather than one. Then, because of the one of the lots does not have enough frontage to allow the applicant to install a 30-foot tall sign, the applicant must request a variance to allow a taller sign than would be allowed.

The applicant has requested a reduction in buffer yard width on the western property line of the western lot and on the eastern property line of the eastern lot. Thus the buffer yards would be further reduced, although the center buffer yard between the two lots has already been eliminated. The applicant also requests a reduction in the amount of plant materials required, using the landscaping requirements of Article 37. This is not a variance request, as it does not represent a departure from dimensional requirements. It is not possible to grant a variance from the plant mixture that typically would be required without it being part of a request to depart from a dimensional standard, such as a buffer yard width. However, the site presents itself as one integral development rather than as two distinct lots. If it were developed as one lot, there would be no need for a shared buffer yard at the center of the property. The buffer yards adjoining the residential property could be widened to more adequately screen the property. The Planning Commission could consider allowing two smaller and lower monument signs, each constructed of the same material and similar design. Additionally, the Planning Commission could consider eliminating the center buffer yard if it is determined that the variance criteria are truly met in some fashion. As it stands the applicant would be required to install a 60-foot wide buffer yard or a 30-foot wide buffer yard adjoining residential property on the east if fencing, berming, or masonry walls were installed. On the western property boundaries adjoining residential property, the applicant would be required to install an 80-foot wide buffer yard or a 40-foot wide buffer yard with fencing, berming, or masonry walls. If the center buffer yard is included, the three combined buffer yards from east to west would be a 150 feet total width under Article 37, provided there is no fencing, berming, or walls. If these materials are included, the width may be decreased to a total 80 feet from east to west. In place of this required width the applicant is proposing a combined buffer yard width of 40 feet. (Please note that neither the figures quoted above nor the figure quoted here includes the required Buffer Yard "A" on either the eastern or western property boundaries at the point where the property adjoins areas of commercial zoning. The applicant is not proposing a variance for those buffer yards). There are three 24-foot wide drives in the rear of the property that are only required to be 20' in width. This potentially frees up 12 additional feet for the side yard buffers. The provisions as outlined above would provide a more appropriate transition between the residential property and the automobile dealership.

CONCLUSION

The Boone County Planning Commission and the Florence City Council must review this request on the basis of its relationship to the Comprehensive Plan and in terms of the criteria listed in Sections 250 and 251 of the Boone County Zoning Regulations. The Future Land Use map will need to be updated if the request is approved.

Respectfully submitted,

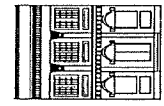
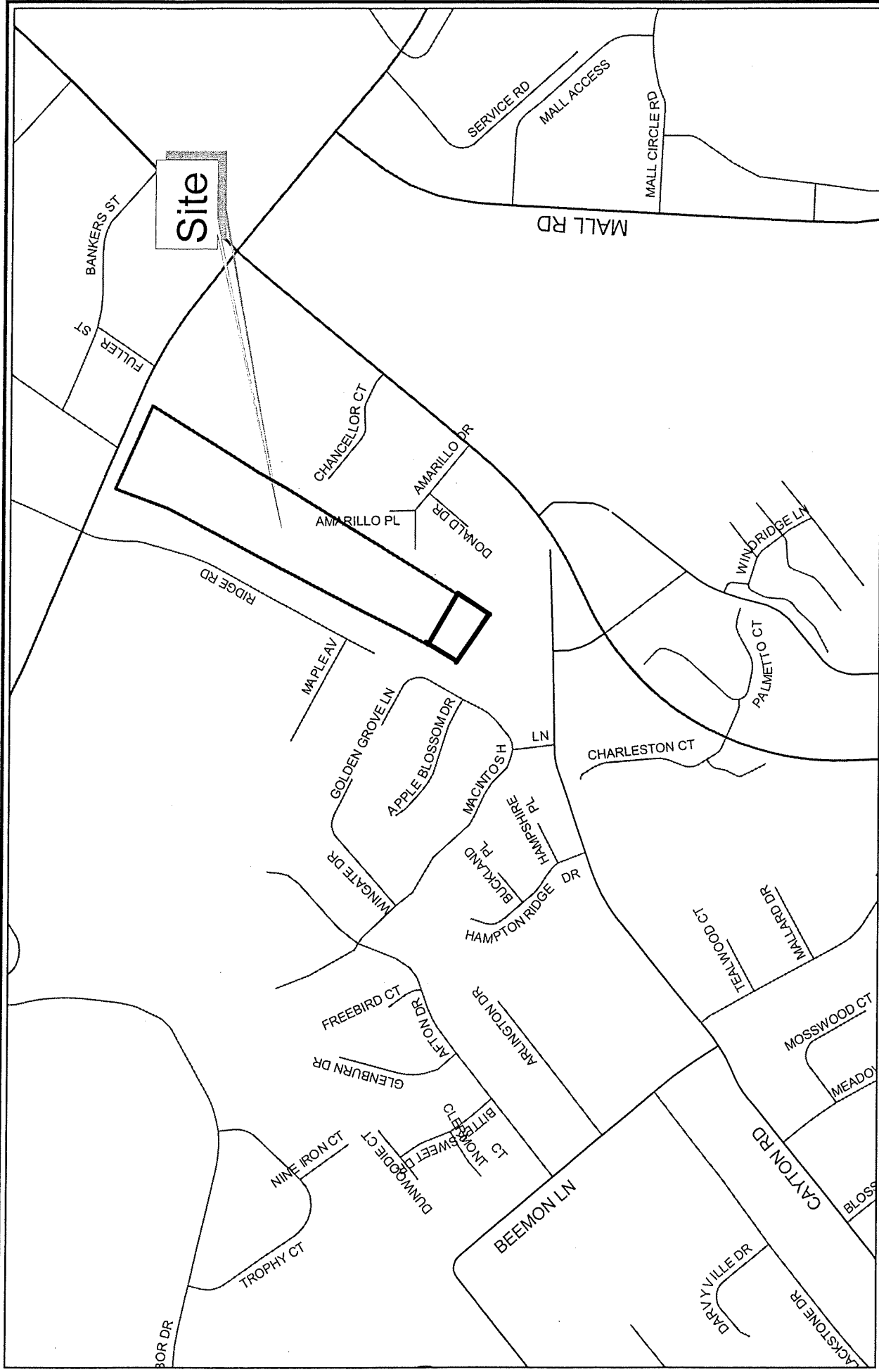


Patty Bachman
Planner

PB/pr

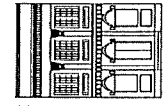
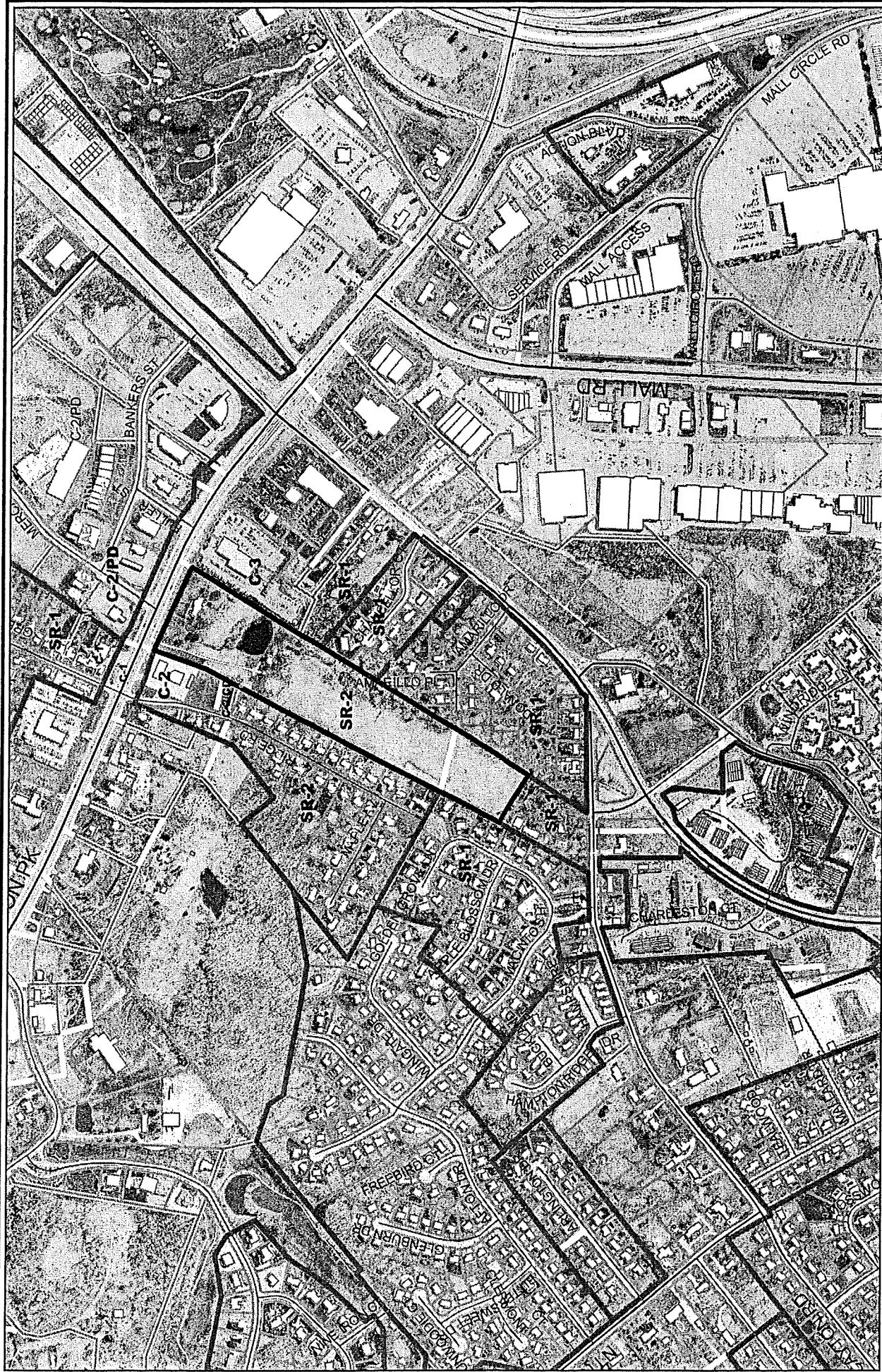
Attachments:

- vicinity map
- aerial photo w/zoning information
- future land use map excerpt
- site topography
- application materials including concept development plan and letter dated March 4, 2003
- Annexation request from the City of Florence
- Committee Report dated September 21, 1988
- Committee Report from Site Plan, dated January 4, 1989



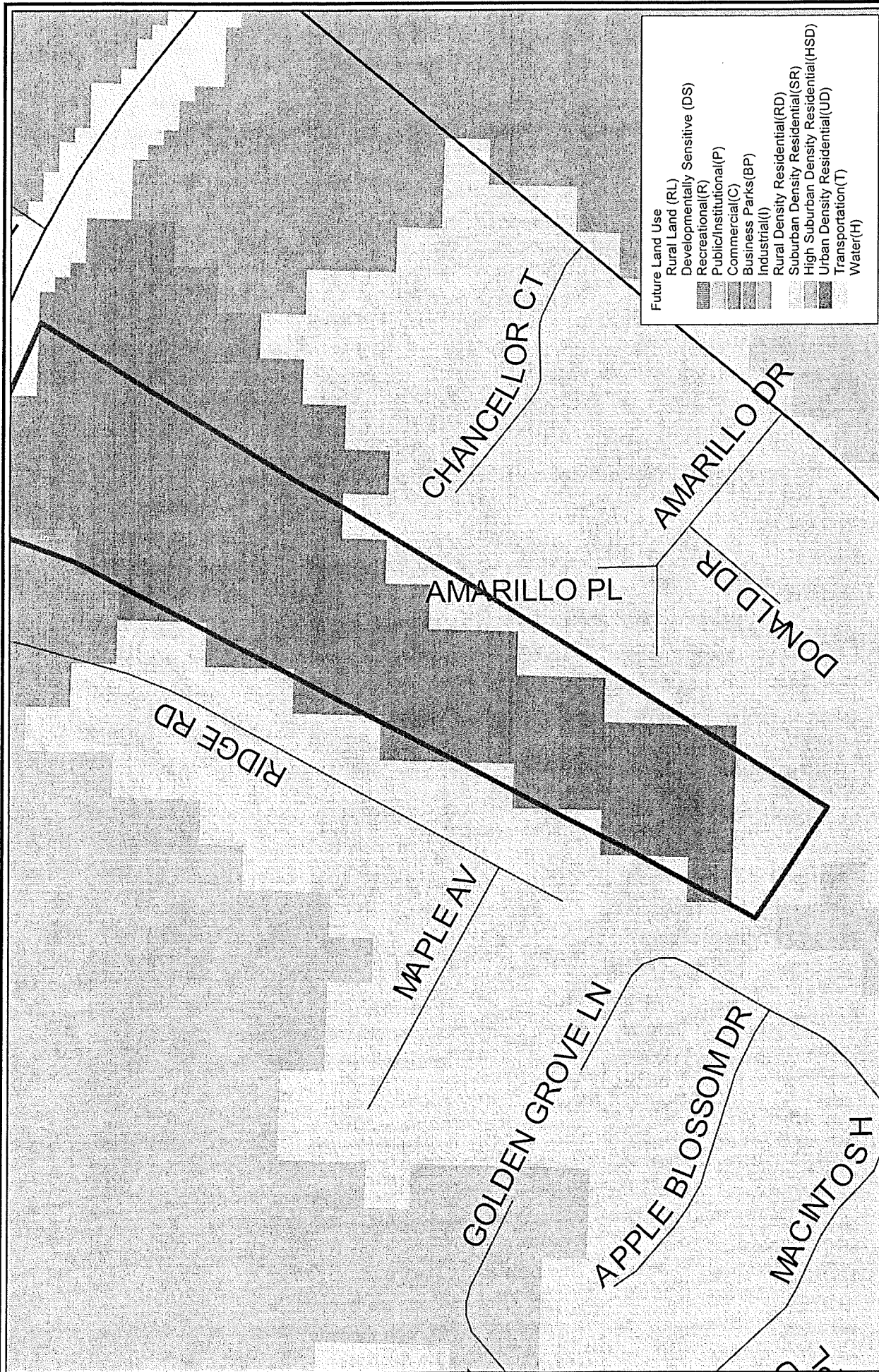
1 inch equals 700 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 March 14, 2003

Jeff Wylter ZMA-Vicinity Map

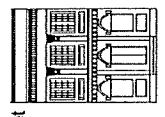


1 inch equals 700 feet
Produced by the
Boone County Planning Commission
GIS Services Division
March 25, 2003

Jeff Wyler-Zoning

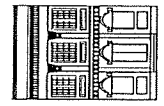
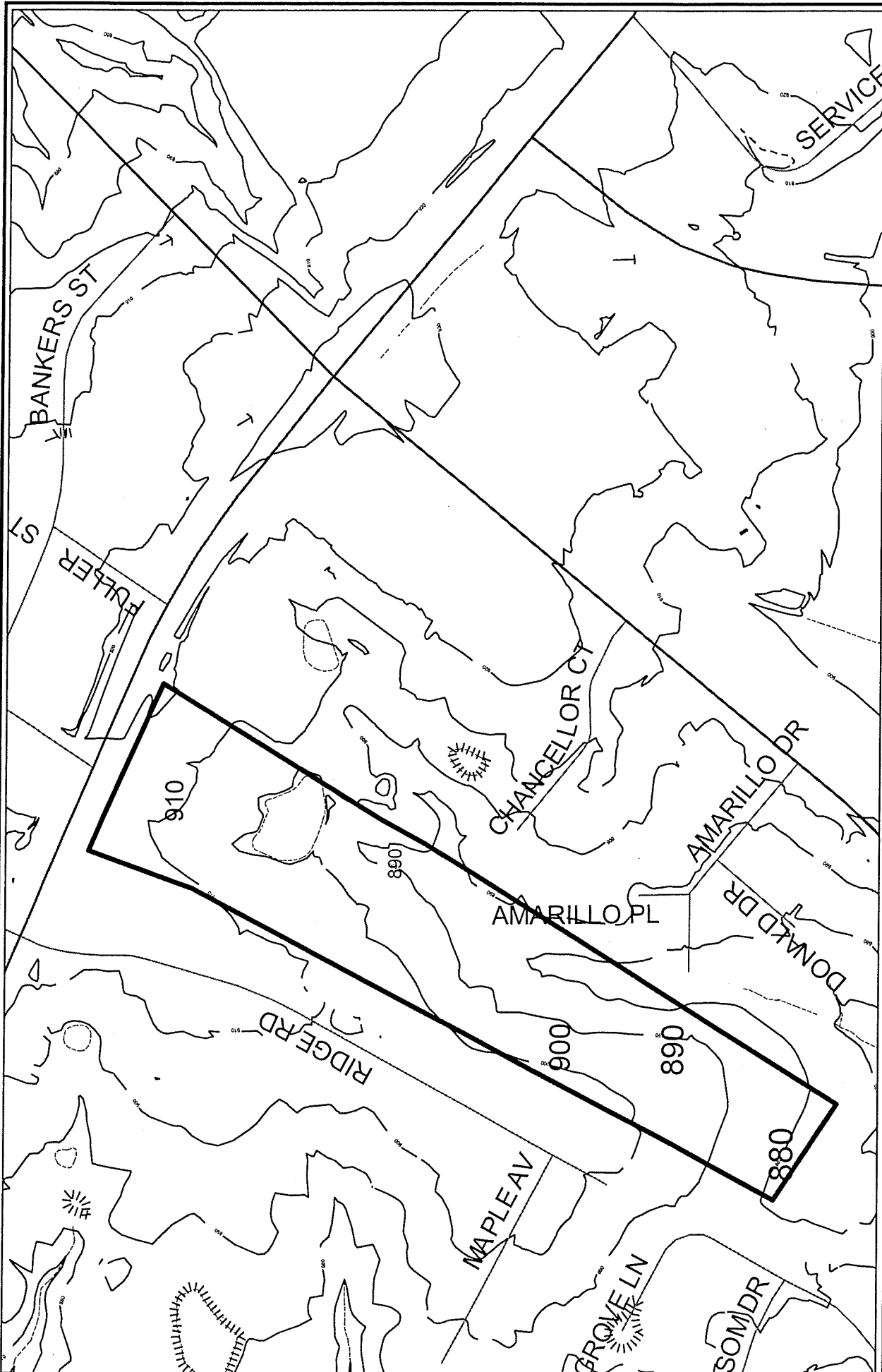


- Future Land Use
- Rural Land (RL)
 - Developmentally Sensitive (DS)
 - Recreational (R)
 - Public/Institutional (P)
 - Commercial (C)
 - Business Parks (BP)
 - Industrial (I)
 - Rural Density Residential (RD)
 - Suburban Density Residential (SR)
 - High Suburban Density Residential (HSD)
 - Urban Density Residential (UD)
 - Transportation (T)
 - Water (H)



1 inch equals 300 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 March 25, 2003

Jeff Wylter ZMA-Future Land Use



1 inch equals 350 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 March 25, 2003

Jeff Wyler ZMA-Topographic Map

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

(See Boone County
Zoning Regulations)

SECTION A (To be completed by applicant)

