

EXHIBIT

“A”

STAFF REPORT

Request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for an 18.77 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family dwellings.

July 23, 2003

REQUEST

The applicant is requesting a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for an 18.77 acre site located at 3200 and 3290 Bullittsville Road. Approximately 5.47 acres are currently zoned Rural Suburban (RS). The total build-out for this proposed development is 60 dwelling units on 24.24 acres for an intensity of 2.48 dwelling units/acre. The Rural Suburban (RS) zone permits a maximum of 3 dwelling units/acre with a minimum lot size of 12,000 square feet.

Public water is available across Bullittsville Road and the sewer for this project can be connected into the existing sanitary sewer located along Petersburg Road (KY 20). The applicant is showing three (3) proposed locations for storm water detention to handle the storm water for this proposed development. These detention ponds will need to be located on individual lots if the applicant is proposing to turn them over to Boone County Public Works for maintenance.

The applicant is proposing a street connection east into the Elizabeth Conrad property which is approximately 84.44 acres which adjoins the Lauren Meadows Subdivision located off Petersburg Road (KY 20) and also has frontage on Bullittsville Road across from Brentwood Subdivision.

The applicant is showing a proposed "15' Conservation Easement – Mature Trees To Remain" around most of the perimeter of the property and "Street Plantings – Evergreen or Deciduous Trees 30' to 40' On Center" along Bullittsville Road.

Article 32 of the Boone County Zoning Regulations has classified Bullittsville Road as a Collector Road. Section 3122 of the Boone County Zoning Regulations states:

"The setback for a rear yard which adjoins a freeway, expressway, arterial, or collector road, as classifies in Article 32, shall be a minimum of fifty (50) feet for principal structures and twenty (20) feet for accessory structures."

ADJACENT LAND USES AND ZONING

The land uses and zoning adjacent to the subject site include:

- North: Property owned by Ferrill, Stamper, Rogers, and Joseph Conrad currently zoned Rural Suburban (RS).
- East: Property owned by Elizabeth Conrad currently zoned Rural Suburban Estates (RSE) and Suburban Residential One (SR-1).
- West: Across Bullittsville Road property owned by Hollis and Nixon currently zoned Rural Suburban Estates (RSE).
- South: Property owned by Powers, Gillespie, Bowman and Fryar currently zoned Rural Suburban Estates (RSE).

RELATIONSHIP TO COMPREHENSIVE PLAN

The Future Land Use Map shows the subject property as Suburban Residential (SR). This designation is described on page 158 of the Comprehensive Plan as:

SR "Single family housing of up to four units per acre. This classification also includes any low density or estate residential development as a formal subdivision."

The Land Use Element provides the following quote that relates to the proposal and/or general area ("Hebron Area" area, pg. 173).

"Subdivision activity should continue around Bullittsville and along Bullittsville Road with High Density Suburban Residential and local commercial uses designed to reinforce the small town character."

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

- A. Proper future growth management for Boone County is implemented ("Overall," Goal).

- B. Boone County shall be viewed as an integral part of the Cincinnati Metropolitan Area ("Overall," Objective 1).
- C. 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).
- D. Proper design principles shall be applied in development ("Overall," Objective 3).
- E. Future growth shall be accompanied by adequate infrastructure and services. Existing infrastructure and services shall be maintained or improved as needed ("Overall," Objective 4).
- F. ***Boone County shall strive to achieve both a diversity and balance in land use. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of the general public ("Overall," Objective 6).***
- G. The needs of Boone County's population are measured and fulfilled through the provision of orderly growth ("Population," Goal).
- H. Boone County's development policies shall provide equal opportunity for the establishment of a balanced population regardless of age, race, or socio-economic status. ("Population," Objective).
- I. ***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 maintained and enhanced. Development within Boone County preserves and promotes a better quality of life ("Environment," Goal).***
- J. ***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. Residential development design in particular shall minimize grading work as opposed to clearing the entire site. 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).***

- K. Safe, environmentally sound, and sanitary housing exists for all Boone County residents ("Housing," Goal).
- L. A broad range of housing opportunities shall be provided which meet the needs and desires for all household types ("Housing," Objective 1).
- M. No housing policy shall have the effect of causing discrimination against any person on the basis of age, race, color, religion, sex, familial status, disability, or national origin ("Housing," Objective 2).
- N. The maintenance of sound existing housing, as well as, the rehabilitation of deteriorating housing shall be encouraged ("Housing," Objective 3).
- O. ***Housing supply in Boone County shall be balanced against present and planned commercial, industrial and primary and secondary education bases ("Housing," Objective 4).***
- P. In order to offer the citizens of Boone County maximum choice in living environment, residential development shall be judged primarily on density, impact on infrastructure, and development design with only secondary consideration given to the type of dwelling unit ("Housing," Objective 5).
- Q. Residential development shall be regulated as to basic health and safety considerations, including: a) proper connections to appropriate public water and sanitary sewer service, sewage disposal units, and telephone and electric lines, and b) properly designed and constructed storm water drainage according to location and use ("Housing," Objective 6).
- R. The interior street system of new residential developments shall insure continuity with adjacent built or planned neighboring areas. Residential developments shall be encouraged to provide interconnections between sections of their developments and with adjacent developments to promote safe and easy transportation access and a sense of neighborhood interaction. Based on certified traffic analysis, collector and sub-collector streets shall be evaluated to determine design without individual lot or driveway access. Lot and home buyers shall have access to approved plans regarding future connections. The interior street system shall also coordinate with and continue the evolving multi-modal transportation system (pedestrian and bicycle facilities, mass transit stops) ("Housing," Objective 8).

- S. Residential developments shall be encouraged to plan and build in a manner which is compatible not only with the general housing density and design planned for the area but also with the existing conditions of the site, including the suitability of adjoining lands for appropriate access, and significant site features ("Housing," Objective 13).