RECEIVED
MAR - 3 2008
BOONE COUNTY
PLANNING COMMISSION

1. Name of Project Jeff Wyler Florence Dealerships
2. Location of Project Tract of land along Ky. Rte. 18
3. Total Acreage of Site 16.845 acres
4. Current Zoning of Site SR-2 and SR-1
5. Proposed Zoning (Classification being requested) Rezoning of 11.444 acres to C-3 Commercial
6. Proposed Uses (please specify each use) 11.444 acres along Ky. Rte. 18 to be used as a Honda dealership and other auto dealerships. Balance of property, District consisting of 5.401 acres, will not be rezoned and will remain residential.
7. Names of Applicant(s) The Mountain Agency, LLC
Phone Number (513) 752-3447 Fax No. (513) 753-2290
8. Address of Applicant(s) 829 Eastgate South Drive, Cincinnati, OH 45245
Cincinnati Ohio 45245
City State Zip
9. Name of Property Owner(s) Allie Marie Moore, Trustee; Gary R. Moore Family Trust
Phone Number _____ Fax No. _____
10. Address of Property Owner(s) 11375 60th Street N
Pinellas Park Florida 33782
City State Zip
11. Proposed Building Intensities (please specify) Separate building will be constructed on each of the two (2) commercial lots which will be rezoned C-3 as depicted on the Conceptual Site Plan
12. Are there any existing buildings on the site? Residential Homes
How many? 2
13. Deed Book 833 Page No. 325 Group No. 2032 and 2033A
14. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance
15. Have you submitted a Concept Development Plan? Yes
16. Have you had a pre-application meeting with BCPC Staff? Yes
17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

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

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

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

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

19. Applicant's Signature SEE ATTACHED
- Property Owner's Signature SEE ATTACHED

SECTION B (To be completed by BCPC Staff)

1. Date Received 3-3-03
2. Review Fee \$ 1633.00 R# 34333 # 1300.00 R# 34351 (3-5-03)
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - 5 Number of copies of plan received**
4. Is application complete? Yes No
5. Staff Reviewer PATTY BACHMAN
6. Committee Chairman _____
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - Approval
 - Approval with Conditions
 - Denial
9. Other: _____

** Five (5) Copies Are Required

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

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

PROPERTY OWNERS:

ALLIE MARIE MOORE REVOCABLE TRUST

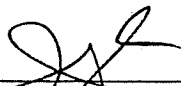
By: Allie Marie Moore by Gary R. Moore P.O.A.
Allie Marie Moore, Trustee
11375 60th Street
Pinellas Park, FLA 33782
Phone: 727-545-5029
Date: 02-14-03

GARY R. MOORE FAMILY TRUST

By: Gary R. Moore
Gary R. Moore, Trustee
11375 60th Street
Pinellas Park, FLA 33782
Phone: 727-545-5029
Date: 02-14-03

APPLICANT:

THE MOUNTAIN AGENCY, LLC

By: 
Jeffrey L. Wylter, Sole Member
829 Eastgate South Drive
Cincinnati, Ohio 45245
Phone: (513) 721-4532
Date: 2-28-3

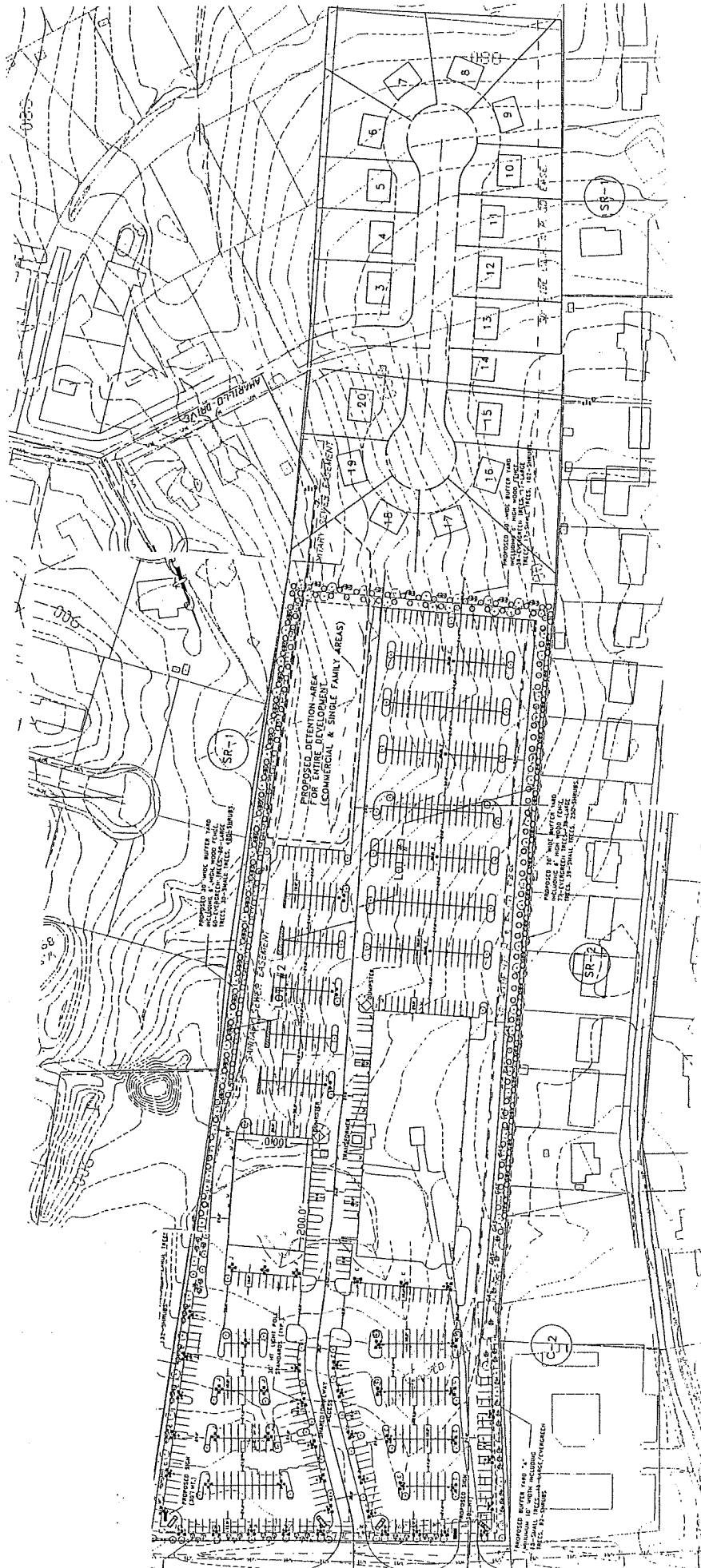
January 21, 2003

DESCRIPTION OF 11.444 ACRES
TO BE REZONED FROM SR-2 TO C-3

Located in Boone County, Kentucky, lying on the southwest side of Kentucky Highway 18 approximately 0.03 mile east of Ridge Road and is more particularly described as follows:

Beginning at a point in the southerly right-of-way line of Kentucky Highway 18, 81.00 feet as measured perpendicular from the centerline, at the northerly common property corner of Gary Moore (Deed Book 833, page 325) and Sim Fryson Enterprises, Inc. (Deed Book 817, page 530); thence with the common line of Moore and Sim Fryson Enterprises, Inc. S 30-54-15 W 1313.49 feet to a point; thence N 62-30-37 W 343.12 feet to a point; thence N 27-29-23 E 991.47 feet to a point; thence N 20-34-33 E 283.29 feet to a point in the southerly right-of-way line of Kentucky Highway 18; thence with said right-of-way line S 67-20-10 E 457.07 feet to the point of beginning and containing 11.444 acres.

Concept Development Plan





A Legal Professional Association

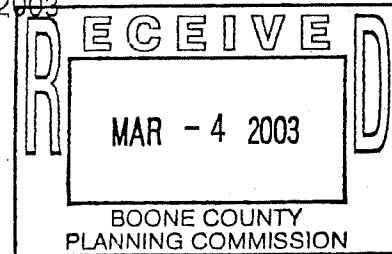
| |
|-----------------------------------|
| 255 EAST FIFTH STREET, SUITE 2400 |
| CINCINNATI, OHIO 45202-4787 |
| PHONE: 513.721.4532 |
| FAX: 513.721.7120 |
| WWW.KATZTELLER.COM |

- REUVEN J. KATZ
- JEROME S. TELLER
- GUY M. HILD
- BERT A. PITCAIRN, JR.
- ROBERT E. BRANT
- RONALD J. GORET
- STEPHEN C. KISLING*
- MES F. MCCARTHY, III
- ANDREW R. BERGER**
- MARK J. JAHNKE
- WILLIAM F. RUSSO
- WILLIAM T. HAYDEN
- JOHN R. GIERL
- BRUCE A. HUNTER**
- BRADLEY G. HAAS
- DANIEL P. UTT
- YNTHIA L. GIBSON**
- TEDD H. FRIEDMAN
- HEILA K. CHRISTIE***
- WIJDAN JREISAT
- A. A. HINEGARDNER**
- JOEL S. BRANT
- TARA A. GRAUSE**
- ERI E. AUTTONBERRY

dutt@katzteller.com
Direct Fax - (513) 762-0038

March 4, 2003

VIA TELECOPIER
AND E-MAIL



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

RE: Zoning Map Amendment requested by The Mountain Agency, LLC for the Moore Property along Kentucky Route 18

Dear Kevin:

I am writing to follow-up on our telephone conversations concerning the Application submitted by The Mountain Agency, LLC for the Zoning Map Amendment involving the Moore Property along Kentucky Route 18. You requested that we provide additional detail on the Dimensional Variances requested in Item 14, Section A of the Application. The following is a summary of the variances requested by the Applicant in connection with the requested Zoning Map Amendment in order to rezone the 11.44 acres to the C-3 Commercial District.

1. Dimensional variance from section 3645 Buffer Yards. Specifically, buffer yard "D" along the western property line from required 80-foot width (40-foot w/6' fence) to the 20' and 6' fence as shown on the concept plan. The buffer yard "D" is required since the proposed building on proposed lot #1 is over 50,000 square feet. The waiver is requested due to the narrow site which limits the functionality of the proposed site improvements. Additionally, roughly one third of the proposed building is adjacent to commercially zoned lands. This area requires a 10' wide buffer. A transition from a 10' wide buffer zone to a 40' wide buffer zone in the middle of the building would move the building too far to the east. Moving the building any further east would squeeze proposed lot #2 to the point where the site could not function as planned. Finally, the majority of this buffer zone waiver is adjacent to low turn-over parking storage to the rear of the building. A 40' buffer in this area does not seem to make any sense since it would only be buffering parking area.

2. Waiver requested from section 3645 Buffer Yards. Specifically, a waiver from the buffer yard "A" requirement between the two proposed commercial

OF COUNSEL

JOSEPH A. BRANT

SO ADMITTED IN FLORIDA
ADMITTED IN KENTUCKY
ALSO ADMITTED IN MAINE

Mr. Kevin T. Wall
March 4, 2003
Page 2

lots. The waiver will allow for a shared access and service drive between the two proposed buildings.

3. Waiver requested from section 3645 Buffer Yards. Specifically, a reduction of the number of planting requirements along the residentially zoned lands to 10 evergreen trees, 5 large trees, 5 small trees, and 30 shrubs per 100 linear feet of buffer. This landscaping will provide adequate visual screening between the commercially zoned lands and the residentially zoned lands. It is less than the City of Florence requirements for a buffer yard "C", but more than the County buffer yard "C" requirements.

4. Waiver requested from section 3645 Buffer Yards. Specifically, a reduction of the number of planting requirements in buffer yard "A" to the minimum County requirements delineated in section 3745 of the Boone County Zoning Regulations.

5. Waiver requested from section 3413 - 4(2)d regarding maximum sign height. Specifically, Lot #1 is proposed with approximately 195 linear feet of road frontage. The request is to allow a 30 foot tall sign for this lot rather than a 25 foot tall sign. Alternatively, the proposed lot line could be off-set from the center line of the proposed drive so that 201' of frontage could be provided.

I understand you will include this letter summarizing the requested variances with the Application Form. It is my understanding that this matter will be placed on the general business agenda at the Boone County Planning Commission meeting this evening. We are hoping that this matter can be scheduled for the public hearing on March 26, 2003.

As we discussed, I will be back in touch to further discuss the Concept Site Plan to address the questions you raised in connection with your preparation of your Staff Report. Thanks for your assistance.

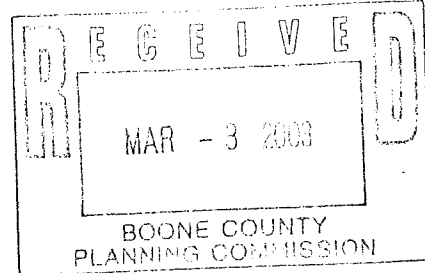
Sincerely,

Daniel P. Utt

DPU/pab

cc: Mr. Jeff Koenig (via e-mail)
Gerald F. Dusing, Esq. (via e-mail)
Mr. William Viox (via e-mail)
Mr. Rodney Crice (via e-mail)

February 13, 2003



Kevin P. Costello, AICP, Executive Director
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

In re: City of Florence Annexation/Rezoning Under KRS
100.209 for the Jeff Wyler - Moore Trust Property

Dear Kevin:

Attached is a copy of Ordinance No. 0-04-03 by which the City of Florence intends to annex the property owned by the Allie Marie Moore Revocable Trust and the Gary R. Moore Family Trust to be sold to Jeff Wyler. As shown on Exhibit "B" to the Ordinance, the property consists of 16.845 acres. With respect to the 11.444 acre portion of the property adjacent to Kentucky Highway 18, the City has elected to follow the procedure of KRS 100.209 to consider a comprehensive plan and map amendment to change the zoning, prior to annexation.

Also attached is an application for rezoning from the property owners and developer.

The City requests that the Planning Commission, following the procedure of KRS 100.209 hold the necessary hearings and make a recommendation with respect to the zoning application.

Thanking you for your assistance in this matter.

Sincerely,

Diane E. Whalen
Mayor

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CERTAIN TERRITORY CONSISTING OF A PARCEL OF APPROXIMATELY 16.845 ACRES LOCATED ON THE SOUTH SIDE OF KENTUCKY HIGHWAY 18 APPROXIMATELY 270 FEET SOUTHEAST OF RIDGE ROAD, ADJACENT TO THE CITY LIMITS. (JEFF WYLER PROPERTY)

WHEREAS, The Allie Marie Moore Revocable Trust and The Gary R. Moore Family Trust, being the owners of record of the hereinafter described territory (the "territory"), have requested that the City of Florence, Kentucky (the "City") annex the territory and, pursuant to K.R.S. 81A.412, the owners have given written consent to such annexation; and

WHEREAS, the City has determined that it is desirable to annex the territory which is contiguous to the boundaries of the City, and

WHEREAS, pursuant to K.R.S. 100.209(1) the City makes the election that prior to final action of annexation, the comprehensive plan and official zoning map of the City shall be amended to incorporate and establish zoning of Commercial Three (C-3) with respect to the approximately 11.444 acre portion of the territory adjacent to Kentucky Highway 18 and that after annexation the remainder of the territory shall remain subject to the same land use restrictions as applied to it prior to annexation until such restrictions are changed in accordance with K.R.S. Chapter 100.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FLORENCE, KENTUCKY, AS FOLLOWS:

SECTION I

The City finds that the hereinafter described unincorporated territory meets the requirements of K.R.S. 81A.410 and is as follows:

- (a.) Is contiguous to the boundaries of the City, and
- (b.) Is urban in character and suitable for development for urban purposes without unreasonable delay, and
- (c.) Is not included within the boundary of another incorporated city.

SECTION II

That the territory, described in Exhibit "A" and shown on Exhibit "B" each of which is attached hereto and incorporated herein by reference, shall be and the same is hereby annexed to the City of Florence, Kentucky.

SECTION III

The owners of record of the territory have filed with the City written consent to this annexation under K.R.S. 81A.412 and therefore, the following do not apply to this annexation: (a) the notification ordinance required by K.R.S. 81A. 420(1); (b) the notice requirement of K.R.S. 81A.425; and (c) the waiting period of K.R.S. 81A.420(2).

SECTION IV

Pursuant to K.R.S. 100.209(1) the comprehensive plan and official zoning map of the City shall be amended to establish zoning for the 11.444 acre parcel of the territory, described on Exhibit "C" attached hereto and incorporated herein, as Commercial Three (C-3), and the remainder of the territory shall, after annexation, remain subject to the same land use restrictions as applied to it prior to annexation, until those restrictions are changed in accordance with K.R.S. Chapter 100.

SECTION V

This ordinance shall be published in full.

PASSED AND APPROVED ON FIRST READING THIS ____ DAY OF _____, 2003.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS ____ DAY OF _____, 2003.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



VIOX & VIOX, INC.

Engineers • Surveyors • Landscape Architects

January 21, 2003

• Planning

DESCRIPTION OF 11.444 ACRES TO BE REZONED FROM SR-2 TO C-3

Located in Boone County, Kentucky, lying on the southwest side of Kentucky Highway 18 approximately 0.03 mile east of Ridge Road and is more particularly described as follows:

• Design

Beginning at a point in the southerly right-of-way line of Kentucky Highway 18, 81.00 feet as measured perpendicular from the centerline, at the northerly common property corner of Gary Moore (Deed Book 833, page 325) and Sim Fryson Enterprises, Inc. (Deed Book 817, page 530); thence with the common line of Moore and Sim Fryson Enterprises, Inc. S 30-54-15 W 1313.49 feet to a point; thence N 62-30-37 W 343.12 feet to a point; thence N 27-29-23 E 991.47 feet to a point; thence N 20-34-33 E 283.29 feet to a point in the southerly right-of-way line of Kentucky Highway 18; thence with said right-of-way line S 67-20-10 E 457.07 feet to the point of beginning and containing 11.444 acres.

• Surveying

466 Erlanger Road
Erlanger, Kentucky 41018

Tel: 859-727-3293
Fax: 859-727-8452
e-mail: viox@nkol.net

Exhibit "C"

**CONSENT TO ANNEXATION
BY THE CITY OF FLORENCE, KENTUCKY**

The undersigned Property Owners and Applicant herewith consents to and requests that the City of Florence, Kentucky, annex the real property which is described and shown on the legal description and plat which are attached hereto, and in connection therewith, the following representations are made to the City:

- (a) All of the owners of record of said real property have signed below;
- (b) The real property meets the requirements of K.R.S. 81A.410;
- (c) Such annexation is consented to under the provisions of K.R.S. 81A.412 and it is acknowledged that by reason of such consent, the City shall not be required to (1) enact the notification ordinance of K.R.S. 81A.421(1); or (2) to comply with the notice requirements of K.R.S. 81A.425; or (3) to wait the 60-day period provided for in K.R.S. 81A.420(2). The City may accomplish this annexation by the enactment and publication of a single ordinance.

Pursuant to K.R.S. 100.209 as it affects zoning of such real estate after annexation, it is hereby requested:

- (a) That the City amend its Comprehensive Plan and official Zoning Map so that after annexation, such real property will have the following zone:
C-3 Commercial District (11.444 acres) and
SR-1 and SR-2 Suburban Residential Districts (remaining 5.401 acres will remain as presently zoned)

The foregoing annexation request submitted by the Property Owners and the Applicant is submitted subject to the specific condition precedent that the Annexation of the real property subject to this Consent into the City of Florence shall only occur and be effective if the City adopts the necessary ordinances to amend its Comprehensive Plan, Official Zoning Map so that after such annexation, the property will be zoned in the C-3 Commercial District, and SR-1 and SR-2 Suburban Residential Districts as shown on the parcels to be rezoned survey plat submitted with this Consent by the Applicant.