STAFF COMMENTS

1. A street connection east into the Elizabeth Conrad property is proposed with this application. Staff believes that a connection similar made north to the Joseph Conrad property would allow proper development of the area.
2. Storm water is a concern along Bullittsville Road as well as along Petersburg Road (KY 20) and Woolper Creek. This property currently has no storm water control, however if developed it must provide storm water detention facilities. These facilities would be reviewed with the Preliminary Plat and Improvement Plan applications.
3. The applicant is proposing a "15' Conservation Easement – Mature Trees To Remain" around most of the perimeter of the property and "Street Plantings – Evergreen or Deciduous Trees 30' to 40' On Center" along Bullittsville Road. Staff questions if more than 15' is necessary to adequately buffer the adjoining residences and if a specific planting plan, such as a double staggered row of evergreen trees, be required at the Preliminary Plat review phase.
4. The Boone County Engineer, Greg Sketch, has submitted a memorandum (see attached) which states that "strong consideration should be given providing turn lanes on Bullittsville Road" and "consideration should be given to reducing the number of lots and providing more green space."
5. The Fryar property and the Lauren Meadows Subdivision located off Petersburg Road (KY 20) are only separated by the Elizabeth Conrad property (84.44 acres). The Elizabeth Conrad property also has frontage along Petersburg Road (KY 20) and Bullittsville Road across from the Brentwood Subdivision. Staff is concerned that if we do not look at these adjoining parcels and how they may develop and connect with each other, then the only planning opportunity may be applications for Zoning Map Amendments submitted for those properties (see Future Road Network attachment).

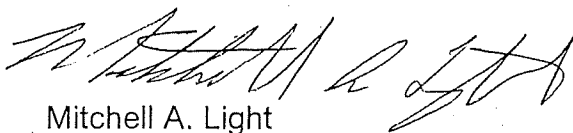
6. Staff reminds the Commission that although the adopted 2000 Boone County Comprehensive Plan's Future Land Use Map indicates this sites land use classification as "Suburban Residential," the map represents a 25 year growth projection. The Commission needs to consider if the current infrastructure will adequately support development of the area.

CONCLUSION

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

1. The map amendment request is in agreement with the adopted Comprehensive Plan and any specific study designed to further detail the Boone County Comprehensive Plan for the location in question; or,
2. The existing zoning classification is inappropriate; or,
3. There have been major changes of an economic, physical, or social nature not anticipated in the adopted Comprehensive Plan that substantially alter the areas character.