NOTE: This consent to annexation must be signed by all owners of record. If the owners are individuals, their spouses must sign. If the owners are corporations, the authorized officers must sign, and a copy of the corporate resolution authorizing executive must be attached. A complete legal description and plat must be attached. The legal description should include sources of title giving the date, deed book and page number of each deed. In addition, a list of all registered voters residing on the property is required to be submitted.

PROPERTY OWNERS:

ALLIE MARIE MOORE REVOCABLE TRUST

By: Allie Marie Moore by Gary R. Moore POA
Allie Marie Moore, Trustee
11375 60th Street
Pinellas Park, FLA 33782
Phone: 727-545-8029
Date: 02-14-03

GARY R. MOORE FAMILY TRUST

By: Gary R. Moore
Gary R. Moore, Trustee
11375 60th Street
Pinellas Park, FLA 33782
Phone: 727-545-8029
Date: 02-14-03

APPLICANT:

THE MOUNTAIN AGENCY, LLC

By: Jeffrey L. Wyler
Jeffrey L. Wyler, Sole Member
829 Eastgate South Drive
Cincinnati, Ohio 45245
Phone: (513) 721-4532
Date: 2-28-03

KTBH: 541041.1

KTBH: 541041.1

1

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Donald McMillian, Chairman

DATE: September 21, 1988

RE: Request of Don Conrad (applicant) for Norman H. and Ruth Arlinghaus (owners) for a Zoning Map Amendment to rezone a site from Suburban Residential Two (SR-2) to Commercial Two (C-2) and for a Conditional Use Permit to operate a gasoline service station and a car wash. The site is located at the southeast corner of KY 18 and Ridge Road, Boone County, Kentucky.

REMARKS:

We the Committee, based upon the statements made and facts gathered at the July 27, 1988 Public Hearing, recommend approval of this Zoning Map Amendment. The application as presented is recommended for approval due to the following findings of fact and with the following conditions:

FINDINGS OF FACT

1. The proposal of a commercial development at this location, is in agreement with the 1986 Boone County Comprehensive Plan. The Future Land Use Map calling for medium density commercial developments in this area. References to the Comprehensive Plan are made in the Staff Report.
2. The Committee has also determined that this proposal meets the criteria for the issuance of a conditional use permit to operate a car wash and gasoline sales. The proposed conditional uses would not have a detrimental effect on the surrounding area if the following conditions and revisions occur.

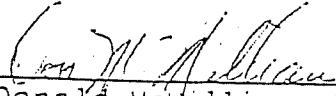
CONDITIONS

The applicant is being asked to agree to include these items as part of the Concept Development Plan and building uses and intensities presented to the Committee on August 1, and August 15, 1988 in order to clarify the plan presented at the July 27, 1988 Public Hearing. Further, these conditions are intended to clarify the suitable uses and development for the presented plan.


1. The driveways onto KY 18 all be designated and so designed so as to be right-turn-in and right-turn-out only; the applicant to provide and maintain appropriate directional markings and signs; and, width shall be 18 feet.

=====

2. Driveways on KY 18 are to be designated as temporary so that they may be removed or relocated (at the owner's expense) if an alternate access connection becomes available or the property redevelops.
3. Ridge Road to be upgraded to County specifications by the applicant to the rear entrance of this development to accommodate increased traffic and the use of Ridge Road by delivery trucks.
- ★ 4. The applicant agrees to provide the right-of-way and construct a frontage road through the site when the adjoining property to the east is developed. The placement of this road will be located at the site plan review stage.
5. The applicant agrees that only building mounted signs, and one free standing sign will be used. Directed lighting will be positioned so as not to shine onto adjoining property or KY 18. The proposed zoning district of C-2 will include Lots C, D, and E only. Lot B will remain SR-2 to serve as a distance buffer between the commercial use and residential use.
6. Any change in, or additional use of, the site shall be reviewed by the Boone County Planning Commission Technical Committee and Staff, to determine if the proposed change constitutes a major or minor change in the approved Concept Development Plan. If it is determined that the proposed change is major in scope, then a public hearing for a Change in the Concept Development Plan shall be required.



Donald McMillian, Chairman



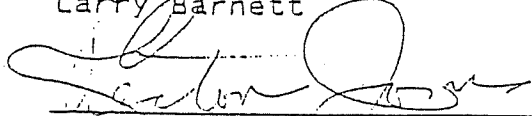
Fred Burch

Carol Smith

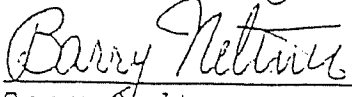
DM:jdh



Larry Barnett



Rector Jones



Barry Neltner

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Rita Bushelman, Chairwoman

DATE: January 4, 1989

RE: Request of James W. Berling (applicant) for Don Conrad (owner) for Site Plan Review to construct a 4,350 square foot gasoline station and car wash located at KY 18 and Ridge Road, Boone County, Kentucky. The 1.25 acre site is zoned Commercial Two (C-2).

REMARKS:

We, the Committee, recommend approval based upon the Staff Report and with the following conditions.

CONDITIONS:

1. The driveways onto KY 18 shall be designated and so designed so as to be right-turn-in and right-turn-out only; the applicant to provide and maintain appropriate directional markings and signs for the driveways onto KY 18.
2. Driveway "B" on KY 18 is to be designated as temporary so that it may be removed or relocated (at the owner's expense) if an alternate access connection becomes available or the property redevelops.
3. The applicant agrees to provide the right-of-way and construct a frontage road through the site when the adjoining property to the east is developed. At that time the applicant will be required to come back to the Boone County Planning Commission for Site Plan Approval for the location and construction of the road.

Rita Bushelman
 Rita Bushelman, Chairwoman

 Melvin DeLong

Phil Damstrom
 Phil Damstrom

 R.N. Greene

Ralph Rush
 Ralph Rush

Floyd Sharp
 Floyd Sharp

RB:jdh

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A**

March 26, 2003

7 P.M.

PUBLIC HEARINGS

Commission Members Present: Mr. Barlow, Mr. Bunger, Mr. Caddell, Mr. Hicks - Chairman, Mr. McMillian, Mr. Newman, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Schwenke, Mr. White, and Mrs. Wilson - Secretary/Treasurer.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Patty Bachman, Planner; Ms. Jan Hancock, Secretary; and Mr. Kevin Wall, AICP, CDT - Director, Zoning Services.

Legal Counsel Present: Mr. Dale Wilson

Mr. Mark Hicks, Chairman, called the meeting to order at 7:05 PM and introduced the first item on the Agenda:

1. **Applicant:** The Mountain Agency, LLC for Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners)

Request: Zoning Map Amendment and Variances

The request of The Mountain Agency, LLC (applicant) for Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners) for a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Services (C-3), and Variances from Section 3413.4(2)d. ("Freestanding/Monument Signs" in Commercial Two [C-2], Commercial Services [C-3], and Commercial Four [C-4] Districts) and from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations, in conjunction with the annexation of real property into the City of Florence for an 11.44 acre tract at 961 Burlington Pike, Burlington, Kentucky. The request is for a zone change to allow auto sales, Variances from landscape buffer yard requirements, and a Variance to increase the height of a freestanding sign.

Following an explanation of the Public Hearing process, the Chairman asked for the Staff presentation.

Staff Member Patty Bachman presented the Staff Report which included a Power Point presentation (see Staff Report). Ms. Bachman stated since the 60-foot wide Buffer Yard C requirement can be reduced to 30 feet wide when fencing, berming or masonry walls are included, the applicant does not need a Variance on the eastern property boundary. Also, the applicant has submitted a letter stating that it would be possible to reconfigure the boundary between the two lots and provide more than 200 feet of road frontage and, therefore, the applicant is no longer pursuing the Variance for the sign height. She stated that the total required buffer yards for the site would be 150 feet in width (east/west/center buffer yards) with no fencing, berming, or masonry walls. The total required buffer yards for the site would be 80 feet in width (east/west/center buffer yards) with the proposed fencing, and the applicant is showing a total of 50 feet of buffer yard. The property will be annexed into the City of Florence if the Zoning Map Amendment is approved. Chairman Hicks asked Counselor Wilson to address the annexation of the property.

Counselor Wilson advised that when property is being considered for annexation by a city and the property is in the unincorporated area of the county, the Planning Commission reviews the property – not to determine if annexation should occur, but to determine what the zoning of the property would be upon annexation. The Planning Commission's recommendation will go to the City of Florence, not to Fiscal Court. He stated that normally Dimensional Variance Requests go to the Board of Adjustment, but Kentucky Law allows an applicant to seek Dimensional Variances as part of a Zone Change application.

The Chairman asked for the applicant's presentation.

Attorney Gerald Dusing, representing the applicant, introduced David Wyler, Attorney Dan Utt, Bill Viox, and Rodney Crice.

Mr. David Wyler, Vice President of Jeff Wyler Automotive, provided the Commissioners with renderings of the interior and exterior of the automobile dealership (see Exhibit 1). He stated that the company was started by his father in 1973 and came to Northern Kentucky in 1988 at the KY 18 Honda/Mitsubishi dealership location. They will do about \$50 million in sales at that location this year. They have about sixty employees in the community and an approximate \$2 million payroll. They are interested in moving one block east and across the road. He stated that Honda is trying to franchise their brands and make their facilities the same throughout America. The KY 18 location is about twenty years old and they do not have space for more cars. They currently have storage lots down the street and several miles away. He is negotiating with a luxury franchise. He stated that about 80% of the employees will move to the new location and the other 20% will stay with the Mitsubishi franchise. At their current location, they have approximately 70 customers per day (60 for service/parts and 10 for sales). That number will not change, unless they get the luxury franchise, in which event

there will be twenty additional employees and 20 customers (15 for service/parts and 5 for sales).

Mr. Bill Viox, Viox & Viox, stated that at his first meeting with The Wyler Group it was clear to him that The Wyler Group was very sensitive to the surrounding neighborhood. They decided to do a different approach and "think outside the box" to solve and lessen issues. He stated that there are city utilities on the site and indicated the location of the sewer. He indicated the location of the Sanitation District customers and explained that part of their bill includes a transmission fee because the sewage goes through the City of Florence, so it made sense to get the property into the city. He stated that when KY 18 (a limited access highway) was constructed, Fiscal Court and the City of Florence determined where the access points would be and they were recorded by station number (Book 64, Page 632). The Moore family had two curb cuts allotted to them on KY 18. There is potential access on Ridge Road. They have access points in the rear of the property (Amarillo Street and Donald Street). Mr. Viox indicated the location of Florence Alliance Church and noted the grading occurring there. He stated that Page 163 of the Comprehensive Plan talks about Merchants Drive going through the property all the way to Cayton Road. He stated that if Merchant Drive goes through, the narrowness of the property will come into play -- development would be difficult and would probably require Variances. Under the current zoning, development would probably be limited to curb cuts on KY 18 and it would require an odd layout to develop the property as single-family residential. The property is 16.8 acres and, if it were square, it would be 834' x 834' -- but it is up to 457' wide and 1800 feet long. SR-1 zoning would require 65-foot lots and SR-2 zoning would require 50-foot lots. Urban Density Residential is eight units per acre and higher. They decided to slice the property in two, which provides a cove that will not be intrusive to the neighborhood and will be developed as SR-1 with 65-foot lots. There is no connection between the front and back properties. Using the ITE Manual, they came up with a figure of 1,186 trips per day based on the existing zoning. With the Future Lane Use Plan, there could be as many as 3,000 trips per day which would mainly impact KY 18. KY 18 was improved again several years ago -- they can add more lanes, but the population is continuing to increase particularly to the west and, as time goes on, there will be more traffic on KY 18. The existing zoning and the Future Land Use would create quite an impact on KY 18. Their current plan is less than 50% of the existing zoning from a traffic standpoint and less than 25% of the Future Land Use Plan. The schools have been overcrowded and cannot keep up with the growth -- but this plan is only 18 lots. He stated that the site is narrow and, with a road going down the middle of it, it would be very difficult to develop. Under the Future Land Use Plan, there could be a compressed Charleston Pines type development. He stated that both of the proposed uses are car dealerships and, since they will share facilities, the buffer requirement does not make a lot of sense -- who would they buffer from? He stated that on the west side, they tried to look at what would be there. They studied buffers for sight, sound, and privacy. They plan to have vegetation and a

six-foot high permanent fence. The fence will be there from day one. He stated that there is a difference between the City of Florence and the County landscape requirements. He noted that if a board on the fence is broken or it is knocked down, it can be replaced – it does not need time to grow like the vegetation. A wood fence is equivalent to about 100 feet of vegetative buffer on a level plain and may be more from a sound perspective. People inside the site will not wander over to the adjoining properties and children from the adjoining neighborhood will not wander over to the site. The proposed buffer is suitable for the narrow lot situation. He stated that it could be determined that the infrastructure is in place for the site. Cincinnati water is here. Sewer service is here. KY 18 is here – more lanes can be added, but the traffic will increase. Schools are here. This site is a pocket that may have escaped a couple of Five-Year Updates. He stated that there is the issue of the narrowness of the site, especially when considering a road going through there. The plan they offer is a minimal impact alternative.

Mr. Rodney Crice, landscape architect, reviewed an Exhibit and indicated the location of Buffer Yard D on the western edge of the site. He stated that they are seeking relief from the 40-foot required width. They propose a 20-foot wide buffer yard with a six-foot high fence and landscaping equivalent to Buffer Yard C plantings. The only reason they need relief is because the building is 53,320 square feet and the cut off is 50,000 square feet between Buffer Yards C and D. Mr. Crice indicated on the exhibit how the two-story building is accessible on the upper floor and how it is accessible on the lower floor based on the topography. The building is a 33,000 square foot footprint. He reviewed the exhibit in regard to the proposed plantings on the site. He stated that they propose the fence to be at the highest elevation and about five feet inside the property line. He noted a rendering on the exhibit showing the plantings after five years of growth. He stated that the fence provides acoustical reduction qualities and, combined with the plantings, the buffer is equivalent to Buffer Yard D. He stated that the property is not a rectangle and tapers from 457 feet in the front to 299 feet in the rear. The shape of the site creates hardships in developing the property. He stated that they are requesting relief from the ten-foot Buffer Yard A requirement between the two proposed commercial parcels. The commercial parcels will share facilities (driveway access, circulation aisles, body shops, storage parking) and division by a buffer yard would be a hindrance. He indicated on the exhibit the access road into the site from KY 18 and the proposed eight-foot wide landscaping strips on each side (for a total of 16 feet of buffer). He stated that they are seeking relief from the planting requirements of Buffer Yard A. They are not seeking a Dimensional Variance – they are seeking relief from the shrub and small tree planting requirements – they are seeking what the County requires in this situation. He stated that they are seeking a Variance from the sign height requirement. They have 457 feet of street frontage and the requirement for a 30-foot sign is 201 feet of frontage. It would be simple to move the access over six feet to provide the street frontage for both of the lots and create easements along the access drive.

Mr. Newman left the meeting at this time.

Mr. Dusing reviewed the Jeff Wyler ZMA Future Layout (copy attached to the Staff Report). He stated that they looked at the evolution of the Comprehensive Plan and could not find any real discussion of this site. They could not find any text that encourages Urban Density Residential development of this site. He stated that there is a Lincoln-Mercury dealership to the east which has expanded to the rear, a Shell Station to the west that has been there for some time and a car wash has developed behind it, and behind that is a veterinary clinic – these types of uses have penetrated further back. Integrity Motors has just gone in to the west of the Shell Station. The subject property is an island of Urban Density Residential. In regard to the connector road, he stated that part of the text of the Comprehensive Plan is that Merchants Drive would be connected eventually to Hopeful Church Road or Cayton Road – but, physically that cannot happen. The church is there and the road cannot go anywhere – which is a change in what was anticipated in the Comprehensive Plan. He stated that the appropriate zoning is C-3, which is compatible with what is on both sides and across the street. He stated that the dealerships will share facilities - service areas, detention – and all of the other things that the text of the Comprehensive Plan encourages compatible developments to do. The SR-1 development at the rear would be compatible with what exists next to it. There will be 65-foot wide lots that would be similar to what it ties into and those 18 lots would have minimal impact. He stated that the proposed uses will generate 50% less traffic than what could be built there today and 25% less traffic than what is called for in the Comprehensive Plan. The Honda dealership will move across the street so they are not adding any more traffic, and the luxury dealership will generate very little traffic - they estimate 40 cars per day – and he does not think there could be a use with less traffic than that in the ITE Manual. He stated that Urban Density Residential is between 8 – 30 units per acre (108 units - 480 units), but 480 units would never be approved. He stated that this is significant down-zoning in regard to the impacts on the community – it adds no children to the schools, the height of the sign Variance is 5 feet and insignificant. The existing Honda sign is completely filled all the way down like a monument sign and it is more economical to move it across the street than to buy another sign that is five feet shorter. He stated that the Dimensional Variance accomplishes the goal of providing protection for the existing residents with a fence, possibly a berm, and plantings as dense as could be reasonably expected to survive. He stated that the property is an irregular trapezoid shape. He reviewed the criteria for granting a Variance (Section 250 of the Boone County Zoning Regulations) and noted that the Variance to the west is up against the gas station and other commercial uses. The Variances are specific as to location on the site to accomplish the goal. This concluded the applicant's presentation.

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

Mr. Jeffrey Lingrosso, 6072 Ridge Road, stated that his backyard would be in direct contact with the buffer zone and the car dealership. He is opposed to the rezoning to commercial and opposed to decreasing the buffer yards. The zone change will make his house an inner-city house. There will be a big fence there and the applicant even wants to cut down the amount of trees in the buffer zone. The rezoning and the buffer yard Variances will negatively impact the people on Ridge Road and destroy their property values. He is concerned about the lights – he will never have darkness – there will be lights on twenty-four hours a day/seven days a week. He is concerned about noise with the PA system and from car repairs. He stated that they will put the fence on the high spot, and remove the lake – but what will that do to the drainage? Will the water go in his basement? His biggest concern is the property values for everyone on Ridge Road.

Attorney David Clayton, representing Ameristop, stated that reference was made in the Staff Report to an access being run through Ameristop property behind the car wash. The Staff Report recommends only one access be granted on KY 18. He stated that if the main ingress to this development is through Ridge Road, traffic will go past the Shell station and make a left into this proposed road. In 1989, the Committee Report said “the applicant agrees to provide right-of-way and construct a frontage road” – but the applicant was to come before the Planning Commission for approval of the location and construction of the road. He has not seen anything giving the specifics of the access road. He believes there will be tractor trailer trucks making wide turns there and there needs to be consideration of whether the road is adequate for that use. Ameristop does not know what they have in mind – he believes the applicant thinks it is not his problem because Ameristop is going to foot the bill. He stated that they deserve some specifications and, if they are going to rely on this access, the Planning Commission needs to know that it is adequate for this development.

Mr. Joe McCarthy, 944 Amarillo Drive, objected to the proposed zone change. His view from his house is trees and a nice field in the back, which would be lost forever. He is familiar with the noise and lights automobile dealerships bring. This will change his life and he will have an inner-city house.

Mr. Paul Durbin, 952 Amarillo Drive, is concerned about the stormwater. His house sits low. He stated that the county built the sewer system in the 1980’s and, as the car lots and subdivisions were built, they had to raise the manholes because the stormwater was going over them. His house is the last house on Amarillo Drive (Lots #25, 26 and 27). In a hard rain, water goes over the road and backs up close to his house and with this added car lot, the water could get into his house. He objects to the noise. He can hear the PA systems from the existing car lots. He does not think that they have right-of-way from Amarillo Drive to their lot.

Mrs. Sherri Lorenzo, 989 Golden Grove Lane, stated that by the applicant's own admission, this lot is too narrow. This zone change moves the commercialized section further south towards their house. Their home sits towards the front of the residential area that will be built in the latter part of this development. Their home is a half-mile away from the two car dealerships that are between here and Cayton Road and they can clearly hear the PA systems – the sound is not muffled – it is very loud. Reducing the buffer to twenty feet is ludicrous and putting up a fence will not be a factor in reducing the noise. She questioned looking at an 8-foot fence everyday and having lights from a car dealership making your house daylight twenty-four hours a day. She stated that there will be more traffic -- an increase of only twenty employees and twenty customers is ridiculous. KY 18 is a high traffic area and traffic is a nightmare at Cayton Road. There will be people taking test drives in the residential areas to get away from the congestion on KY 18. More cars means more car loaders to deliver the vehicles – mostly overnight and causing more concern about noise. She stated that the elevation slants towards her property and they have sewage/water problems in the neighborhood already. She is opposed to both of the developments – the commercial and the residential – as they will cause considerable problems for the people in the neighborhoods.

Mr. Mark Lorenzo, 989 Golden Grove Lane, stated that they are undertaking a letter to the existing dealerships about the PA systems and the noise. He is an audio engineer and knows there are options other than a blaring PA system. He stated that right where the dealership would open up onto KY 18, the road merges from three lanes to two lanes and on Hopeful Church Road it goes from two lanes to one lane. He wants to know that improvements will be made to the roads. At the light at Cayton and Hopeful Church Roads, the traffic backs up past the road to the dealership.

Mr. Thomas Stanken, 6260 Amarillo Place, questioned Amarillo Drive connecting with Merchants Drive. Ms. Bachman responded that the Land Use Element refers to a study being undertaken in regard to a potential connection of Merchant Street and Cayton Road. Mr. Stanken asked if Staff was saying that Amarillo would still deadend. Mr. Bachman responded that she did not know. Mr. Stanken referred to Hopeful Church Road being widened and stated that he takes his life in his hands now. He is concerned when the new road opens from the mall area to the Cayton Road connector with the light. They can hardly get out of their street now. If it is connected to Merchant Street, they will never get out unless there is a light. He stated that they cannot even hear the airplanes with the noise from the car dealerships and he believes they could use pagers. At one time, someone went there about the noise and they did tone some of it down. He is concerned about the lights. He is against the project.

Ms. Peggy Foster, 980 Golden Grove Lane, stated that the back end of the property will be gravel and used for trade-ins and discarded vehicles and that will be in her back yard. She does not believe there will be houses back there – there

will probably be cars back there – and it will be in her back yard. Mr. Costello stated that in order for that to happen, they would have to go through this process again. Ms. Foster stated that there isn't even a road to get to those houses. The noise from the paging system is her biggest concern. She does not think that the backs of peoples' houses is the proper location for a car lot.

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

Mr. Viox stated that both Amarillo and Donald Street right-of-ways go to the property line, but the streets do not. He indicated on the exhibit where the streets currently stop. He stated that the proposal is to connect to Donald and have a location for the 18 lots on Amarillo. They will direct all of the water into the detention pond. The water will be held and released at a slow rate per the regulations.

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

Mr. McMillian stated that if they berm across there, the water will back up to the houses on Ridge Road. Mr. Viox responded that they will not block any water and will design the storm sewers to take in the whole drainage basin. They will receive the water that is naturally coming out of their back yards and take it to the detention basin.

In response to a question from Mr. Bunger, Counselor Wilson advised that before KRS 100, property became unzoned upon annexation and, to avoid that situation, there was a statutory amendment that provides for the question of what the zoning should be upon annexation. Property does not get annexed until the Planning Commission makes a recommendation as to whether rezoning should or should not occur. The recommendation goes to the city considering annexation so that when the city acts on the annexation they will in the same ordinance adopt the recommendation or decide something different. Mr. Bunger asked if additional conditions can be added at that time. Counselor Wilson advised that conditions can be changed and resolved at the legislative body stage, but the applicant has to agree to any conditions and they cannot be unilaterally imposed. The legislative body can urge that there be additional conditions, but they would be subject to agreement by the applicant.

Mrs. Poston asked if the plan is to pave the whole lot, even the back portion. Mr. Viox responded "yes" and stated that it will probably be paved with asphalt. There will be no gravel.

Mrs. Poston questioned the reason for a 30-foot high sign on both lots, noting that she understands the explanation for the existing sign. Mr. Wyler responded that the requirement by Honda Motors is a 30-foot sign. They will move the existing

sign across the street. He stated that two signs are required on the potential luxury franchise. There would be their own monument sign and a new structure. Mrs. Poston asked if two signs are allowed on the property. Ms. Bachman responded "no" and explained that if it was platted as one lot it would be allowed one sign. If it was considered two lots, it would be allowed two signs. Ms. Poston commented that that is the reason why they want two lots. Mr. Wyler stated that there will be two separate businesses at the location, but they will share the property. Mrs. Poston asked for clarification. Mr. Wyler stated that they will share the property access and the parking in the rear. Attorney Dusing stated that there are franchise considerations and financial considerations and the dealerships will require separate freestanding signs. Mrs. Poston questioned their plans for communications within the lots. Mr. Wyler responded that they have paging systems on all of their facilities, but he is willing to consider alternatives.

Mrs. Poston stated that she is concerned about the landscaping at the entry blocking the view of KY 18 from the Shell station. She commented that these are difficult places to get into and out of and even the adjoining properties can block views. Mr. Wyler responded that the landscaping will be small bushes so that people can see the display. Mr. Crice stated that this is one of the reasons they are asking for relief from the City of Florence landscaping requirements (3 large trees/5 small trees/30 shrubs). They want to use the Boone County requirements (3 large trees/20 shrubs), which will help to maintain visibility coming in and out of the site and good product visibility.

Mrs. Wilson asked if the proposed building will be taller or the same height as the dealership next door. What will the neighbors be looking at over the fence? Mr. Crice responded that it will be similar in height to the other dealership. It will appear as a one-story building because the property slopes downward from KY 18 towards the back of the site. The building will have a lower level. It appears to be a 22-foot high building until it starts to slope down and it will have a taller appearance on the other side. Mrs. Wilson asked that information regarding the height of the building next door be brought to Committee. She is also concerned about the signs. She stated that Goodyear had already ordered their sign and it was turned down by the Planning Commission. She understands that Honda has a requirement for their signs, but many other businesses have been able to work with the Planning Commission. Mr. Crice responded that a 30-foot sign is allowed with 201 feet of road frontage. They are willing to move the lot line and meet the minimum requirements. The lot line as drawn goes through the centerline of the access drive, but it can be moved and they can create easements for access.

Mrs. Wilson questioned a frontage road from the Shell station. Ms. Bachman responded that no alignment of the road was decided and it was stated that the applicant would need to come back in the event the property developed. There has been no decision in regard to the alignment – but it would go through the Shell property. Mrs. Wilson stated that the idea of the frontage road would be to

delete an access point. Ms. Bachman responded that they would need to maintain an access point on KY 18 and Staff would be more interested in eliminating the one on the west. Mr. Dusing stated that in their pre-application conference, the Zoning Administrator indicated that the frontage road is a requirement of the property owner once the site is developed. He stated that the blocks shown on the exhibit depict the location of the access road. He tried to contact Ameristop to coordinate this, but his calls were not returned. Greg Sketch said it should be located behind the Shell station instead of in front of the Shell station because it made more sense and that is where it was earmarked when the veterinary clinic went in.

Mr. Poe stated that in 2003, they do not need loud speakers. He stated that the Committee should consider what was done with Tom Gill in regard to noise, lighting in the back and the residential areas.

Mr. White stated that the Planning Commission addressed noise and lighting for the existing dealerships and he was not aware of the problems the residents are bringing forward. Mr. Costello responded that Staff will get information from the residents present and assist in that endeavor. He stated that for a couple of the dealerships there were specific conditions regarding paging and lighting and, if they are violating the conditions, there are means to get them into compliance.

Mr. McMillian questioned the use of the curb cut next to the Shell station. Mr. Viox responded that they felt they needed two access points to get into the site – there are two dealerships and two access points would be convenient. KDOT gave the site two access points and they were deeded to the parcel. Mr. McMillian stated that it is a shared dealership and the other road is the main curb cut – what is the use of the curb cut next to the Shell station? Mr. Wyler responded is a convenience issue for customers to get in and out. Mr. McMillian stated that if they took it out, they would have more room for buffer. Mr. Crice disagreed and stated that the idea was better circulation of trucks dropping off cars in the back. They feel that they need two access points. Mr. Costello stated that the two curb cuts were based on residential use. He questioned how vehicles would make a left turn out of the curb cut to the west. Mr. Crice responded “it will be difficult”. Mr. McMillian stated that it should be eliminated. It is too close.

Mr. Bunger stated that only right-turn-in and right-turn-out movements were allowed at the Shell station, which would address the concern about turning left. He stated that it is important to look at the overall traffic pattern and flow. He believes most of the traffic to the site will come from I-75 westbound. There needs to be consideration of the traffic flow getting into the site and they need to find a way to make the traffic flow to the site work best considering the safety of the customers and residents involved. They need to look at all possibilities. They need to look at the possibility of access on the frontage road and what can be done concerning that, as well as possibly reconfiguring the roadway exiting from the

rear since it is a shared site. He questioned if the applicant is prepared to go ahead with a larger Honda dealership if the luxury dealership does not materialize. Would this be phased construction? How would they proceed if only Honda is built initially? Mr. Wyler responded that if they do not get the luxury franchise, they will look for expansion with another franchise in the future. Mr. Bunger asked if all of the site paving and grading would take place at one time or if it would be phased. Mr. Wyler responded that it will all take place at one time.

Mr. Barlow stated that this is an attempt to stuff a two-car dealership on a one-dealership site. If there was only one dealership, a lot of the conditions would be easily met. They are constructing a box with a six-foot high solid wood fence and floodlights – which does not sound desirable for the people in the neighborhood. He questioned who would benefit if all these Variances are granted. Mr. Viox responded that with one dealership or two dealerships, it is a low-impact development compared to what the Future Lane Use Plan allows. As to who will benefit – the Wyler Group and the community. The Wyler Group will bring jobs, and taxes. Mr. Barlow noted that Mr. Viox commented that The Wyler Group is concerned about the neighborhood, but he has not heard anyone speak in favor of the proposal. Mr. Viox responded that his comment was that they would be sensitive to the neighborhood and he feels that they have been sensitive to the community with what they have presented in terms of screening and architecture. Mr. Barlow commented that probably 90% of the eleven acres will be paved. Mr. Viox responded that it is not quite that much. He will compute the green space and provide the information to the Committee. Mr. Barlow stated that the applicant is asking for Variances, reducing the landscaping, and paving virtually 100% of what is allowed. This takes away the opportunity for any green space to be available.

Mr. Barlow stated that after the property is annexed, the western property line will be the boundary between Boone County and the City of Florence. Counselor Wilson agreed. Mr. Barlow questioned what recourse the people living in the County have other than this process. He stated that the people on Ridge Road, who live in the County, could be affected by this development in a negative way and the City of Florence could overturn the Planning Commission's recommendations. Counselor Wilson responded "no more than if there is not an annexation of the property". He stated that their recourse is to challenge the decision through the Appeals Process in Chapter 100. Once the annexing city acts, the appeals process is to Circuit Court to determine if the decision reached is arbitrary. The residents also have the right to go to City Council and be heard.

Mr. Dusing stated that the Shell station is in the City of Florence. Mr. Barlow stated that Ridge Road is not in the City of Florence. Mr. Costello agreed.

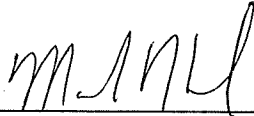
Mr. Caddell asked Staff to be certain that the Committee is provided with a drawing showing the depths of existing commercial properties on the east and west sides of the development as it runs back from KY 18, and to review the

earlier Shell approval to determine if the applicant met the September 21, 1988 condition in regard to the driveway onto KY 18. Mr. Costello responded that Staff looked at it a year ago and worked with the state. They were felt to be in compliance according to the State Permit. Staff will check on it again. Mr. Caddell stated that for one of the last dealerships approved in this corridor, one of the conditions was that they could not have an outdoor PA system. He asked Staff to make sure they are abiding by that condition.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on April 2, 2003 at 5:00 PM in the Fiscal Courtroom on the second floor of the Administration Building. This item will be on the Agenda for the Business Meeting on April 16, 2003 at 7:30 P.M..

The Chairman closed this Public Hearing.

APPROVED:



Mark Hicks, Chairman

Attest:



Jan Hancock, Recording Secretary

Exhibit -1 Interior and exterior of the KY 18 Honda/Mitsubishi submitted by the applicant





**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
August 7, 2003
7:30 P.M.**

Mr. Mark Hicks, Chairman, called the meeting to order at 7:35 PM.

COMMISSION MEMBERS PRESENT:

Mr. Randy Barlow
Mr. Greg Breetz
Mr. Kim Bunger
Mr. Mark Hicks, Chairman
Mrs. Janet Kegley
Mr. Richard Knock, Temporary Presiding Officer
Mr. Don McMillian
Mr. Robert Newman
Mr. Randy Poe
Mrs. Susan Poston, Vice Chairwoman
Mr. Bob Schwenke
Mrs. Lisa Wilson, Secretary/Treasurer

COMMISSION MEMBERS NOT PRESENT:

Mr. Arnold Caddell
Mr. Charlie Reynolds
Mr. Earl White

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Ms. Patty Bachman, Planner
Ms. Jan Hancock, Secretary
Mr. Todd Morgan, AICP, Planner
Mr. Kevin Wall, AICP, CDT – Director, Zoning Services

2. Zoning Map Amendment

The request of The Mountain Agency, LLC (applicant) for Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners) for a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Services (C-3), and Variances from Section 3413.4(2)d. ("Freestanding/Monument Signs" in Commercial Two [C-2], Commercial Services [C-3], and Commercial Four [C-4] Districts) and from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations, in conjunction with the annexation of real property into the City of Florence for an 11.44 acre tract at 961 Burlington Pike, Burlington, Kentucky. The request is for a zone change to allow auto sales, Variances from landscape buffer yard requirements, and a Variance to increase the height of a freestanding sign.

The Chairman stated that the vote in Committee was a tie and there is not a majority recommendation. The policy is that the report for which the Committee Chairman voted in favor will be presented first, followed by the other report. The applicant will then briefly review that changes that were presented to the Committee.

Staff Member Patty Bachman asked that the record reflect the following changes to the request: (1) the size of the area proposed for a Zoning Map Amendment is 9.96 acres; (2) there is no Variance requests for signs; (3) there is only one Variance request and it is for the buffer yard width on the street frontage between the two lots under consideration. Ms. Bachman read the Findings of Fact for Denial of the request (see Exhibit 1). Ms. Bachman then read the Findings of Fact for Approval with Conditions (see Exhibit 2). The applicant has signed the letter agreeing to the conditions.

The Chairman asked the applicant to review the changes to the Concept Plan that were presented at the Committee Meeting.

Present on behalf of the applicant were Mr. Bill Viox with Viox & Viox, Attorney Gerald Dusing, and Mr. Rodney Crice. Mr. Viox thanked the Planning Commission for the opportunity to present the changes. He presented exhibits of the Concept Plan as presented at the Public Hearing and the current Concept Plan. He stated that there were originally four Variance requests and the only Variance requested at this time is the one between their own properties. He noted the boulevard-type roadway and the screening elements. He stated that they will share the back parking lot with the two dealerships. They were able to make the building smaller and move it forward, crunch up the front parking lot, move up the back parking lot, reconfigure the detention pond, and get the building in the front in the C-3 Zone. He stated that they had preliminary meetings with the City of Florence (the utilities are City of Florence utilities) and the City indicated that they did not want SR-2 size lots. He stated that they now have bigger lots and there are more lots for sale than there were. He stated that the Future Land Use for the entire

parcel is up to thirty dwelling units per acre. The Chairman asked the applicant to present the changes that were made at the Committee level.

Mr. Crice read the list of changes: (1) reduced the amount of the requested zone change from 11.44 acres to 9.96 acres; (2) reduced the number of proposed parking spaces from 750 to 718; (3) reduced the number of access points on KY 18 from two to one; (4) increased the number of single-family lots from 18 to 24; (5) building is now setback 330 feet from the front right-of-way as opposed to 352 setback; (6) the square footage of the building is now 53,320 as opposed to 49,972; (7) building length was 370 feet and is now 273 feet; (8) the west buffer yard has been increased from 20 feet to 30 feet and is now in compliance, eliminating the Variances; (9) the zoning line has been moved north 195 feet; (10) the penetration of the parking was 1,228 feet and is now 970 feet measured from the right-of-way line; (11) light poles were 30 feet high and are now 24 feet high; and (12) Variances were reduced from four to one.

Mr. Dusing stated that they not only eliminated the curb cut, but they agreed to (13) make the access road happen so that there is a circulation pattern out to the traffic light on Ridge Road and to improve Ridge Road up to the traffic light; (14) no PA system; (15) no light penetration; (16) a buffer zone between the residential they propose in the rear and the parking lot; and (17) reconfigure the parking lots so that there are less aisles and stack three, which the code allows. He noted the passive inventory storage area.

Mr. Viox stated that, as Ms. Bachman mentioned, Mr. Wyler has agreed to give directive to haulers coming in that they use the main entrance. He stated that there is sufficient room for vehicles to turn around and go right and out to the expressway. With the reconfiguration, the change to the traffic is insignificant and less than one-third of the trips in the Future Land Use.

At this time, Mrs. Poston moved by resolution to the City of Florence that the findings of facts for denial be accepted. Mr. Newman seconded the motion.

Mr. Knock questioned the current depth of the commercial zoning from KY 18 and how much it has been reduced. Mr. Viox indicated the C-3 line and reviewed the depths of other commercial uses including the Shell Station and the veterinary clinic. He stated that the line is jagged. Mr. Crice responded that the depth on the old plan was 1,228 feet measured to the parking and the fifty-foot buffer and on the new plan it is 970 feet and 103 feet of buffer.

Mr. Knock stated that it was previously indicated that ingress/egress for loading and unloading could be off Ridge Road and now it will be restricted to coming off KY 18. Mr. Viox responded that the site has two curb cuts and they have agreed to eliminate one. He stated that the Shell Station was committed to access, but they did not know if they had that access because it would take action from the Planning Commission to make them do it. He stated that they were able to do away with the curb cut and widen the roadway to city/county standards. He indicated how the

carriers would come in, turn around, and go back out. Mr. Knock asked if that was part of the stipulations in the Agreements. Mr. Viox responded "yes".