Respectfully submitted,

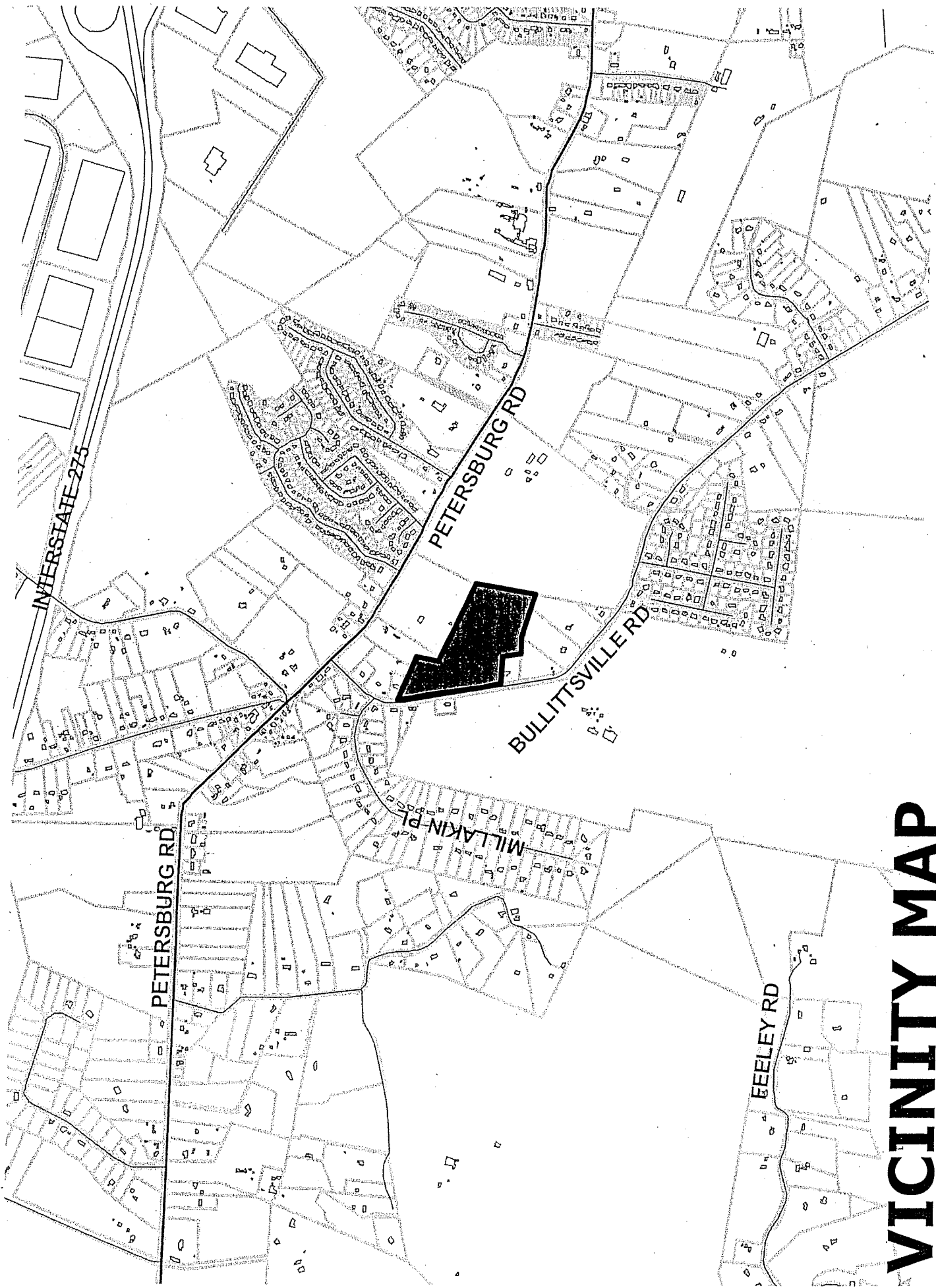


Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

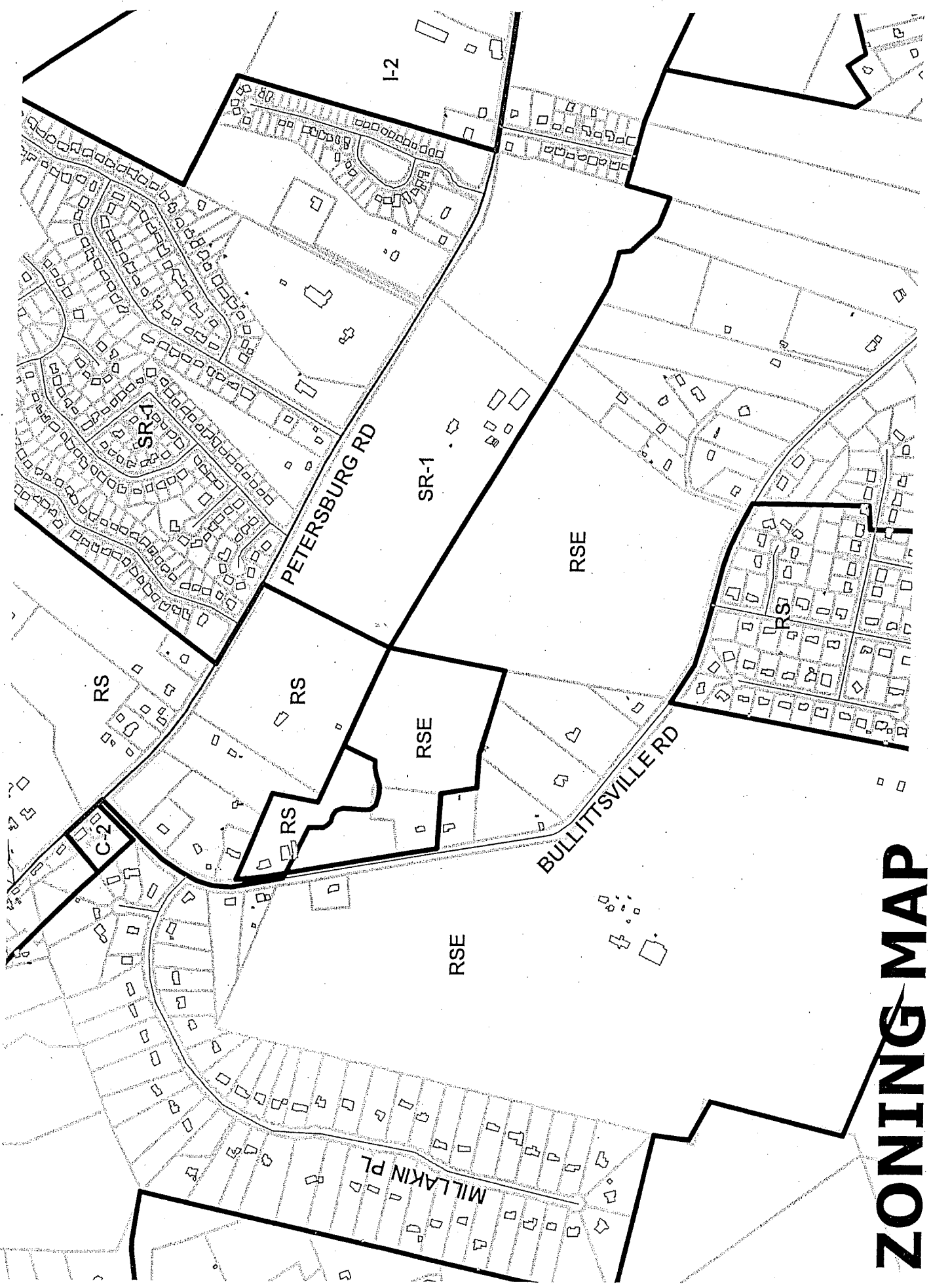
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Attachments:

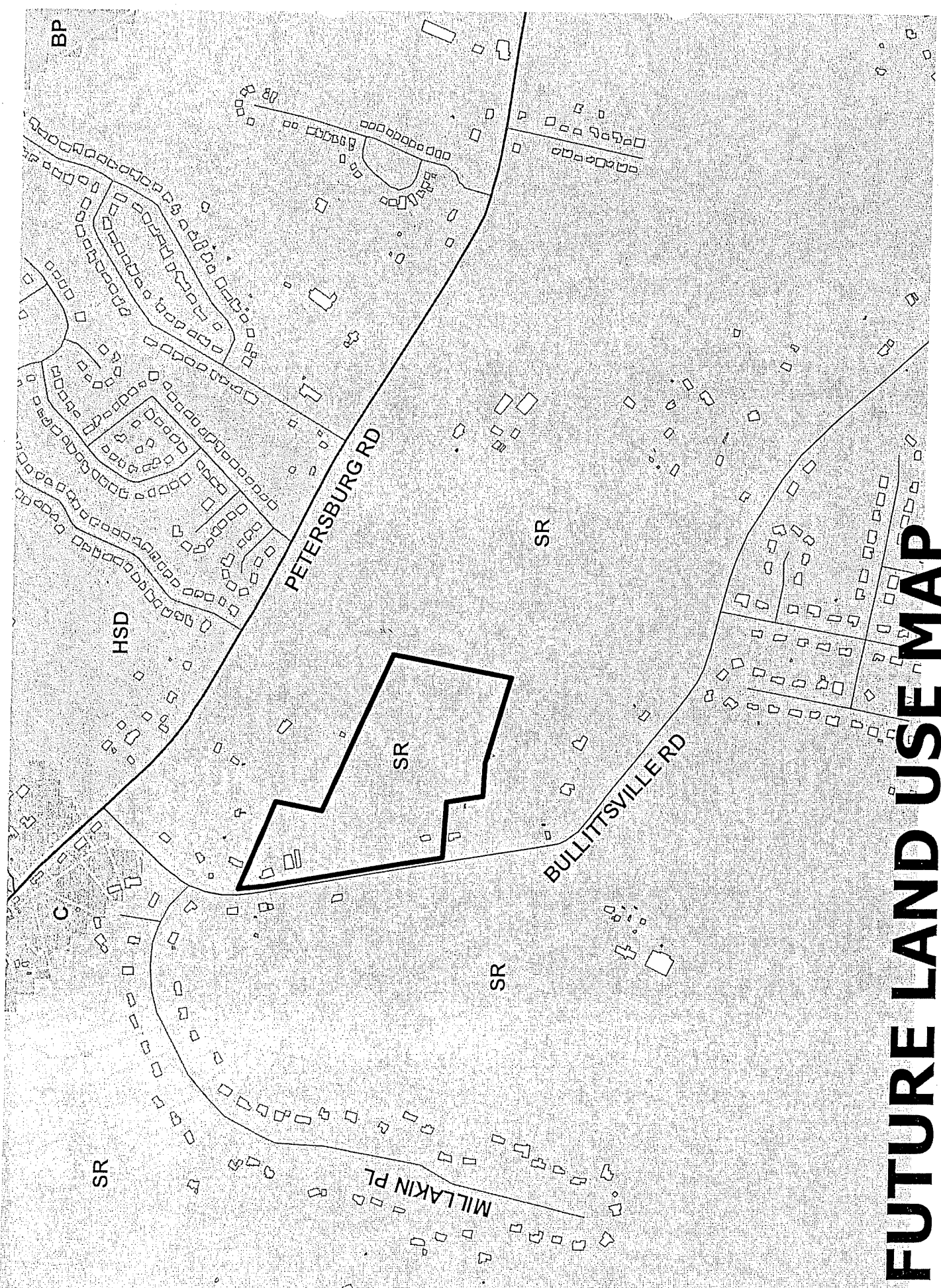
- Vicinity Map
- Zoning Map
- Future Land Use Map
- Existing Topography
- 2002 Aerial Photography
- Concept Development Plan
- Future Road Network
- Memorandum from Greg Sketch, Boone County Engineer
- Letter from Boone County Schools
- Letter from Sanitation District #1
- Application