Mrs. Kegley stated that the applicant would have to purchase private property in order to get access to the residential in the back. There is no access in the back unless the person is willing to sell the property – which they may be willing to do for SR-1, but may not be willing to do for SR-2. She stated that when the property was originally planned, it would have been perfect for SR-2 or high-density residential with commercial uses in the front that would support the residences. All of the residential area would have had access to the road to help support the commercial properties in the front, but that access has been cut off by the church. If the County wants to plan a road, they would have to move the church or take some property – which is not likely. The property now has to be looked at with one access point in the front. She is not sure there would be enough residential use behind it to support the commercial with only apartments, condominiums, or townhouses. She stated that the divided highway makes it more difficult to plan. She stated that there is an area in the middle where six houses on Ridge Road are impacted and she believes that is the reason for the split zone.

Mrs. Wilson asked if there is a continuation of the sidewalk along KY 18. Mr. Costello stated that a sidewalk is required. Mr. Viox responded that they would comply.

Mr. Bunger, a member of the Zone Change Committee, stated that initially he was in favor of the application and believed the use to be appropriate. He stated that this is a quality organization and the business will eventually be included in the City of Florence. There were many requests of the applicant during the extensive evaluation of the application and the applicant responded willingly and adequately. However, after extensive consideration, he changed his opinion because the depth of the proposed commercial use extends beyond that of other surrounding commercial uses and that cannot be adequately mitigated by the proposed fencing due to the topography. The homes along the proposed site are at an elevation to see into the property above the proposed fencing and buffer yards. The buffer yards will not be effective. The impact will not be adequately mitigated and he has changed his conclusion.

Mr. Newman stated that the findings of fact for denial were left out and the entire first page of that report is verbiage. Finding of Fact #2 in the Findings of Fact for Approval with Conditions makes #2 in the Findings of Fact for Denial ridiculous, and that can also be applied to #3. In regard to #3 in the Findings of Fact for Denial, he stated that the applicant changed everything they were asked to change. He stated that the depth of the commercial is on everyone's mind and it is not mentioned in the Findings of Fact for Denial. He questioned what makes the right depth and what makes the wrong depth. Just because every piece of commercial property out there currently has a certain depth – does that make it proper? If they were as deep as this property, would that be proper? He stated that the applicant has basically done everything they were asked to do and he believes the use would help the area. He is in favor of the application.

Mr. Knock asked if the Revised Plan mitigated any of the opposition in the Committee. Did the Revised Plan mitigate any of the concerns of the residents who were opposed to the first plan? Counselor Wilson advised that there were comments made at the Public Hearing and the applicant made changes in the Development Plan in an attempt to minimize those concerns. At the Committee level, some Committee members were persuaded and others were not. Mrs. Poston stated that she could not address what happened with the residents in regard to their concerns.

Mr. Bunger stated that this is a very appropriate use, but they are not able to mitigate the rear parking area which is in a residential area. The fencing and buffer yards do not mitigate it because of the topography.

Mr. Barlow questioned what happened with the signs. He noted that at the Public Hearing there was discussion of two separate signs higher than allowed. Ms. Bachman responded that at the Public Hearing there was discussion on the part of the applicant that the lot could be configured to have lot frontage of more than 200 feet. In C-2 and C-3 zoning, as long as there is more than 200 feet of frontage, the signs can be up to 30-feet tall. She stated that each of the lots has 200 feet of frontage and they would not need a Variance for the height. Mr. Barlow noted that the only Variance remaining is the Variance between the two pieces of property.

Mr. Barlow questioned the buffer on the west side. Ms. Bachman responded that required buffer is sixty feet, but they are including a six-foot tall fence which allows the buffer to be reduced to thirty feet. They have to plant all of the plantings that would be required in a sixty-foot buffer yard.

Mr. Barlow stated that the zone change impacts the boundary line between the City of Florence and Boone County by moving it and eliminates any transition zone between residential and commercial. He stated that we have always tried to protect the residential properties, but the jurisdiction will change and the City of Florence can say that on the west side of the city there are all these car dealerships and this is no different. He stated that this is an open green piece of property that was scheduled to be residential for a reason in Boone County, but it will go into the City of Florence and could go to full commercial – paving, noise, traffic coming in and out – which violates the intent of what we tried to do with the Zoning Regulations for the residents in Boone County. The property in the back that they are not requesting a zone change for is landlocked and under the control of the applicant. When they cannot secure access for the residential, they could apply to make it commercial – which will impact a lot more residences. He stated that the only two who will gain is The Wyler Group and the City of Florence. He is against the application -- it will have a major impact on the boundary line between the City of Florence and Boone County.

Mrs. Kegley asked if the applicant has agreement for access to the property in the rear. Mr. Dusing responded “Not yet” but stated that they have had talks with Mr. and Mrs. Durbin and they are present. He stated that Mr. and Mrs. Durbin informed

them after the Public Hearing that they had the road closed and they own the right-of-way – which was apparently not properly recorded at the Courthouse. They have been dealing with them to acquire that property and they have been quoted a price. He stated that the Shell Station to the west is in the City of Florence and they are not extending the boundary between the City of Florence and the County. Mr. Barlow stated that the City of Florence extends all along the commercial depth, but the residential properties are in Boone County. Mr. Dusing agreed. Mrs. Kegley stated that if they are not able to get the access off Amarillo, they would not go forward with the plan. She stated that the fear is that the commercial would end up going all the way back instead of it being half commercial and half residential. Mr. Dusing disagreed. He stated that would not be fair because they would have to ask for another zone change and prove everything all over again. He does not want to put in a stipulation that is recorded and perpetual. He stated that they do not have a contract for the access, but believe they know what is going to happen.

Mrs. Poston stated that the applicant did a good job of trying to address issues raised by Staff and from the Public Hearing. She stated that Mr. Wyler has a facility on KY 18 and whatever he does would be quality – but she will vote for denial because of the depth and the intrusion if the dealership into the residential area. If all of the commercial uses were this depth, it would not be an issue – but it is an issue. It is more than four hundred feet deeper than any of the other uses. She believes commercial is appropriate for a portion of the site, but the depth is a problem. She will vote for denial.

Mr. Newman asked for clarification regarding access to the residential area. Mr. Viox responded that the record currently shows right-of-way in the two areas indicated. He stated that they have the option to use the other (Donald Street) right-of-way, but it would require a peculiar layout. At one time, this tract went all the way back, but now that the church has been built it would be a ridiculous entrance – but the right-of-way is there. He stated that the Amarillo access would make more sense. If the owners of the Amarillo access are not willing to sell, they could use the Donald Street access. Mr. Newman asked, if the request is approved, would the applicant would have to come back for a zone change to use that entryway? Ms. Bachman responded that it would go through typical Subdivision Review and they would not need a zone change for it.

Counselor Wilson advised that the “Findings for Approval with Conditions” is a recommendation for approval and there are conditions – and that is why there are subcategories and Findings of Fact. When making Findings of Fact for denial, there are not any conditions to attach or subcategories. He stated that there are Findings of Fact for both recommendations.

There being no further discussion, the Chairman asked for a vote on the motion made by Mrs. Poston to accept the Findings of Fact for Denial. Counselor Wilson advised that a “pass” vote counts with the majority. **The vote on the motion found Mr. Barlow, Mr. Bunger, Mr. McMillian, Mr. Schwenke, Mrs. Wilson, Mr. Knock, and Mrs. Poston in favor. Mrs. Kegley, Mr. Newman, Mr. Poe, and**

Chairman Hicks were opposed. Mr. Breetz passed. The motion carried with 7 votes in favor, 4 opposed, and 1 passed vote.

**3. Technical Design Review - Mary Queen of Heaven
1150 Donaldson Highway**

Staff Member Kevin Wall passed around drawings and photographs of Mary Queen of Heaven at Donaldson Highway and Turfway Road. The proposal is a facelift of the existing elementary school. There was an addition to the school in 1998 with a standing seam metal roof and some nice masonry work. The proposal is to have the same standing seam metal roof and to upgrade the curtain walls on the front and back to make the school look more like the addition. It is similar to St. Henry as far as the aesthetics. The request is not an addition, it is Design Review for a facelift. The Committee recommends approval of the request.

Mrs. Wilson moved to approve the Design Review request for Mary Queen of Heaven. Mr. Schwenke seconded the motion and it carried unanimously.

NEW BUSINESS: None.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Kevin Costello, AICP, Executive Director, discussed the following items in his report to the Planning Commission:

- 1. Reschedule June 18 Business Meeting** Mr. Costello stated that there are no Public Hearings scheduled for June 25. There would normally be a Business Meeting on June 18 at which he would present the Budget for next year, but he will be on vacation that week. He asked that the June 18, 2003 Business Meeting be cancelled and rescheduled to June 25, 2003 at 7:30 PM. **Mrs. Wilson so moved. Mrs. Kegley seconded the motion and it carried unanimously.**
- 2. GIS Contributing Members** Mr. Costello distributed and reviewed flyers listing the current GIS Contributing Members. He stated that there are currently eighteen contributing members (organizations having access to the GIS System for an annual fee). The partners are the legislative units. The Planning Commission is the Managing Partner. Mr. Costello requested approval to enter into an Agreement with the Boone County Public Library District to be a Contributing Member at \$3,000 per year. A kiosk version of Boone County GIS would be housed at the Scheben Branch. The GIS data would be loaded on their server and they will have a number of computers for access to the information. There has been discussion of community forums to provide orientation to the system. They will start at Scheben Branch and it will eventually be at all the branches. Mr. McMillian questioned the \$3,000 annual fee for the rest of the branches. Mr. Costello responded that the fee is according to use – Petersburg Fire Department uses it a small amount, but the School and Sanitation Districts and the Airport are higher users. The highest contributing member pays \$20,000 per year. Mr. Costello stated that the Executive Committee met and recommended entering into Agreement with the Library District. Mr. Bunger asked if there would be additional fees as new locations are

EXHIBIT 1

#2

Findings of Fact for Denial

June 4, 2003

1. The Committee has determined that the proposed Zoning Map Amendment and the proposed Concept Development Plan are not in agreement with the 2000 Boone County Comprehensive Plan. The Future Land Use Map designates the property as "Urban Density Residential," which allows attached housing of up to 8 dwelling units per acre. The application calls for the development of two automobile dealerships. The Land Use Element notes that regionally-oriented commercial property should increase in the Mall Road area. However, this growth should not expand onto U.S. 42, Hopeful Church Road, or KY 18, on which the site has frontage. Additionally, the Land Use Element suggests that a road connection between Merchant's Street and Hopeful Church Road be studied. This project would render such a connection a moot point.

The Land Use Element further indicates that commercial uses should be compatible with existing and proposed resident developments along KY 18. Several unacceptable, unmitigated impacts would occur if the site were developed as proposed under the Concept Development Plan. The automobile dealership would extend for a depth from KY 18 of 1135 feet on the east and 1145 feet on the west. The adjoining commercial properties extend only to a depth of approximately 660 feet on the east and 470 feet on the west. Thus, the depth of the proposed commercial property is, on the west, over twice that of the adjoining properties with frontage on KY 18 and 475 feet more than that of the adjoining commercial property on the east. The proposed commercial property would then adjoin existing residential property, creating issues of compatibility between the two uses.

The Business Activity Element notes that commercial developments in the KY 18 and U.S. 42 corridors should be limited in scale and clustered to serve growing residential neighborhoods. The proposed development is large in scale, serving a regional market beyond the immediate residential neighborhoods in the vicinity. The acreage of the site is 9.96 acres, and 715 parking spaces would be created if it were developed according to the Concept Development Plan. The Element states that planned developments should be encouraged to create greater compatibility between residential and commercial land uses. As noted above, the proposed development is incompatible with the adjoining residents. The Element further states that commercial development should coordinate closely with projected high or medium density residential development to occur in the area. The Concept Development Plan does not follow this recommendation.

The Housing Element states that the KY 18 corridor represents a prime opportunity to promote high-density uses in a transit corridor. The proposed land use (i.e. an automobile dealership) seems counter to the idea of a corridor geared toward mass transit, especially when considering that the existing zoning is Suburban Residential Two, and the Future Land Use designation is Urban Density Residential.

June 4, 2003

The Mountain Agency, LLC/Allie Marie Moore, Trustee

Page 2

Business Activity Objective 2 states that the large-scale mixing of commercial and non-commercial uses should occur in planned developments, with consideration given to the compatibility of surrounding land uses. The applicant indicates that a residential subdivision would be developed on the remaining 6.68 acres of the parent parcel. The compatibility of the proposed subdivision with the automobile dealerships would be in question, in addition to its compatibility with existing residential property, for the same reasons.

2. No facts legitimately supporting a finding that the existing zoning classification is inappropriate and that the proposed zoning classification is appropriate have been identified.
3. No facts that would lead to a finding that there have been major changes of an economic, physical, or social nature not anticipated in the recently adopted comprehensive plan that substantially alters the area's character have been identified.
4. The Committee has not concluded that the requested variance fulfills the applicable findings, standards, and criteria outlined in KRS 100.241 to 100.247, which includes the findings outlined in Section 251 of the Boone County Zoning Regulations. It appears that the requirements in question could be readily met without any difficulty.

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.

Findings of Fact for Approval with Conditions

June 4, 2003

FINDINGS OF FACT

1. The proposed Zoning Map Amendment is in agreement with the 2000 Boone County Comprehensive Plan. The Land Use Element notes that commercial development in the Florence area should remain near arterial roads or close to the interstate. While the Land Use Element states that "a specific study should be conducted regarding the connection of the northern half of Hopeful Church Road with Merchants Street," at this time such a study may be a moot point. The alignment of this connection would have likely been through the existing Florence Alliance Church property, which adjoins the subject property to the southeast.
2. The existing zoning category is inappropriate and the proposed zoning category is appropriate for the site. From Boone Aire Road on the west, extending as far as the point where KY 18 intersects with Turfway Road, the majority properties fronting KY 18 are commercial land uses. On both the east and the west of the subject property, as well as the north across KY 18, the site adjoins commercial land uses. The proposed car dealership is compatible with the existing commercial land uses, while a residential development would not be compatible with these existing commercial land uses. Residential land uses on the subject property would have to contend with impacts such as lights, noise, and truck traffic from the adjoining commercial properties.
3. The Committee has concluded that the requested variance fulfills the applicable findings, standards, and criteria outlined in KRS 100.241 to 100.247, which includes the findings outlined in Section 251 of the Boone County Zoning Regulations.
4. The Committee has concluded that the following conditions are necessary for the purpose of satisfying the Goals, Objectives, and Policies stated in the 2000 Boone County Comprehensive Plan and the mitigation of any foreseeable impacts that the proposal may create. The Applicant has signed a letter of agreement with these conditions and understands that the submitted Concept Development Plan along with these conditions serve as a basis for this recommendation:

Conditions

1. The applicant agrees to adhere to the revised Concept Development Plan submitted to the Zone Change Committee at their May 7, 2003 meeting.
2. An access road intersecting with Ridge Road adjacent to the Shell gas station shall be constructed concurrent with the construction of the first building on the subject property.

June 4, 2003

The Mountain Agency, LLC/Allie Marie Moore, Trustee

Page 2

3. The applicant agrees to widen Ridge Road to 28 feet in width from its intersection with Kentucky 18, extending the length of the road up to the intersection with the access drive adjoining the Shell Station.
4. The applicant agrees to the proposed photometric plan for the site, submitted to the Zone Change Committee at their May 7, 2003 meeting. Measurable light shall not exceed 1.0 f. c. at property boundaries that adjoin residential properties. The applicant agrees to install the flat-lens-type lighting as shown at the May 7, 2003 meeting. Further, the applicant agrees that the lighting fixtures will not exceed 25 feet in height.
5. The applicant agrees that no public address system will be installed or used on the site.
6. The applicant agrees to adhere to the proposed architectural drawings submitted to the Zone Change Committee meeting of May 7, 2003. The finished floor elevation of the building will be approximately 6 feet lower than the finished grade of the property at the property boundaries.
7. Adequate space will be provided to allow for the unloading of cars on the dealership lots.

EXHIBIT

“B”

ORDINANCE NO. 0-16-03

AN ORDINANCE ADOPTING AND APPROVING A ZONING MAP AMENDMENT FOR AN APPROXIMATE 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO REZONE THIS SITE FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3) TO ALLOW AUTO SALES, SUBJECT TO CONDITIONS AND A CONCEPT DEVELOPMENT PLAN, WHICH OVERRIDES THE BOONE COUNTY PLANNING COMMISSION RECOMMENDATION TO DENY THIS ZONING MAP AMENDMENT. (THE MELTON AGENCY, LLC/GARY R. MOORE FAMILY TRUST PROPERTY).

WHEREAS, the City of Florence, Kentucky is a member of the county-wide planning unit with a county-wide planning commission known as the Boone County Planning Commission, and

WHEREAS, the Boone County Planning Commission recommended denial of the zoning map amendment request described above, this recommendation having been reviewed by the City Council for the City of Florence, Kentucky, and

WHEREAS, the City Council for the City of Florence, Kentucky has determined that it should override the recommendation for denial from the Boone County Planning Commission based upon the existing record and that the zoning map amendment described above should be approved based upon the Findings of Fact for Approval attached hereto (Exhibit "A") and subject to Conditions which are attached hereto (Exhibit "B").

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FLORENCE, KENTUCKY, AS FOLLOWS:

SECTION I

That the request of the Mountain Agency, LLC (Applicant) for Allie Marie Moore, Trustee and Gary R. Moore Family Trust (Owners), for a zoning map amendment for an approximate 9.96 acre tract located at 961 Burlington Pike, Florence, Kentucky, to rezone the site from Suburban Residential Two (SR-2) to Commercial Services (C-3) to allow auto sales subject to agreed conditions and a concept development plan shall be and is hereby approved.

SECTION II

This approval is granted based on the Findings of Fact made by the City Council for the City of Florence, Kentucky, as recommended by the Planning and Zoning Committee comprised of members of the City Council for the City of Florence, Kentucky, these Findings of Fact being attached and marked as Exhibit "A" and incorporated herein by reference as if fully set out. These

Findings of Fact support the decision of the City Council of Florence, Kentucky to override the Boone County Planning Commission recommendation.

SECTION III

The approval of this rezoning is granted subject to the conditions, terms and provisions of Agreed Conditions attached hereto and marked as Exhibit "B", which is attached hereto and incorporated herein by reference. This approval of this rezoning is also subject to the Concept Development Plan submitted by the Applicant and Owners as part of their Application on which the Boone County Planning Commission made its recommendation in Resolution No. R-03-007-D, this Concept Development Plan including all of the referenced exhibits to that Resolution.

SECTION IV

The real estate which is the subject of this Ordinance is more particularly described in Exhibit "C", attached hereto and incorporated herein by reference. The zoning map of Boone County, Kentucky, as it applies to the City of Florence, Kentucky shall be designated to reflect the approval of this rezoning for this subject property, this approval being an override of the Boone County Planning Commission recommendation to deny this request.

SECTION V

That if this approval for this rezoning shall be held invalid in whole or in part by any Court of proper jurisdiction, such invalidity shall not affect the validity of any of the other zoning regulations, zoning map or comprehensive plan provisions as they are severable from this Ordinance and they are intended to have effect regardless of any invalidity relating to this particular Ordinance.

SECTION VI

Publication of this Ordinance is hereby authorized to be by summary publication in accordance with Kentucky law.

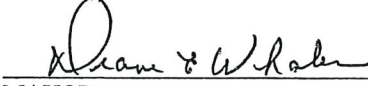
PASSED AND APPROVED ON FIRST READING THIS 22nd DAY OF July, 2003.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 5 DAY OF August, 2003.