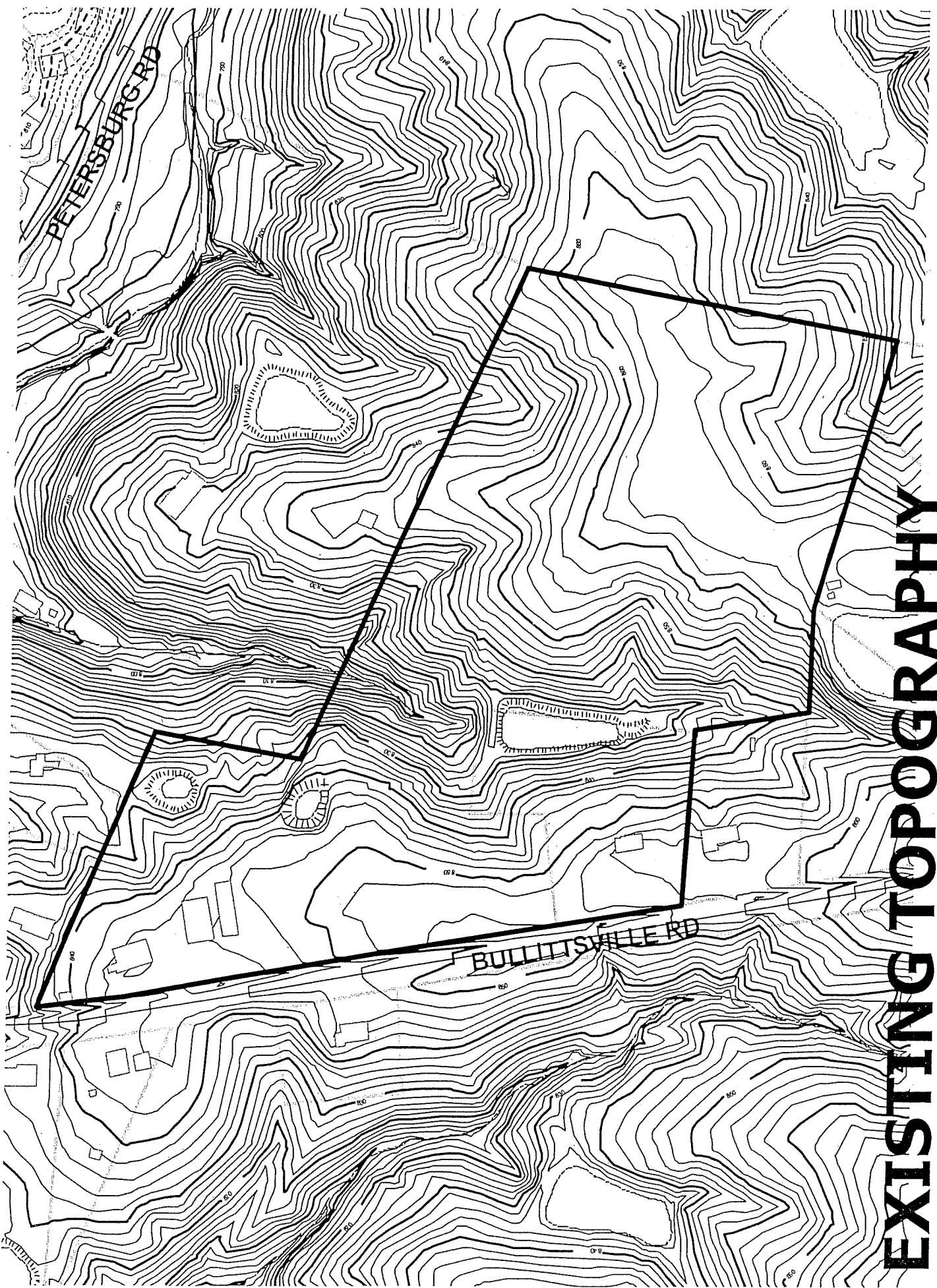
VICINITY MAP



ZONING MAP



FUTURE LAND USE MAP



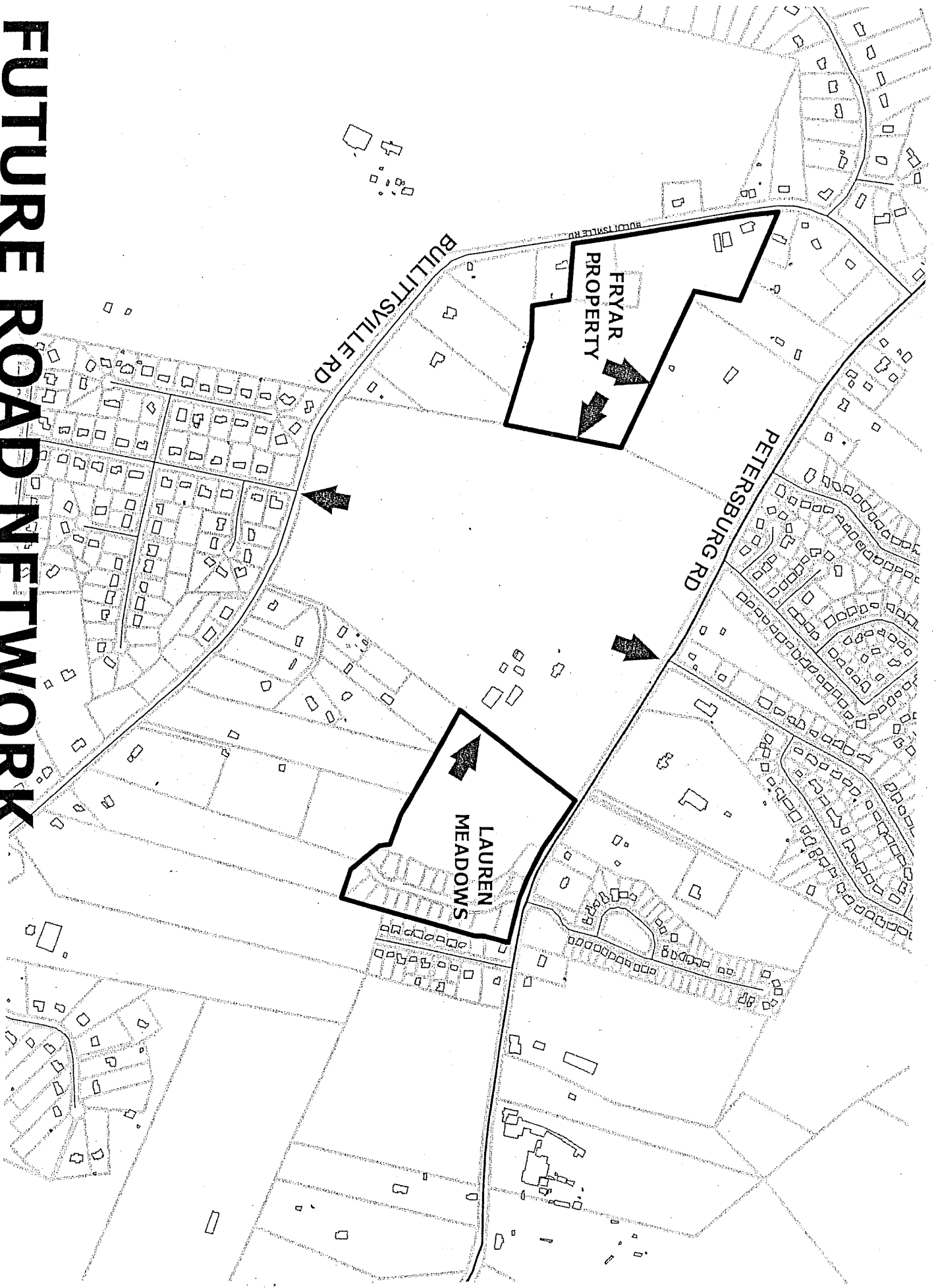
EXISTING TOPOGRAPHY

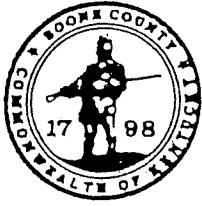


2002 AERIAL PHOTOGRAPHY



FUTURE ROAD NETWORK





Boone County Public Works Department

5645 Idlewild Rd.
Burlington, KY 41005

Gary W. Moore
County Judge-Executive

Gregory V. Sketch, PE, PLS
County Engineer

Phone: (859) 334-3600
Fax: (859) 334-3598
www.boonecountyky.org

James E. Parsons
County Administrator

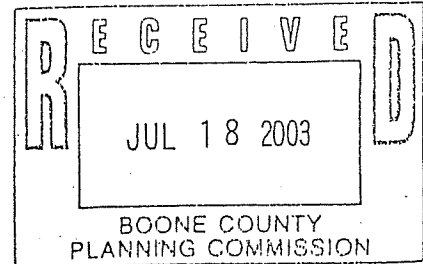
MEMORANDUM

TO: Mitch Light, Assistant Zoning Administrator, Zoning Services
Boone County Planning Commission

FROM: Greg Sketch, PE, PLS
Boone County Engineer

RE: Durwood Fryar Zone Change

DATE: July 18, 2003



This is in response to your request for input concerning the request for a zone change of a 24.24 acre tract fronting Bullitsville Road near KY 20. The request is to change the zone from Rural Suburban Estates (RSE) to Rural Suburban (RS) to allow development of a 60 single family lot subdivision. The proposal raises two concerns, one from my Department and the other from the Fiscal Court Administration.

My concern would be the access from Bullitsville Road, a Boone County maintained road. The development is for 60 lots, but provides access to the adjoining tract, which could be developed at the same density in the future. Therefore strong consideration should be given providing turn lanes on Bullitsville Road.

The second concern is from the Administration, in that the proposed zone is for RS, which allows three units per acre. The proposed development has a density of 2.5 units per acre, which is close to the average of current SR-1 developments. Consideration should be given to reducing the number of lots and providing more green space.

Thank you for the opportunity for input in this matter.

c: Jim Parsons, Boone County Administrator

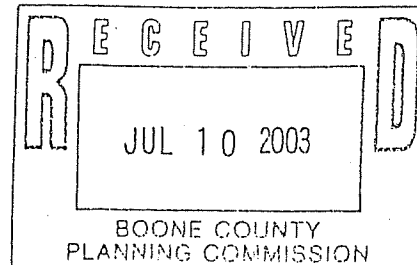
BRYAN A. BLAVATT
Superintendent of Schools

8330 U.S. 42
Florence, KY 41042
Phone: (859) 283-1003
Fax: (859) 282-2376
www.boone.k12.ky.us

BOONE COUNTY SCHOOLS

July 8, 2003

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



Dear Mr. Wall:

Thank you for passing your information for the Durward Fryar Zoning Change request to me. I have looked over the information and we have discussed the situation. Superintendent Blavatt submitted a letter to Mr. Kevin Costello, recently, regarding such issues. I believe, his response should be used as our recommendation for the Planning Commission. If you have any further questions feel free to contact me.

A handwritten signature in cursive script that reads "Gerald Turner".

Gerald Turner
Director of Pupil Personnel
Boone County Schools

SANITATION



DISTRICT No. 1

June 24, 2003

Logan D. Murphy, P.E.
Hicks & Mann, Inc.
116 Humes Ridge Road
P.O. Box 9
Williamstown, KY 41097

Re: Proposed RS Subdivision
Boone County

Dear Mr. Murphy:

This letter will confirm that sanitary service is available to serve the above referenced project at the proposed design of 60 lots. The developer is responsible for the cost of connecting to the sanitary sewer and extending the on site sewer.

If you need additional information or have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Gary Aman". The signature is written in dark ink and is positioned above the typed name and title.

Gary W. Aman
Project Manager

APPLICATION FORM

COMMUNITY PLANNING
KENTUCKY
1994

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

RECEIVED
JUL - 1 2003
BOONE COUNTY
PLANNING COMMISSION

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

1. Name of Project Deerhaven Subdivision
 2. Location of Project 3200 & 3290 Bullitsville Road, Burlington, Kentucky
 3. Total Acreage of Site 18.77
 4. Current Zoning of Site RSE
 5. Proposed Zoning (Classification being requested) RS
 6. Proposed Uses (please specify each use) single family dwellings
-
7. Names of Applicant(s) Durward & Pearl Jean Fryar, Tom & Theresa Fryar
Phone Number (859) 689-7961 Fax No. (859) 331-5337
 8. Address of Applicant(s) 3438 Bullitsville Road
Burlington Kentucky 41005
City State Zip
 9. Name of Property Owner(s) Durward & Pearl Jean Fryar and Tom & Theresa Fryar
Phone Number (859) 689-7961 Fax No. (859) 331-5337
 10. Address of Property Owner(s) 3438 Bullitsville Road
Burlington Kentucky 41005
City State Zip
 11. Proposed Building Intensities (please specify)
Density lot area - 2.90 lots per acre; density developed area - 2.48
lots per acre.
 12. Are there any existing buildings on the site? yes
How many? 5
 13. Deed Book 229 Page No. 272 Group No. 2007
 14. Are you also applying for: 496
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:
X Boone County Water District
 Florence Water and Sewer Dept.
 Cinergy/U.L.H.&P. Co.
X Sanitation District #1
 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

APPLICATION FORM

- Northern Kentucky Health District
- USDA NRCS/Boone County Conservation District
- KY Division of Water
- Local School District
- Local Fire District
- Other: _____

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

19. Applicant's Signature Durward Fryar, Thomas A Fryar
Property Owner's Signature Thomas A Fryar, Theresa A Fryar
Durward Fryar & Pearl J Fryar

SECTION B (To be completed by BCPC Staff)

1. Date Received 7-1-03
2. Review Fee \$ 1,450.24 R# 35740
3. Check what has been submitted:
 - Application
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - Number of copies of plan received
4. Is application complete? Yes (Yes/No)
5. Staff Reviewer _____
6. Committee Chairman _____
7. Scheduled Public Hearing Date _____
8. Boone County Planning Commission Action:
 - Approval
 - Approval with Conditions
 - Denial
9. Other: _____

** Five (5) Copies Are Required

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(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.

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
August 27, 2003
6:30 P.M.**

PUBLIC HEARING

Commission Members Present: Mr. Barlow, Mr. Breetz, Mr. Bunger, Mrs. Kegley, Mr. McMillian, Mrs. Poston - Vice Chairperson, and Mr. Schwenke.

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

Legal Counsel Present: Mr. Dale Wilson

Mrs. Susan Poston, Chairperson, called the meeting to order at 6:34 PM and introduced the item on the Agenda:

1. **Applicant:** Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners)

Request: Zoning Map Amendment

The request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for an 18.77 acre site at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single-family houses.

Note: The original Public Hearing for this request was held on July 23, 2003. A second Public Hearing is being held in response to public notification.

Counselor Wilson advised that Kentucky law requires notice of a Public Hearing to be given in three ways – 1) a sign on the property, 2) by mail to adjoining property owners, and 3) by publication in the newspaper. Newspaper advertising did not occur when the Public Hearing for this request was held on July 23, 2003 due to a problem at The Boone County Recorder. Since there may be someone who would have attended the Public Hearing if the newspaper advertising had

occurred, and the applicant being willing, the Public Hearing is being held again this evening. The Staff Report, which is the same as the one presented at the July 23, 2003 Public Hearing, and the minutes of that Public Hearing will be in the record of this Public Hearing. He stated that anyone who wishes to speak at this Public Hearing has the right to do so.

Mr. Costello stated that copies of the original Staff Report dated July 23, 2003 are available on the table outside the meeting room. He stated that the Staff Report, the Minutes, the Power Point Presentations (by Staff and by the applicant), and all of the submitted exhibits from the July 23, 2003 Public Hearing will be included as part of the record of this Public Hearing.

Mrs. Poston stated that comments made at the prior Public Hearing are in the minutes and a part of the record this evening and do not need to be repeated. She asked if the applicant had any comments.

Attorney David Wallace stated that The Boone County Recorder has issued an apology to the Planning Commission, but has not done anything in regard to the applicant. He stated that the applicant agrees that the full minutes from the previous Public Hearing are a part of the record this evening. He stated that there are no changes to the application and it is introduced exactly as it was on July 23, 2003.

Mrs. Poston asked if there was anyone present who wished to present new information in favor of this request. There being no response, she asked if there was anyone present who wished to submit new information in opposition to the request.

Ms. Carolyn Hollis Nixon, 3239 Bullittsville Road, stated that she and her brother have a 340-acre farm next to Brentwood Subdivision. She stated that Brentwood Subdivision has been in progress for five years, and there are no connecting roads to their farm from that subdivision. She stated that it appears that there will be a connection from KY 20 to Bullittsville Road. She stated that Mr. Wallace indicated at the previous Public Hearing that he could not state a price for the houses because of the Fair Housing Act – but she cannot find anything in the Fair Housing Act that prohibits him from providing that information. She submitted a copy of the Fair Housing Act (see Exhibit 1). Ms. Nixon stated that the County Engineer, Greg Sketch, said that the number of lots in the green space should be increased. She stated that he is referring to the developmentally sensitive Woolper Creek area. She noted that at the last meeting she submitted traffic information about the volume of cars on Bullittsville Road. She stated that there will be big problems out there when KY 20 and Bullittsville Road are connected. She stated that there is a letter from Boone County Schools concerning the effect on the schools when small subdivisions become large subdivisions (see Exhibit 2). She is concerned about water coming out of the retention ponds onto the properties that are right over the hill. She stated that Burlington is the county

seat. Bullittsville Road is three miles from Hebron and three miles from Burlington – it is connected to Hebron and to Burlington. She stated that she does not want to look at the backs of houses, swimming pools, fences, decks and garbage cans on Bullittsville Road and the streets can be designed so that the houses are not backwards on Bullittsville Road. There are currently no houses on Bullittsville Road that are backwards. She stated that the Comprehensive Plan on Page 173 puts the Bullittsville Road area in Hebron, but they are not in Hebron. She stated that stormwater coming onto her property and the Hollis farm will have to be addressed.

Ms. Joyce Ferrell stated that their property is on the border and shares the fence line down one side with the Durward Fryar property. She understands that there will be a 15-foot buffer area there. She questioned if the buffer area should be larger – possibly 20 or 25 feet wide. She stated that they do not want the large trees taken down.

Mr. Light responded that the 15-foot buffer is shown on the Concept Plan. He stated that there are no minimum requirements and he raised the question in the Staff Report of whether 15 feet is enough, or would 20 – 25 feet be more appropriate?