ATTEST:


CITY CLERK

APPROVED:


MAYOR

FINDINGS OF FACT FOR APPROVAL

IN RE: REPORT AND RECOMMENDATION - REQUEST OF THE MOUNTAIN AGENCY, LLC (APPLICANT) FOR ALLIE MARIE MOORE, TRUSTEE: GARY R. MOORE FAMILY TRUST (OWNERS) FOR A ZONING MAP AMENDMENT FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3), FOR A 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO ALLOW AUTO SALES.

1. The requested Zoning Map Amendment is in agreement with the 2000 Boone County Comprehensive Plan. The Land Use Element notes that commercial development in the City of Florence area should remain near arterial roads or close to the interstate. While the Land Use Element states that “a specific study should be conducted regarding the connection of the northern half of Hopeful Church Road with Merchants Street”, at this time such a study is a moot point.

2. The existing zoning category is inappropriate and the proposed zoning category is appropriate for the site. From Boone Aire Road on the west, extending as far as the point where KY 18 intersects with Turfway Road, the majority of properties fronting KY 18 are commercial land uses. On both the east and the west of the subject property, as well as the north across KY 18, the site adjoins commercial land uses.

3. The proposed car dealership is compatible with the existing commercial land uses, while a residential development would not be compatible with these existing commercial land uses. Residential land uses on the subject property would have to contend with impacts such as lights, noise and truck traffic from the adjoining commercial properties.

4. The Special Conditions attached to the Planning and Zoning Committee Report and Recommendation are necessary for the purpose of satisfying the Goals, Objectives and Policies stated in the 2000 Boone County Comprehensive Plan and the mitigation of any foreseeable impacts that the project may create.

FINDINGS OF FACT FOR APPROVAL

IN RE: REPORT AND RECOMMENDATION - REQUEST OF THE MOUNTAIN AGENCY, LLC (APPLICANT) FOR ALLIE MARIE MOORE, TRUSTEE: GARY R. MOORE FAMILY TRUST (OWNERS) FOR A ZONING MAP AMENDMENT FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3), FOR A 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO ALLOW AUTO SALES.

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4. The Special Conditions attached to the Planning and Zoning Committee Report and Recommendation are necessary for the purpose of satisfying the Goals, Objectives and Policies stated in the 2000 Boone County Comprehensive Plan and the mitigation of any foreseeable impacts that the project may create.

SPECIAL CONDITIONS

IN RE: REPORT AND RECOMMENDATION - REQUEST OF THE MOUNTAIN AGENCY, LLC (APPLICANT) FOR ALLIE MARIE MOORE, TRUSTEE: GARY R. MOORE FAMILY TRUST (OWNERS) FOR A ZONING MAP AMENDMENT FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3), FOR A 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO ALLOW AUTO SALES.

1. The applicant agrees to adhere to the Concept Development Plan, dated May 6, 2003, which is attached to and made a part of these Conditions.
2. An access road intersecting with Ridge Road adjacent to the Shell gas station shall be constructed concurrent with the construction of the first building on the subject property.
3. The applicant agrees to widen Ridge Road to 28 feet in width from its intersection with Kentucky 18, extending the length of the road up to the intersection with the access drive adjoining the Shell Station.
4. The applicant agrees to the proposed photometric plan for the site, presented to the Zone Change Committee of the Boone County Planning Commission at the said May 7, 2003 meeting. Measurable light shall not exceed 1.0 f. c. at property boundaries that adjoin residential properties. The applicant agrees to install the flat-lens-type lighting as shown at the May 7, 2003 meeting. Further, the applicant agrees that the lighting fixtures will not exceed 24 feet in height.
5. The applicant agrees that no public address system will be installed or used on the site.
6. The applicant agrees to adhere to the proposed architectural drawings submitted to the Zone Change Committee of the Boone County Planning Commission at the meeting of May 7, 2003. The finished floor elevation of the building will be approximately 6 feet lower than the finished grade of the property at the property boundaries.
7. Adequate space will be provided to allow for the unloading of cars on the dealership lots.
8. Applicant will comply with all applicable signage regulations.
9. All lots on the residential portion of the Concept Development Plan shall be not less than sixty five feet (65') in width.

EXHIBIT "B"

CITY OF FLORENCE, KENTUCKY
SUMMARY OF ORDINANCE NO. 0-16-03

The City of Florence, Kentucky, enacted on second reading Ordinance No. 0-16-03 on August 5, 2003. The title of this Ordinance is as follows:

ORDINANCE NO. 0-16-03

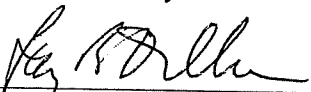
AN ORDINANCE ADOPTING AND APPROVING A ZONING MAP AMENDMENT FOR AN APPROXIMATE 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO REZONE THIS SITE FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3) TO ALLOW AUTO SALES, SUBJECT TO CONDITIONS AND A CONCEPT DEVELOPMENT PLAN, WHICH OVERRIDES THE BOONE COUNTY PLANNING COMMISSION RECOMMENDATION TO DENY THIS ZONING MAP AMENDMENT. (THE MELTON AGENCY, LLC/GARY R. MOORE FAMILY TRUST PROPERTY).

The effect of this Ordinance is to allow a zoning map amendment for an approximate 9.96 acre tract located at 961 Burlington Pike, Florence, Kentucky, to rezone this site from Suburban Residential Two (SR-2) to Commercial Services (C-3). Through this Ordinance, City Council for the City of Florence, Kentucky, has approved this zoning map amendment and overridden the recommendation of the Boone County Planning Commission to deny the zoning map amendment. City Council for the City of Florence, Kentucky adopted Findings of Fact as part of this Ordinance and these Finding are the basis for the approval of this zoning map amendment. This approval of this zoning map amendment is also subject to Agreed Conditions and a Concept Development Plan.

The full text of Ordinance No. 0-16-03, including its exhibits, is available for examination in the office of the City Clerk of the City of Florence, Kentucky, in the Florence Government Center, 8100 Ewing Blvd., Florence, Kentucky, during regular office hours.

CERTIFICATION

I hereby certify that the foregoing is a summary of the contents of Ordinance No. 0-16-03 and that it has been prepared by me on the 22 day of July, 2003, and I am an attorney licensed to practice law in the Commonwealth of Kentucky.



LARRY B. DILLON
SKEES, WILSON & DILLON, PLLC
7699 Ewing Blvd., P.O. Box 756
Florence, KY 41042-0756
(859) 371-7407

SPECIAL CONDITIONS

IN RE: REPORT AND RECOMMENDATION - REQUEST OF THE MOUNTAIN AGENCY, LLC (APPLICANT) FOR ALLIE MARIE MOORE, TRUSTEE: GARY R. MOORE FAMILY TRUST (OWNERS) FOR A ZONING MAP AMENDMENT FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3), FOR A 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO ALLOW AUTO SALES.

1. The applicant agrees to adhere to the Concept Development Plan, dated May 6, 2003, which is attached to and made a part of these Conditions.
2. An access road intersecting with Ridge Road adjacent to the Shell gas station shall be constructed concurrent with the construction of the first building on the subject property.
3. The applicant agrees to widen Ridge Road to 28 feet in width from its intersection with Kentucky 18, extending the length of the road up to the intersection with the access drive adjoining the Shell Station.
4. The applicant agrees to the proposed photometric plan for the site, presented to the Zone Change Committee of the Boone County Planning Commission at the said May 7, 2003 meeting. Measurable light shall not exceed 1.0 f. c. at property boundaries that adjoin residential properties. The applicant agrees to install the flat-lens-type lighting as shown at the May 7, 2003 meeting. Further, the applicant agrees that the lighting fixtures will not exceed 24 feet in height.
5. The applicant agrees that no public address system will be installed or used on the site.
6. The applicant agrees to adhere to the proposed architectural drawings submitted to the Zone Change Committee of the Boone County Planning Commission at the meeting of May 7, 2003. The finished floor elevation of the building will be approximately 6 feet lower than the finished grade of the property at the property boundaries.
7. Adequate space will be provided to allow for the unloading of cars on the dealership lots.
8. Applicant will comply with all applicable signage regulations.
9. All lots on the residential portion of the Concept Development Plan shall be not less than sixty five feet (65') in width.

EXHIBIT "B"

CITY OF FLORENCE, KENTUCKY
PLANNING AND ZONING COMMITTEE

IN RE: REPORT AND RECOMMENDATION - REQUEST OF THE MOUNTAIN AGENCY, LLC (APPLICANT) FOR ALLIE MARIE MOORE, TRUSTEE: GARY R. MOORE FAMILY TRUST (OWNERS) FOR A ZONING MAP AMENDMENT FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3), FOR A 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO ALLOW AUTO SALES.

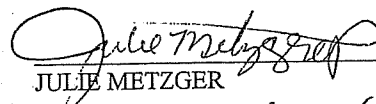
The Committee met in a special meeting on July 8, 2003 at the Florence Government Center Building to consider Resolution No. R-03-007-D of the Boone County Planning Commission which recommended denial of the request described above. The Committee reviewed the record of proceedings before the Boone County Planning Commission, including said Resolution and the exhibits thereto, and the approved Minutes of the public hearing. The Committee determined that the record from the Boone County Planning Commission contains adequate information for consideration of the recommendation and that no need exists for an additional hearing before the City Council.

Further, the Committee determined that the City should override the recommendation for denial based upon the record before the Boone County Planning Commission, and the application should be approved based upon the Findings of Fact for Approval which are attached hereto as Exhibit "A" and subject to the Special Conditions which are attached hereto as Exhibit "B".

NOW, THEREFORE, the Planning and Zoning Committee recommends to the City Council of the City of Florence, Kentucky, as follows:

- a. That this matter be considered solely on the record before the Boone County Planning Commission and that no additional hearings be held; and
- b. That the City should override the recommendation for denial from the Boone County Planning Commission and the application should be approved based upon the Findings of Fact for Approval attached hereto as Exhibit "A" and subject to the Special Conditions attached hereto as Exhibit "B".

MEMBERS OF THE COMMITTEE:



JULIE METZGER



DALE STEPHENS



VIOX & VIOX, INC.

Engineers • Surveyors • Landscape Architects

EXHIBIT C

January 21, 2003

DESCRIPTION OF 9.96 ACRES TO BE REZONED FROM SR-2 TO C-3

Located in Boone County, Kentucky, lying on the southwest side of Kentucky Highway 18 approximately 0.03 mile east of Ridge Road and is more particularly described as follows:

Beginning at a point in the southerly right-of-way line of Kentucky Highway 18, 81.00 feet as measured perpendicular from the centerline, at the northerly common property corner of Gary Moore (Deed Book 833, page 325) and Sim Fryson Enterprises, Inc. (Deed Book 817, page 530); thence with the common line of Moore and Sim Fryson Enterprises, Inc. S 30-54-15 W 1128.02 feet to a point; thence N 62-30-37 W 354.17 feet to a point; thence N 27-29-23 E 806.34 feet to a point; thence N 20-34-33 E 283.29 feet to a point in the southerly right-of-way line of Kentucky Highway 18; thence with said right-of-way line S 67-20-10 E 457.07 feet to the point of beginning and containing 9.96 acres.



VIOX & VIOX, INC.

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466 Erlanger Road
Erlanger, Kentucky 41018

Tel: 859-727-3293
Fax: 859-727-8452
e-mail: viox@nkol.net

May 24, 2004

VIA FIRST CLASS MAIL:

Boone County Judge/Executive Gary Moore
P.O. Box 900
Burlington, KY 41005

Kevin Costello, Executive Director
(C/o) Vicki Myers
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Bob Townsend, Director
Florence Public Services
Florence Government Center
Florence, KY 41042

Peter Glenn, Project Manager
Florence Public Services
Florence Government Center
Florence, KY 41042

Police Chief Tom Kathman
Florence Police Department
Florence Government Center
Florence, KY 41042

Fire/EMS Chief Jim McMillen
Florence Fire/EMS Department
Fire Station 3, 1152 Weaver Road
Florence, KY 41042

Finance Director Linda Chapman
Florence Finance Department
Florence Government Center
Florence, KY 41042

Director
Boone Co. Public Safety Communications Center
Florence Government Center
Florence, KY 41042

Boone Co. Property Valuation Administrator Ron Burch
P.O. Box 388
Burlington, KY 41005

Jim Key, Chief Building Official
Boone County Building Inspection Office
5958 Garrard Street
Burlington, KY 41005

Bill Viox, City Engineer
Viox & Viox Inc.
466 Erlanger Road
Erlanger, KY 41018

The Mountain Agency, LLC
Attn: David Wyler
829 Eastgate South Drive
Cincinnati, OH 45245

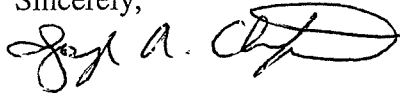
Dear Sirs and/or Madams:

Enclosed please find certified copies of City of Florence, Kentucky Ordinance No. 0-16-03 adopting and approving a Zoning Map Amendment for an approximate 9.96-acre site located at 961 Burlington Pike, in the City of Florence. This property has been rezoned from Suburban Residential Two(SR-2) to Commercial Services (C-3) to allow auto sales, subject to conditions and a concept development plan, which overrides the Boone County Planning Commission recommendation to deny this zoning map amendment (Melton Agency, LLC/Gary R. Moore Family Trust Property).

First reading of Ordinance No. 0-16-03 was held on 22th Day of July 2003. Second reading was held on 5th Day of August 2003, and the full Ordinance was published in the *Boone County Recorder* on August 14th, 2003 at which time the Ordinance became statutorily official.

If you require additional information, please contact me.

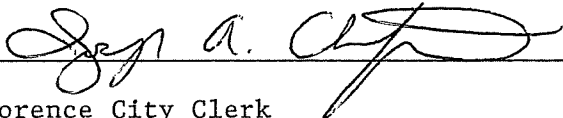
Sincerely,



Joseph A. Christofield, City Clerk

I, Joseph A. Christofield, City Clerk for the City of Florence, Kentucky, hereby certify that the foregoing is a true and correct copy of 0-16-03 as same appears in the official records my office.

ted this 25th day of MAY, 2004.



lorence City Clerk

Findings of Fact for Denial

June 4, 2003

1. The Committee has determined that the proposed Zoning Map Amendment and the proposed Concept Development Plan are not in agreement with the 2000 Boone County Comprehensive Plan. The Future Land Use Map designates the property as "Urban Density Residential," which allows attached housing of up to 8 dwelling units per acre. The application calls for the development of two automobile dealerships. The Land Use Element notes that regionally-oriented commercial property should increase in the Mall Road area. However, this growth should not expand onto U.S. 42, Hopeful Church Road, or KY 18, on which the site has frontage. Additionally, the Land Use Element suggests that a road connection between Merchant's Street and Hopeful Church Road be studied. This project would render such a connection a moot point.

The Land Use Element further indicates that commercial uses should be compatible with existing and proposed resident developments along KY 18. Several unacceptable, unmitigated impacts would occur if the site were developed as proposed under the Concept Development Plan. The automobile dealership would extend for a depth from KY 18 of 1135 feet on the east and 1145 feet on the west. The adjoining commercial properties extend only to a depth of approximately 660 feet on the east and 470 feet on the west. Thus, the depth of the proposed commercial property is, on the west, over twice that of the adjoining properties with frontage on KY 18 and 475 feet more than that of the adjoining commercial property on the east. The proposed commercial property would then adjoin existing residential property, creating issues of compatibility between the two uses.

The Business Activity Element notes that commercial developments in the KY 18 and U.S. 42 corridors should be limited in scale and clustered to serve growing residential neighborhoods. The proposed development is large in scale, serving a regional market beyond the immediate residential neighborhoods in the vicinity. The acreage of the site is 9.96 acres, and 715 parking spaces would be created if it were developed according to the Concept Development Plan. The Element states that planned developments should be encouraged to create greater compatibility between residential and commercial land uses. As noted above, the proposed development is incompatible with the adjoining residents. The Element further states that commercial development should coordinate closely with projected high or medium density residential development to occur in the area. The Concept Development Plan does not follow this recommendation.

The Housing Element states that the KY 18 corridor represents a prime opportunity to promote high-density uses in a transit corridor. The proposed land use (i.e. an automobile dealership) seems counter to the idea of a corridor geared toward mass transit, especially when considering that the existing zoning is Suburban Residential Two, and the Future Land Use designation is Urban Density Residential.

June 4, 2003

The Mountain Agency, LLC/Allie Marie Moore, Trustee

Page 2

Business Activity Objective 2 states that the large-scale mixing of commercial and non-commercial uses should occur in planned developments, with consideration given to the compatibility of surrounding land uses. The applicant indicates that a residential subdivision would be developed on the remaining 6.68 acres of the parent parcel. The compatibility of the proposed subdivision with the automobile dealerships would be in question, in addition to its compatibility with existing residential property, for the same reasons.

2. No facts legitimately supporting a finding that the existing zoning classification is inappropriate and that the proposed zoning classification is appropriate have been identified.
3. No facts that would lead to a finding that there have been major changes of an economic, physical, or social nature not anticipated in the recently adopted comprehensive plan that substantially alters the area's character have been identified.
4. The Committee has not concluded that the requested variance fulfills the applicable findings, standards, and criteria outlined in KRS 100.241 to 100.247, which includes the findings outlined in Section 251 of the Boone County Zoning Regulations. It appears that the requirements in question could be readily met without any difficulty.

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
March 26, 2003
7 P.M.

PUBLIC HEARINGS

Commission Members Present: Mr. Barlow, Mr. Bunger, Mr. Caddell, Mr. Hicks - Chairman, Mr. McMillian, Mr. Newman, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Schwenke, Mr. White, and Mrs. Wilson - Secretary/Treasurer.

Staff Members Present: Mr. Kevin Costello, AICP, Executive Director; Ms. Patty Bachman, Planner; Ms. Jan Hancock, Secretary; and Mr. Kevin Wall, AICP, CDT - Director, Zoning Services.

Legal Counsel Present: Mr. Dale Wilson

Mr. Mark Hicks, Chairman, called the meeting to order at 7:05 PM and introduced the first item on the Agenda:

1. Applicant: The Mountain Agency, LLC for Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners)

Request: Zoning Map Amendment and Variances

The request of The Mountain Agency, LLC (applicant) for Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners) for a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Services (C-3), and Variances from Section 3413.4(2)d. ("Freestanding/Monument Signs" in Commercial Two [C-2], Commercial Services [C-3], and Commercial Four [C-4] Districts) and from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations, in conjunction with the annexation of real property into the City of Florence for an 11.44 acre tract at 961 Burlington Pike, Burlington, Kentucky. The request is for a zone change to allow auto sales, Variances from landscape buffer yard requirements, and a Variance to increase the height of a freestanding sign.

Following an explanation of the Public Hearing process, the Chairman asked for the Staff presentation.

Staff Member Patty Bachman presented the Staff Report which included a Power Point presentation (see Staff Report). Ms. Bachman stated since the 60-foot wide Buffer Yard C requirement can be reduced to 30 feet wide when fencing, berming or masonry walls are included, the applicant does not need a Variance on the eastern property boundary. Also, the applicant has submitted a letter stating that it would be possible to reconfigure the boundary between the two lots and provide more than 200 feet of road frontage and, therefore, the applicant is no longer pursuing the Variance for the sign height. She stated that the total required buffer yards for the site would be 150 feet in width (east/west/center buffer yards) with no fencing, berming, or masonry walls. The total required buffer yards for the site would be 80 feet in width (east/west/center buffer yards) with the proposed fencing, and the applicant is showing a total of 50 feet of buffer yard. The property will be annexed into the City of Florence if the Zoning Map Amendment is approved. Chairman Hicks asked Counselor Wilson to address the annexation of the property.