Mr. Joe Conrad, 2903 Petersburg Road, Hebron, speaking for his wife and himself, stated that he is concerned about the fence. He will not wait until the subdivision is in and deal with each individual property owner in order to get the fence -- he will get a lawyer. He is willing to pay half the cost of the fence. He has to have a fence because of his livestock. He stated that no one has contacted him since the last meeting in regard to the fence.

Mrs. Poston asked if there was anyone else present who wished to speak regarding this application. There being no response, she asked if there were any comments or questions from the Commissioners.

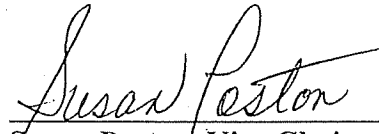
Mr. Barlow asked if Mr. Conrad has a fence on his property now. Mr. Conrad responded “yes” but the back fence was put up when he bought the property in 1965. His property was originally part of the Elizabeth Conrad farm. He does not know if the fence is on his property and questioned having it surveyed.

Mr. Costello responded that usually the developer pays to survey the property. He stated that whether the zone change is approved or denied, the issue of the fence still remains. He stated that Mr. Conrad is bringing the issue up now because the property is going through the zone change process.

Mr. Conrad stated that it is easier to deal with one person than with fifteen individual lot owners.

There being no further comments, Mrs. Poston stated that the Committee Meeting for this item will be on September 3, 2003 at 4:00 PM in this room. This item will be on the Agenda for the Business Meeting on September 17, 2003 at 7:30 PM.

APPROVED:



Susan Poston, Vice Chairperson

Attest:



Jan Hancock, Recording Secretary

Exhibits -

1. Copy of the Fair Housing Act submitted by Carolyn Hollis Nixon
2. Letter from Bryan Blavatt, Superintendent, Boone County Schools to Mr. Kevin Costello dated January 16, 2003 submitted by Carolyn Hollis Nixon.

FAIR HOUSING ACT

6:30 PM AGENDA
BOONE COUNTY PLANNING COMMISSION
Date: 8/27/03 Public Hearing # / Exhibit /**Sec. 800. [42 U.S.C. 3601 note] Short Title**

This title may be cited as the "Fair Housing Act".

Sec. 801. [42 U.S.C. 3601] Declaration of Policy

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

Sec. 802. [42 U.S.C. 3602] Definitions

As used in this subchapter--

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person--

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(i) "Aggrieved person" includes any person who--

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 810.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with--

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means--

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

[42 U.S.C. 3602 note] Neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

Sec. 803. [42 U.S.C. 3603] Effective dates of certain prohibitions

(a) Subject to the provisions of subsection (b) of this section and section 807 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 of this title shall apply:

(1) Upon enactment of this subchapter, to--

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: **Provided**, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) Nothing in section 804 of this title (other than subsection (c)) shall apply to--

(1) any single-family house sold or rented by an owner: **Provided**, That such private individual owner does not own more than three such single-family houses at any one time: **Provided further**, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: **Provided further**, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: **Provided further**, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if--

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Sec. 804. [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited practices

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful--

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)

(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--

(A) that buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or

rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of--

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes--

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwelling in such a manner that--

(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)

(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)

(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this title.

(B) Determinations by a State or a unit of general local government under paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this title.

(7) As used in this subsection, the term "covered multifamily dwellings" means--

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

(9) Nothing in this subsection requires that a dwelling be made available to an individual

whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 805. [42 U.S.C. 3605] Discrimination in Residential Real Estate-Related Transactions

(a) In General.--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance--

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Sec. 806. [42 U.S.C. 3606] Discrimination in provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

Sec. 807. [42 U.S.C. 3607] Religious organization or private club exemption

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)

(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing

for older persons.

(2) As used in this section "housing for older persons" means housing --

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and--

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--

(I) provide for verification by reliable surveys and affidavits; and

determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (C): **Provided**, That new occupants of such housing meet the age requirements of sections (2)(B) or (C); or

(B) unoccupied units: **Provided**, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5)

(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

Sec. 808. [42 U.S.C. 3608] Administration

(a) Authority and responsibility

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) Assistant Secretary

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

(c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review

The Secretary may delegate any of his functions, duties and power to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5 [of the United States Code]. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(e) Functions of Secretary

The Secretary of Housing and Urban Development shall--

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such

studies, including an annual report to the Congress--

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which--

(i) investigations are not completed as required by section 810(a)(1)(B);

(ii) determinations are not made within the time specified in section 810(g); and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e)(6) applies are--

(1) title VI of the Civil Rights Act of 1964;

(2) title VIII of the Civil Rights Act of 1968;

(3) section 504 of the Rehabilitation Act of 1973;

(4) the Age Discrimination Act of 1975;

(5) the Equal Credit Opportunity Act;

- (6) section 1978 of the Revised Statutes (42 U.S.C. 1982);
- (7) section 8(a) of the Small Business Act;
- (8) section 527 of the National Housing Act;
- (9) section 109 of the Housing and Community Development Act of 1974;
- (10) section 3 of the Housing and Urban Development Act of 1968;
- (11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432; and
- (12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

Sec. 808a. [42 U.S.C. 3608a] Collection of certain data

(a) In general

To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 U.S.C.A. {2000d et seq.}] and title VIII of Public Law 90-284 [42 U.S.C.A. {3601 et seq.}], the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

(b) Reports to Congress

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

Sec. 809. [42 U.S.C. 3609] Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

Sec. 810. [42 U.S.C. 3610] Administrative Enforcement; Preliminary Matters

(a) Complaints and Answers. --

(1)

(A)

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint--

(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)

(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative Report and Conciliation. --

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

(5)

(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing--

(i) the names and dates of contacts with witnesses;

(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) a summary description of other pertinent records;

(iv) a summary of witness statements; and

(v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Failure to Comply With Conciliation Agreement. -- Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

(d) Prohibitions and Requirements With Respect to Disclosure of Information. --

(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the

Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) Prompt Judicial Action. --

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under section 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) Referral for State or Local Proceedings. --

(1) Whenever a complaint alleges a discriminatory housing practice--

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection; the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless--

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)

(A) The Secretary may certify an agency under this subsection only if the Secretary determines that--

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and

(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11; unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) Reasonable Cause Determination and Effect. --

(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)

(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

(B) Such charge--

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) Service of Copies of Charge. -- After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served--

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) on each aggrieved person on whose behalf the complaint was filed.

Sec. 811. [42 U.S.C. 3611] Subpoenas; Giving of Evidence

(a) In General. -- The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) Witness Fees. -- Witnesses summoned by a subpoena under this title shall be entitled to same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

(c) Criminal Penalties. --

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under

this title--

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

Sec. 812. [42 U.S.C. 3612] Enforcement by Secretary

(a) Election of Judicial Determination. -- When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative Law Judge Hearing in Absence of Election. -- If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of Parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) Expedited Discovery and Hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after the date of enactment of this

subsection, issue rules to implement this subsection.