Counselor Wilson advised that when property is being considered for annexation by a city and the property is in the unincorporated area of the county, the Planning Commission reviews the property – not to determine if annexation should occur, but to determine what the zoning of the property would be upon annexation. The Planning Commission's recommendation will go to the City of Florence, not to Fiscal Court. He stated that normally Dimensional Variance Requests go to the Board of Adjustment, but Kentucky Law allows an applicant to seek Dimensional Variances as part of a Zone Change application.

The Chairman asked for the applicant's presentation.

Attorney Gerald Dusing, representing the applicant, introduced David Wyler, Attorney Dan Utt, Bill Viox, and Rodney Crice.

Mr. David Wyler, Vice President of Jeff Wyler Automotive, provided the Commissioners with renderings of the interior and exterior of the automobile dealership (see Exhibit 1). He stated that the company was started by his father in 1973 and came to Northern Kentucky in 1988 at the KY 18 Honda/Mitsubishi dealership location. They will do about \$50 million in sales at that location this year. They have about sixty employees in the community and an approximate \$2 million payroll. They are interested in moving one block east and across the road. He stated that Honda is trying to franchise their brands and make their facilities the same throughout America. The KY 18 location is about twenty years old and they do not have space for more cars. They currently have storage lots down the street and several miles away. He is negotiating with a luxury franchise. He stated that about 80% of the employees will move to the new location and the other 20% will stay with the Mitsubishi franchise. At their current location, they have approximately 70 customers per day (60 for service/parts and 10 for sales). That number will not change, unless they get the luxury franchise, in which event

there will be twenty additional employees and 20 customers (15 for service/parts and 5 for sales).

Mr. Bill Viox, Viox & Viox, stated that at his first meeting with The Wylor Group it was clear to him that The Wylor Group was very sensitive to the surrounding neighborhood. They decided to do a different approach and "think outside the box" to solve and lessen issues. He stated that there are city utilities on the site and indicated the location of the sewer. He indicated the location of the Sanitation District customers and explained that part of their bill includes a transmission fee because the sewage goes through the City of Florence, so it made sense to get the property into the city. He stated that when KY 18 (a limited access highway) was constructed, Fiscal Court and the City of Florence determined where the access points would be and they were recorded by station number (Book 64, Page 632). The Moore family had two curb cuts allotted to them on KY 18. There is potential access on Ridge Road. They have access points in the rear of the property (Amarillo Street and Donald Street). Mr. Viox indicated the location of Florence Alliance Church and noted the grading occurring there. He stated that Page 163 of the Comprehensive Plan talks about Merchants Drive going through the property all the way to Cayton Road. He stated that if Merchant Drive goes through, the narrowness of the property will come into play -- development would be difficult and would probably require Variances. Under the current zoning, development would probably be limited to curb cuts on KY 18 and it would require an odd layout to develop the property as single-family residential. The property is 16.8 acres and, if it were square, it would be 834' x 834' - but it is up to 457' wide and 1800 feet long. SR-1 zoning would require 65-foot lots and SR-2 zoning would require 50-foot lots. Urban Density Residential is eight units per acre and higher. They decided to slice the property in two, which provides a cove that will not be intrusive to the neighborhood and will be developed as SR-1 with 65-foot lots. There is no connection between the front and back properties. Using the ITE Manual, they came up with a figure of 1,186 trips per day based on the existing zoning. With the Future Lane Use Plan, there could be as many as 3,000 trips per day which would mainly impact KY 18. KY 18 was improved again several years ago - they can add more lanes, but the population is continuing to increase particularly to the west and, as time goes on, there will be more traffic on KY 18. The existing zoning and the Future Land Use would create quite an impact on KY 18. Their current plan is less than 50% of the existing zoning from a traffic standpoint and less than 25% of the Future Land Use Plan. The schools have been overcrowded and cannot keep up with the growth - but this plan is only 18 lots. He stated that the site is narrow and, with a road going down the middle of it, it would be very difficult to develop. Under the Future Land Use Plan, there could be a compressed Charleston Pines type development. He stated that both of the proposed uses are car dealerships and, since they will share facilities, the buffer requirement does not make a lot of sense - who would they buffer from? He stated that on the west side, they tried to look at what would be there. They studied buffers for sight, sound, and privacy. They plan to have vegetation and a

six-foot high permanent fence. The fence will be there from day one. He stated that there is a difference between the City of Florence and the County landscape requirements. He noted that if a board on the fence is broken or it is knocked down, it can be replaced – it does not need time to grow like the vegetation. A wood fence is equivalent to about 100 feet of vegetative buffer on a level plain and may be more from a sound perspective. People inside the site will not wander over to the adjoining properties and children from the adjoining neighborhood will not wander over to the site. The proposed buffer is suitable for the narrow lot situation. He stated that it could be determined that the infrastructure is in place for the site. Cincinnati water is here. Sewer service is here. KY 18 is here – more lanes can be added, but the traffic will increase. Schools are here. This site is a pocket that may have escaped a couple of Five-Year Updates. He stated that there is the issue of the narrowness of the site, especially when considering a road going through there. The plan they offer is a minimal impact alternative.

Mr. Rodney Crice, landscape architect, reviewed an Exhibit and indicated the location of Buffer Yard D on the western edge of the site. He stated that they are seeking relief from the 40-foot required width. They propose a 20-foot wide buffer yard with a six-foot high fence and landscaping equivalent to Buffer Yard C plantings. The only reason they need relief is because the building is 53,320 square feet and the cut off is 50,000 square feet between Buffer Yards C and D. Mr. Crice indicated on the exhibit how the two-story building is accessible on the upper floor and how it is accessible on the lower floor based on the topography. The building is a 33,000 square foot footprint. He reviewed the exhibit in regard to the proposed plantings on the site. He stated that they propose the fence to be at the highest elevation and about five feet inside the property line. He noted a rendering on the exhibit showing the plantings after five years of growth. He stated that the fence provides acoustical reduction qualities and, combined with the plantings, the buffer is equivalent to Buffer Yard D. He stated that the property is not a rectangle and tapers from 457 feet in the front to 299 feet in the rear. The shape of the site creates hardships in developing the property. He stated that they are requesting relief from the ten-foot Buffer Yard A requirement between the two proposed commercial parcels. The commercial parcels will share facilities (driveway access, circulation aisles, body shops, storage parking) and division by a buffer yard would be a hindrance. He indicated on the exhibit the access road into the site from KY 18 and the proposed eight-foot wide landscaping strips on each side (for a total of 16 feet of buffer). He stated that they are seeking relief from the planting requirements of Buffer Yard A. They are not seeking a Dimensional Variance – they are seeking relief from the shrub and small tree planting requirements – they are seeking what the County requires in this situation. He stated that they are seeking a Variance from the sign height requirement. They have 457 feet of street frontage and the requirement for a 30-foot sign is 201 feet of frontage. It would be simple to move the access over six feet to provide the street frontage for both of the lots and create easements along the access drive.

Mr. Newman left the meeting at this time.

Mr. Dusing reviewed the Jeff Wyler ZMA Future Layout (copy attached to the Staff Report). He stated that they looked at the evolution of the Comprehensive Plan and could not find any real discussion of this site. They could not find any text that encourages Urban Density Residential development of this site. He stated that there is a Lincoln-Mercury dealership to the east which has expanded to the rear, a Shell Station to the west that has been there for some time and a car wash has developed behind it, and behind that is a veterinary clinic – these types of uses have penetrated further back. Integrity Motors has just gone in to the west of the Shell Station. The subject property is an island of Urban Density Residential. In regard to the connector road, he stated that part of the text of the Comprehensive Plan is that Merchants Drive would be connected eventually to Hopeful Church Road or Cayton Road – but, physically that cannot happen. The church is there and the road cannot go anywhere – which is a change in what was anticipated in the Comprehensive Plan. He stated that the appropriate zoning is C-3, which is compatible with what is on both sides and across the street. He stated that the dealerships will share facilities - service areas, detention – and all of the other things that the text of the Comprehensive Plan encourages compatible developments to do. The SR-1 development at the rear would be compatible with what exists next to it. There will be 65-foot wide lots that would be similar to what it ties into and those 18 lots would have minimal impact. He stated that the proposed uses will generate 50% less traffic than what could be built there today and 25% less traffic than what is called for in the Comprehensive Plan. The Honda dealership will move across the street so they are not adding any more traffic, and the luxury dealership will generate very little traffic - they estimate 40 cars per day – and he does not think there could be a use with less traffic than that in the ITE Manual. He stated that Urban Density Residential is between 8 – 30 units per acre (108 units - 480 units), but 480 units would never be approved. He stated that this is significant down-zoning in regard to the impacts on the community – it adds no children to the schools, the height of the sign Variance is 5 feet and insignificant. The existing Honda sign is completely filled all the way down like a monument sign and it is more economical to move it across the street than to buy another sign that is five feet shorter. He stated that the Dimensional Variance accomplishes the goal of providing protection for the existing residents with a fence, possibly a berm, and plantings as dense as could be reasonably expected to survive. He stated that the property is an irregular trapezoid shape. He reviewed the criteria for granting a Variance (Section 250 of the Boone County Zoning Regulations) and noted that the Variance to the west is up against the gas station and other commercial uses. The Variances are specific as to location on the site to accomplish the goal. This concluded the applicant's presentation.

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

Mr. Jeffrey Lingrosso, 6072 Ridge Road, stated that his backyard would be in direct contact with the buffer zone and the car dealership. He is opposed to the rezoning to commercial and opposed to decreasing the buffer yards. The zone change will make his house an inner-city house. There will be a big fence there and the applicant even wants to cut down the amount of trees in the buffer zone. The rezoning and the buffer yard Variances will negatively impact the people on Ridge Road and destroy their property values. He is concerned about the lights – he will never have darkness – there will be lights on twenty-four hours a day/seven days a week. He is concerned about noise with the PA system and from car repairs. He stated that they will put the fence on the high spot, and remove the lake – but what will that do to the drainage? Will the water go in his basement? His biggest concern is the property values for everyone on Ridge Road.

Attorney David Clayton, representing Ameristop, stated that reference was made in the Staff Report to an access being run through Ameristop property behind the car wash. The Staff Report recommends only one access be granted on KY 18. He stated that if the main ingress to this development is through Ridge Road, traffic will go past the Shell station and make a left into this proposed road. In 1989, the Committee Report said “the applicant agrees to provide right-of-way and construct a frontage road” – but the applicant was to come before the Planning Commission for approval of the location and construction of the road. He has not seen anything giving the specifics of the access road. He believes there will be tractor trailer trucks making wide turns there and there needs to be consideration of whether the road is adequate for that use. Ameristop does not know what they have in mind – he believes the applicant thinks it is not his problem because Ameristop is going to foot the bill. He stated that they deserve some specifications and, if they are going to rely on this access, the Planning Commission needs to know that it is adequate for this development.

Mr. Joe McCarthy, 944 Amarillo Drive, objected to the proposed zone change. His view from his house is trees and a nice field in the back, which would be lost forever. He is familiar with the noise and lights automobile dealerships bring. This will change his life and he will have an inner-city house.

Mr. Paul Durbin, 952 Amarillo Drive, is concerned about the stormwater. His house sits low. He stated that the county built the sewer system in the 1980’s and, as the car lots and subdivisions were built, they had to raise the manholes because the stormwater was going over them. His house is the last house on Amarillo Drive (Lots #25, 26 and 27). In a hard rain, water goes over the road and backs up close to his house and with this added car lot, the water could get into his house. He objects to the noise. He can hear the PA systems from the existing car lots. He does not think that they have right-of-way from Amarillo Drive to their lot.

Mrs. Sherri Lorenzo, 989 Golden Grove Lane, stated that by the applicant's own admission, this lot is too narrow. This zone change moves the commercialized section further south towards their house. Their home sits towards the front of the residential area that will be built in the latter part of this development. Their home is a half-mile away from the two car dealerships that are between here and Cayton Road and they can clearly hear the PA systems – the sound is not muffled – it is very loud. Reducing the buffer to twenty feet is ludicrous and putting up a fence will not be a factor in reducing the noise. She questioned looking at an 8-foot fence everyday and having lights from a car dealership making your house daylight twenty-four hours a day. She stated that there will be more traffic -- an increase of only twenty employees and twenty customers is ridiculous. KY 18 is a high traffic area and traffic is a nightmare at Cayton Road. There will be people taking test drives in the residential areas to get away from the congestion on KY 18. More cars means more car loaders to deliver the vehicles – mostly overnight and causing more concern about noise. She stated that the elevation slants towards her property and they have sewage/water problems in the neighborhood already. She is opposed to both of the developments – the commercial and the residential – as they will cause considerable problems for the people in the neighborhoods.

Mr. Mark Lorenzo, 989 Golden Grove Lane, stated that they are undertaking a letter to the existing dealerships about the PA systems and the noise. He is an audio engineer and knows there are options other than a blaring PA system. He stated that right where the dealership would open up onto KY 18, the road merges from three lanes to two lanes and on Hopeful Church Road it goes from two lanes to one lane. He wants to know that improvements will be made to the roads. At the light at Cayton and Hopeful Church Roads, the traffic backs up past the road to the dealership.

Mr. Thomas Stanken, 6260 Amarillo Place, questioned Amarillo Drive connecting with Merchants Drive. Ms. Bachman responded that the Land Use Element refers to a study being undertaken in regard to a potential connection of Merchant Street and Cayton Road. Mr. Stanken asked if Staff was saying that Amarillo would still deadend. Mr. Bachman responded that she did not know. Mr. Stanken referred to Hopeful Church Road being widened and stated that he takes his life in his hands now. He is concerned when the new road opens from the mall area to the Cayton Road connector with the light. They can hardly get out of their street now. If it is connected to Merchant Street, they will never get out unless there is a light. He stated that they cannot even hear the airplanes with the noise from the car dealerships and he believes they could use pagers. At one time, someone went there about the noise and they did tone some of it down. He is concerned about the lights. He is against the project.

Ms. Peggy Foster, 980 Golden Grove Lane, stated that the back end of the property will be gravel and used for trade-ins and discarded vehicles and that will be in her back yard. She does not believe there will be houses back there – there

will probably be cars back there – and it will be in her back yard. Mr. Costello stated that in order for that to happen, they would have to go through this process again. Ms. Foster stated that there isn't even a road to get to those houses. The noise from the paging system is her biggest concern. She does not think that the backs of peoples' houses is the proper location for a car lot.

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

Mr. Viox stated that both Amarillo and Donald Street right-of-ways go to the property line, but the streets do not. He indicated on the exhibit where the streets currently stop. He stated that the proposal is to connect to Donald and have a location for the 18 lots on Amarillo. They will direct all of the water into the detention pond. The water will be held and released at a slow rate per the regulations.

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

Mr. McMillian stated that if they berm across there, the water will back up to the houses on Ridge Road. Mr. Viox responded that they will not block any water and will design the storm sewers to take in the whole drainage basin. They will receive the water that is naturally coming out of their back yards and take it to the detention basin.

In response to a question from Mr. Bunger, Counselor Wilson advised that before KRS 100, property became unzoned upon annexation and, to avoid that situation, there was a statutory amendment that provides for the question of what the zoning should be upon annexation. Property does not get annexed until the Planning Commission makes a recommendation as to whether rezoning should or should not occur. The recommendation goes to the city considering annexation so that when the city acts on the annexation they will in the same ordinance adopt the recommendation or decide something different. Mr. Bunger asked if additional conditions can be added at that time. Counselor Wilson advised that conditions can be changed and resolved at the legislative body stage, but the applicant has to agree to any conditions and they cannot be unilaterally imposed. The legislative body can urge that there be additional conditions, but they would be subject to agreement by the applicant.

Mrs. Poston asked if the plan is to pave the whole lot, even the back portion. Mr. Viox responded "yes" and stated that it will probably be paved with asphalt. There will be no gravel.

Mrs. Poston questioned the reason for a 30-foot high sign on both lots, noting that she understands the explanation for the existing sign. Mr. Wyler responded that the requirement by Honda Motors is a 30-foot sign. They will move the existing

sign across the street. He stated that two signs are required on the potential luxury franchise. There would be their own monument sign and a new structure. Mrs. Poston asked if two signs are allowed on the property. Ms. Bachman responded "no" and explained that if it was platted as one lot it would be allowed one sign. If it was considered two lots, it would be allowed two signs. Ms. Poston commented that that is the reason why they want two lots. Mr. Wyler stated that there will be two separate businesses at the location, but they will share the property. Mrs. Poston asked for clarification. Mr. Wyler stated that they will share the property access and the parking in the rear. Attorney Dusing stated that there are franchise considerations and financial considerations and the dealerships will require separate freestanding signs. Mrs. Poston questioned their plans for communications within the lots. Mr. Wyler responded that they have paging systems on all of their facilities, but he is willing to consider alternatives.

Mrs. Poston stated that she is concerned about the landscaping at the entry blocking the view of KY 18 from the Shell station. She commented that these are difficult places to get into and out of and even the adjoining properties can block views. Mr. Wyler responded that the landscaping will be small bushes so that people can see the display. Mr. Crice stated that this is one of the reasons they are asking for relief from the City of Florence landscaping requirements (3 large trees/5 small trees/30 shrubs). They want to use the Boone County requirements (3 large trees/20 shrubs), which will help to maintain visibility coming in and out of the site and good product visibility.

Mrs. Wilson asked if the proposed building will be taller or the same height as the dealership next door. What will the neighbors be looking at over the fence? Mr. Crice responded that it will be similar in height to the other dealership. It will appear as a one-story building because the property slopes downward from KY 18 towards the back of the site. The building will have a lower level. It appears to be a 22-foot high building until it starts to slope down and it will have a taller appearance on the other side. Mrs. Wilson asked that information regarding the height of the building next door be brought to Committee. She is also concerned about the signs. She stated that Goodyear had already ordered their sign and it was turned down by the Planning Commission. She understands that Honda has a requirement for their signs, but many other businesses have been able to work with the Planning Commission. Mr. Crice responded that a 30-foot sign is allowed with 201 feet of road frontage. They are willing to move the lot line and meet the minimum requirements. The lot line as drawn goes through the centerline of the access drive, but it can be moved and they can create easements for access.

Mrs. Wilson questioned a frontage road from the Shell station. Ms. Bachman responded that no alignment of the road was decided and it was stated that the applicant would need to come back in the event the property developed. There has been no decision in regard to the alignment – but it would go through the Shell property. Mrs. Wilson stated that the idea of the frontage road would be to

delete an access point. Ms. Bachman responded that they would need to maintain an access point on KY 18 and Staff would be more interested in eliminating the one on the west. Mr. Dusing stated that in their pre-application conference, the Zoning Administrator indicated that the frontage road is a requirement of the property owner once the site is developed. He stated that the blocks shown on the exhibit depict the location of the access road. He tried to contact Ameristop to coordinate this, but his calls were not returned. Greg Sketch said it should be located behind the Shell station instead of in front of the Shell station because it made more sense and that is where it was earmarked when the veterinary clinic went in.

Mr. Poe stated that in 2003, they do not need loud speakers. He stated that the Committee should consider what was done with Tom Gill in regard to noise, lighting in the back and the residential areas.

Mr. White stated that the Planning Commission addressed noise and lighting for the existing dealerships and he was not aware of the problems the residents are bringing forward. Mr. Costello responded that Staff will get information from the residents present and assist in that endeavor. He stated that for a couple of the dealerships there were specific conditions regarding paging and lighting and, if they are violating the conditions, there are means to get them into compliance.

Mr. McMillian questioned the use of the curb cut next to the Shell station. Mr. Viox responded that they felt they needed two access points to get into the site – there are two dealerships and two access points would be convenient. KDOT gave the site two access points and they were deeded to the parcel. Mr. McMillian stated that it is a shared dealership and the other road is the main curb cut – what is the use of the curb cut next to the Shell station? Mr. Wyler responded is a convenience issue for customers to get in and out. Mr. McMillian stated that if they took it out, they would have more room for buffer. Mr. Crice disagreed and stated that the idea was better circulation of trucks dropping off cars in the back. They feel that they need two access points. Mr. Costello stated that the two curb cuts were based on residential use. He questioned how vehicles would make a left turn out of the curb cut to the west. Mr. Crice responded “it will be difficult”. Mr. McMillian stated that it should be eliminated. It is too close.

Mr. Bunger stated that only right-turn-in and right-turn-out movements were allowed at the Shell station, which would address the concern about turning left. He stated that it is important to look at the overall traffic pattern and flow. He believes most of the traffic to the site will come from I-75 westbound. There needs to be consideration of the traffic flow getting into the site and they need to find a way to make the traffic flow to the site work best considering the safety of the customers and residents involved. They need to look at all possibilities. They need to look at the possibility of access on the frontage road and what can be done concerning that, as well as possibly reconfiguring the roadway exiting from the

rear since it is a shared site. He questioned if the applicant is prepared to go ahead with a larger Honda dealership if the luxury dealership does not materialize. Would this be phased construction? How would they proceed if only Honda is built initially? Mr. Wyler responded that if they do not get the luxury franchise, they will look for expansion with another franchise in the future. Mr. Bunger asked if all of the site paving and grading would take place at one time or if it would be phased. Mr. Wyler responded that it will all take place at one time.

Mr. Barlow stated that this is an attempt to stuff a two-car dealership on a one-dealership site. If there was only one dealership, a lot of the conditions would be easily met. They are constructing a box with a six-foot high solid wood fence and floodlights – which does not sound desirable for the people in the neighborhood. He questioned who would benefit if all these Variances are granted. Mr. Viox responded that with one dealership or two dealerships, it is a low-impact development compared to what the Future Lane Use Plan allows. As to who will benefit – the Wyler Group and the community. The Wyler Group will bring jobs, and taxes. Mr. Barlow noted that Mr. Viox commented that The Wyler Group is concerned about the neighborhood, but he has not heard anyone speak in favor of the proposal. Mr. Viox responded that his comment was that they would be sensitive to the neighborhood and he feels that they have been sensitive to the community with what they have presented in terms of screening and architecture. Mr. Barlow commented that probably 90% of the eleven acres will be paved. Mr. Viox responded that it is not quite that much. He will compute the green space and provide the information to the Committee. Mr. Barlow stated that the applicant is asking for Variances, reducing the landscaping, and paving virtually 100% of what is allowed. This takes away the opportunity for any green space to be available.

Mr. Barlow stated that after the property is annexed, the western property line will be the boundary between Boone County and the City of Florence. Counselor Wilson agreed. Mr. Barlow questioned what recourse the people living in the County have other than this process. He stated that the people on Ridge Road, who live in the County, could be affected by this development in a negative way and the City of Florence could overturn the Planning Commission's recommendations. Counselor Wilson responded "no more than if there is not an annexation of the property". He stated that their recourse is to challenge the decision through the Appeals Process in Chapter 100. Once the annexing city acts, the appeals process is to Circuit Court to determine if the decision reached is arbitrary. The residents also have the right to go to City Council and be heard.

Mr. Dusing stated that the Shell station is in the City of Florence. Mr. Barlow stated that Ridge Road is not in the City of Florence. Mr. Costello agreed.

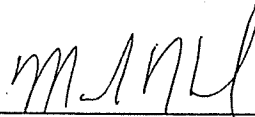
Mr. Caddell asked Staff to be certain that the Committee is provided with a drawing showing the depths of existing commercial properties on the east and west sides of the development as it runs back from KY 18, and to review the

earlier Shell approval to determine if the applicant met the September 21, 1988 condition in regard to the driveway onto KY 18. Mr. Costello responded that Staff looked at it a year ago and worked with the state. They were felt to be in compliance according to the State Permit. Staff will check on it again. Mr. Caddell stated that for one of the last dealerships approved in this corridor, one of the conditions was that they could not have an outdoor PA system. He asked Staff to make sure they are abiding by that condition.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on April 2, 2003 at 5:00 PM in the Fiscal Courtroom on the second floor of the Administration Building. This item will be on the Agenda for the Business Meeting on April 16, 2003 at 7:30 P.M..

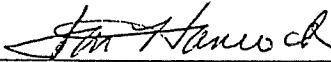
The Chairman closed this Public Hearing.

APPROVED:



Mark Hicks, Chairman

Attest:



Jan Hancock, Recording Secretary

Exhibit -1 Interior and exterior of the KY 18 Honda/Mitsubishi submitted by the applicant

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: May 21, 2003

RE: Request of **The Mountain Agency, LLC (applicant)** for **Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners)** for a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Services (C-3), and variances from Section 3413.4(2).d ("Free-standing/Monument Signs" in Commercial Two [C-2], Commercial Services [C-3], and Commercial Four [C-4] Districts) and from Section 3645 "Buffer Yards" of the **Boone County Zoning Regulations**, in conjunction with the annexation of real property into the City of Florence, for a 11.444 acre tract located at 961 Burlington Pike, Boone County, Kentucky. The request is for a zone change to allow auto sales and variances from landscape buffer yard requirements and a variance to increase the height of a freestanding sign.

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.

May 21, 2003

The Mountain Agency, LLC/Allie Marie Moore, Trustee

961 Burlington Pike

Susan Poston

Susan Poston, Chairwoman

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Greg Breetz

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Kim Bunger

Kim Bunger

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Arnold Caddell

Arnold Caddell

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Janet Kegley

Janet Kegley

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Randy Barlow (Alternate)*

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

Charlie Reynolds (Alternate)*

For Project _____ Absent _____
 Against Project _____
 Abstain _____ Deferred _____

TOTAL: _____ DEFERRED 2 FOR PROJECT _____ ABSENT
2 AGAINST PROJECT _____ ABSTAIN

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: May 7, 2003

RE: Request of The Mountain Agency, LLC (applicant) for Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners) for a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Services (C-3), and variances from Section 3413.4(2).d ("Free-standing/Monument Signs" in Commercial Two [C-2], Commercial Services [C-3], and Commercial Four [C-4] Districts) and from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations, in conjunction with the annexation of real property into the City of Florence, for a 11.444 acre tract located at 961 Burlington Pike, Boone County, Kentucky. The request is for a zone change to allow auto sales and variances from landscape buffer yard requirements and a variance to increase the height of a freestanding sign.

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.

May 7, 2003

The Mountain Agency, LLC/Allie Marie Moore, Trustee

961 Burlington Pike

Susan Poston

Susan Poston, Chairwoman

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred

Arnold Caddell

Arnold Caddell

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred

Janet Kegley

Janet Kegley

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred

Earl White

For Project ___ Absent
 Against Project ___
 Abstain ___ Deferred ___

Kim Bunger

Kim Bunger (Alternate)*

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred

Randy Barlow (Alternate)*

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

Charlie Reynolds

Charlie Reynolds (Alternate)*

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred

TOTAL: 5 DEFERRED ___ FOR PROJECT 1 ABSENT
 ___ AGAINST PROJECT ___ ABSTAIN

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: April 2, 2003

RE: Request of **The Mountain Agency, LLC (applicant)** for **Allie Marie Moore, Trustee; Gary R. Moore Family Trust (owners)** for a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Services (C-3), and variances from Section 3413.4(2).d ("Free-standing/Monument Signs" in Commercial Two [C-2], Commercial Services [C-3], and Commercial Four [C-4] Districts) and from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations, in conjunction with the annexation of real property into the City of Florence, for a 11.444 acre tract located at 961 Burlington Pike, Boone County, Kentucky. The request is for a zone change to allow auto sales and variances from landscape buffer yard requirements and a variance to increase the height of a freestanding sign.

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

April 2, 2003

The Mountain Agency, LLC/Allie Marie Moore, Trustee
961 Burlington Pike

Susan Poston

Susan Poston, Chairwoman

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

Arnold Caddell

Arnold Caddell

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

Janet Kegley

Janet Kegley

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

Earl White

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

Kim Bunger

Kim Bunger (Alternate)*

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

Randy Barlow (Alternate)*

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

Charlie Reynolds

Charlie Reynolds (Alternate)*

For Project ___ Absent ___
 Against Project ___
 Abstain ___ Deferred ___

TOTAL: ___ DEFERRED 2 FOR PROJECT 1 ABSENT
3 AGAINST PROJECT ___ ABSTAIN

Findings of Fact for Approval with Conditions

June 4, 2003

FINDINGS OF FACT

1. The proposed Zoning Map Amendment is in agreement with the 2000 Boone County Comprehensive Plan. The Land Use Element notes that commercial development in the Florence area should remain near arterial roads or close to the interstate. While the Land Use Element states that "a specific study should be conducted regarding the connection of the northern half of Hopeful Church Road with Merchants Street," at this time such a study may be a moot point. The alignment of this connection would have likely been through the existing Florence Alliance Church property, which adjoins the subject property to the southeast.
2. The existing zoning category is inappropriate and the proposed zoning category is appropriate for the site. From Boone Aire Road on the west, extending as far as the point where KY 18 intersects with Turfway Road, the majority properties fronting KY 18 are commercial land uses. On both the east and the west of the subject property, as well as the north across KY 18, the site adjoins commercial land uses. The proposed car dealership is compatible with the existing commercial land uses, while a residential development would not be compatible with these existing commercial land uses. Residential land uses on the subject property would have to contend with impacts such as lights, noise, and truck traffic from the adjoining commercial properties.
3. The Committee has concluded that the requested variance fulfills the applicable findings, standards, and criteria outlined in KRS 100.241 to 100.247, which includes the findings outlined in Section 251 of the Boone County Zoning Regulations.
4. The Committee has concluded that the following conditions are necessary for the purpose of satisfying the Goals, Objectives, and Policies stated in the 2000 Boone County Comprehensive Plan and the mitigation of any foreseeable impacts that the proposal may create. The Applicant has signed a letter of agreement with these conditions and understands that the submitted Concept Development Plan along with these conditions serve as a basis for this recommendation:

Conditions

1. The applicant agrees to adhere to the revised Concept Development Plan submitted to the Zone Change Committee at their May 7, 2003 meeting.
2. An access road intersecting with Ridge Road adjacent to the Shell gas station shall be constructed concurrent with the construction of the first building on the subject property.

June 4, 2003

The Mountain Agency, LLC/Allie Marie Moore, Trustee

Page 2

3. The applicant agrees to widen Ridge Road to 28 feet in width from its intersection with Kentucky 18, extending the length of the road up to the intersection with the access drive adjoining the Shell Station.
4. The applicant agrees to the proposed photometric plan for the site, submitted to the Zone Change Committee at their May 7, 2003 meeting. Measurable light shall not exceed 1.0 f. c. at property boundaries that adjoin residential properties. The applicant agrees to install the flat-lens-type lighting as shown at the May 7, 2003 meeting. Further, the applicant agrees that the lighting fixtures will not exceed 25 feet in height.
5. The applicant agrees that no public address system will be installed or used on the site.
6. The applicant agrees to adhere to the proposed architectural drawings submitted to the Zone Change Committee meeting of May 7, 2003. The finished floor elevation of the building will be approximately 6 feet lower than the finished grade of the property at the property boundaries.
7. Adequate space will be provided to allow for the unloading of cars on the dealership lots.

ORDINANCE NO. 0-16-03

AN ORDINANCE ADOPTING AND APPROVING A ZONING MAP AMENDMENT FOR AN APPROXIMATE 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO REZONE THIS SITE FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3) TO ALLOW AUTO SALES, SUBJECT TO CONDITIONS AND A CONCEPT DEVELOPMENT PLAN, WHICH OVERRIDES THE BOONE COUNTY PLANNING COMMISSION RECOMMENDATION TO DENY THIS ZONING MAP AMENDMENT. (THE ~~MELTON~~ ^{Mountain} AGENCY, LLC/GARY R. MOORE FAMILY TRUST PROPERTY).

WHEREAS, the City of Florence, Kentucky is a member of the county-wide planning unit with a county-wide planning commission known as the Boone County Planning Commission, and

WHEREAS, the Boone County Planning Commission recommended denial of the zoning map amendment request described above, this recommendation having been reviewed by the City Council for the City of Florence, Kentucky, and

WHEREAS, the City Council for the City of Florence, Kentucky has determined that it should override the recommendation for denial from the Boone County Planning Commission based upon the existing record and that the zoning map amendment described above should be approved based upon the Findings of Fact for Approval attached hereto (Exhibit "A") and subject to Conditions which are attached hereto (Exhibit "B").

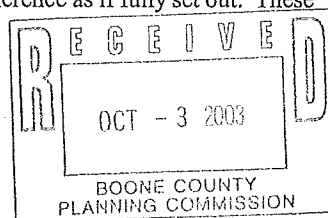
NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FLORENCE, KENTUCKY, AS FOLLOWS:

SECTION I

That the request of the Mountain Agency, LLC (Applicant) for Allie Marie Moore, Trustee and Gary R. Moore Family Trust (Owners), for a zoning map amendment for an approximate 9.96 acre tract located at 961 Burlington Pike, Florence, Kentucky, to rezone the site from Suburban Residential Two (SR-2) to Commercial Services (C-3) to allow auto sales subject to agreed conditions and a concept development plan shall be and is hereby approved.

SECTION II

This approval is granted based on the Findings of Fact made by the City Council for the City of Florence, Kentucky, as recommended by the Planning and Zoning Committee comprised of members of the City Council for the City of Florence, Kentucky, these Findings of Fact being attached and marked as Exhibit "A" and incorporated herein by reference as if fully set out. These



Findings of Fact support the decision of the City Council of Florence, Kentucky to override the Boone County Planning Commission recommendation.

SECTION III

The approval of this rezoning is granted subject to the conditions, terms and provisions of Agreed Conditions attached hereto and marked as Exhibit "B", which is attached hereto and incorporated herein by reference. This approval of this rezoning is also subject to the Concept Development Plan submitted by the Applicant and Owners as part of their Application on which the Boone County Planning Commission made its recommendation in Resolution No. R-03-007-D, this Concept Development Plan including all of the referenced exhibits to that Resolution.

SECTION IV

The real estate which is the subject of this Ordinance is more particularly described in Exhibit "C", attached hereto and incorporated herein by reference. The zoning map of Boone County, Kentucky, as it applies to the City of Florence, Kentucky shall be designated to reflect the approval of this rezoning for this subject property, this approval being an override of the Boone County Planning Commission recommendation to deny this request.

SECTION V

That if this approval for this rezoning shall be held invalid in whole or in part by any Court of proper jurisdiction, such invalidity shall not affect the validity of any of the other zoning regulations, zoning map or comprehensive plan provisions as they are severable from this Ordinance and they are intended to have effect regardless of any invalidity relating to this particular Ordinance.

SECTION VI

Publication of this Ordinance is hereby authorized to be by summary publication in accordance with Kentucky law.

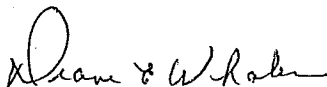
PASSED AND APPROVED ON FIRST READING THIS 22nd DAY OF July, 2003.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 5 DAY OF August, 2003.

ATTEST:


CITY CLERK

APPROVED:


MAYOR

FINDINGS OF FACT FOR APPROVAL

IN RE: REPORT AND RECOMMENDATION - REQUEST OF THE MOUNTAIN AGENCY, LLC (APPLICANT) FOR ALLIE MARIE MOORE, TRUSTEE: GARY R. MOORE FAMILY TRUST (OWNERS) FOR A ZONING MAP AMENDMENT FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3), FOR A 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO ALLOW AUTO SALES.

1. The requested Zoning Map Amendment is in agreement with the 2000 Boone County Comprehensive Plan. The Land Use Element notes that commercial development in the City of Florence area should remain near arterial roads or close to the interstate. While the Land Use Element states that "a specific study should be conducted regarding the connection of the northern half of Hopeful Church Road with Merchants Street", at this time such a study is a moot point.

2. The existing zoning category is inappropriate and the proposed zoning category is appropriate for the site. From Boone Aire Road on the west, extending as far as the point where KY 18 intersects with Turfway Road, the majority of properties fronting KY 18 are commercial land uses. On both the east and the west of the subject property, as well as the north across KY 18, the site adjoins commercial land uses.

3. The proposed car dealership is compatible with the existing commercial land uses, while a residential development would not be compatible with these existing commercial land uses. Residential land uses on the subject property would have to contend with impacts such as lights, noise and truck traffic from the adjoining commercial properties.

4. The Special Conditions attached to the Planning and Zoning Committee Report and Recommendation are necessary for the purpose of satisfying the Goals, Objectives and Policies stated in the 2000 Boone County Comprehensive Plan and the mitigation of any foreseeable impacts that the project may create.

SPECIAL CONDITIONS

IN RE: REPORT AND RECOMMENDATION - REQUEST OF THE MOUNTAIN AGENCY, LLC (APPLICANT) FOR ALLIE MARIE MOORE, TRUSTEE: GARY R. MOORE FAMILY TRUST (OWNERS) FOR A ZONING MAP AMENDMENT FROM SUBURBAN RESIDENTIAL TWO (SR-2) TO COMMERCIAL SERVICES (C-3), FOR A 9.96 ACRE TRACT LOCATED AT 961 BURLINGTON PIKE, FLORENCE, KENTUCKY, TO ALLOW AUTO SALES.

1. The applicant agrees to adhere to the Concept Development Plan, dated May 6, 2003, which is attached to and made a part of these Conditions.
2. An access road intersecting with Ridge Road adjacent to the Shell gas station shall be constructed concurrent with the construction of the first building on the subject property.
3. The applicant agrees to widen Ridge Road to 28 feet in width from its intersection with Kentucky 18, extending the length of the road up to the intersection with the access drive adjoining the Shell Station.
4. The applicant agrees to the proposed photometric plan for the site, presented to the Zone Change Committee of the Boone County Planning Commission at the said May 7, 2003 meeting. Measurable light shall not exceed 1.0 f. c. at property boundaries that adjoin residential properties. The applicant agrees to install the flat-lens-type lighting as shown at the May 7, 2003 meeting. Further, the applicant agrees that the lighting fixtures will not exceed 24 feet in height.
5. The applicant agrees that no public address system will be installed or used on the site.
6. The applicant agrees to adhere to the proposed architectural drawings submitted to the Zone Change Committee of the Boone County Planning Commission at the meeting of May 7, 2003. The finished floor elevation of the building will be approximately 6 feet lower than the finished grade of the property at the property boundaries.
7. Adequate space will be provided to allow for the unloading of cars on the dealership lots.
8. Applicant will comply with all applicable signage regulations.
9. All lots on the residential portion of the Concept Development Plan shall be not less than sixty five feet (65') in width.

EXHIBIT "B"