(e) Resolution of Charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of Trial of Civil Action on Administrative Proceedings. -- An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, Findings and Conclusions, and Order. -- (

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent--

(A) in an amount not exceeding \$11,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding \$27,500 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding \$55,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)--

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; Service of Final Order. --

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial Review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

(j) Court Enforcement of Administrative Order Upon Petition by Secretary. --

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent

resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

(k) Relief Which May Be Granted. --

(1) Upon the filing of a petition under subsection (i) or (j), the court may--

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement Decree in Absence of Petition for Review. -- If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement--

(1) which is filed by the Secretary under subsection (j) after the end of such day; or

(2) under subsection (m).

If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of Decree. -- The clerk of the court of appeals in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil Action for Enforcement When Election Is Made for Such Civil Action. --

(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees. -- In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

Sec. 813. [42 U.S.C. 3613] Enforcement by Private Persons

(a) Civil Action. --

(1)

(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the

terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

(b) Appointment of Attorney by Court. -- Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may--

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief Which May Be Granted. --

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on Certain Sales, Encumbrances, and Rentals. -- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

Sec. 814. [42 U.S.C. 3614] Enforcement by the Attorney General

(a) Pattern or Practice Cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement. -

(1)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

(c) Enforcement of Subpoenas. -- The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) Relief Which May Be Granted in Civil Actions Under Subsections (a) and (b). --

(1) In a civil action under subsection (a) or (b), the court--

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent--

(i) in an amount not exceeding \$55,000, for a first violation; and

(ii) in an amount not exceeding \$110,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(e) Intervention in Civil Actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a

conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

Sec. 814a. Incentives for Self-Testing and Self-Correction

(a) Privileged Information. --

(1) Conditions For Privilege. -- A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person-

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged Self-Test. -- If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test-

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any --

(i) proceeding or civil action in which one or more violations of this title are alleged; or

(ii) examination or investigation relating to compliance with this title.

(b) Results of Self-Testing. --

(1) In General. -- No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if --

(A) the person to whom the self-test relates or any person with lawful access to the report or the results --

(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

(2) Disclosure for Determination of Penalty or Remedy. -- Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B) --

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) Adjudication. -- An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in --

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

(2) Regulations. --

(A) In General. -- Not later than 6 months after the date of enactment of this Act, in consultation with the Board and after providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) Self-Test. --

(i) Definition. -- The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) Requirement for Self-Test. -- The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) Substantial Similarity to Certain Equal Credit Opportunity Act Regulations. -- The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(C) Applicability. --

(1) In General. -- Except as provided in paragraph (2), the privilege provided for in section 704a of the Equal Credit Opportunity Act or section 814a of the Fair Housing Act (as those sections are added by this section) shall apply to a

self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) Exception. -- The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if --

(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was --

(i) formally filed in any court of competent jurisdiction; or

(ii) the subject of an ongoing administrative law proceeding;

(B) in the case of section 704a of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

(C) in the case of section 814a of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section.

Sec. 815. [42 U.S.C. 3614a] Rules to Implement Title

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

Sec. 816. [42 U.S.C. 3615] Effect on State laws

Nothing in this subchapter shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

Sec. 817. [42 U.S.C. 3616] Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in

Federal Register

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

Sec. 818. [42 U.S.C. 3617] Interference, coercion, or intimidation; enforcement by civil action

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.

Sec. 819. [42 U.S.C. 3618] Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

Sec. 820. [42 U.S.C. 3619] Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Sec. 12 of 1988 Act). [42 U.S.C. 3601 note] Disclaimer of Preemptive Effect on Other Acts

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

(Sec. 13 of 1988 Act). [42 U.S.C. 3601 note] Effective Date and Initial Rulemaking

(a) Effective Date. -- This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) Initial Rulemaking. -- In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

(Sec. 14 of 1988 Act). [42 U.S.C. 3601 note] Separability of Provisions

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 901. (Title IX As Amended) [42 U.S.C. 3631] Violations; bodily injury; death; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin and because he is or has been selling, purchasing, renting, financing occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection(a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate;
or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate--

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

TITLE 28, UNITED STATES CODE, AS AMENDED

Section 2341. Definitions

As used in this chapter --

(1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;

(2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and

(3) "agency" means --

(A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;

(B) the Secretary, when the order was entered by the Secretary of Agriculture;

(C) the Administration, when the order was entered by the Maritime Administration; and

(D) the Secretary, when the order is under section 812 of the Fair Housing Act.

Section 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has

exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of-

- (1) all final orders of the Federal Communications Commission made reviewable by section 402 (a) of title 47;
- (2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under section 210(e), 217a, and 499g(a) of title 7;
- (3) all rules, regulations, or final orders of-
 - (A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 802, 803, 808, 835, 839, and 841(a)); and
 - (B) the Federal Maritime Commission issued pursuant to--
 - (i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 822, 824, or 841a);
 - (ii) section 19 of the Merchant Marine Act, 1920 (46 U.S.C.App. 876);
 - (iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C.App. 844, 845, 845a, or 845b);
 - (iv) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C.App. 1713 or 1716); or
 - (v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C.App. 817d(d) or 817e(d));
- (4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42;
- (5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title and all final orders of such Commission made reviewable under section 11901(j)(2) of Title 49, United States Code; and
- (6) all final orders under section 812 of the Fair Housing Act.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.

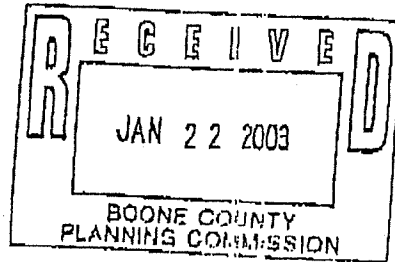
BRYAN A. BLAVATT
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BOONE COUNTY SCHOOLS

www.boone.k12.ky.us

January 16, 2003



Mr. Kevin Costello
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Dear Kevin,

At the outset, I would like to personally thank you and the Planning Commission for all the assistance you have provided to Boone County Schools in the past. We look forward to the continuation of the high level of collaboration between the Planning Commission and Boone County Schools that has taken place over the last several years. While I do not believe the school district needs to communicate with the Commission on every housing plan that is proposed, there are a few concerns related to the development of large housing projects that obviate comment and could be addressed in the Comprehensive Plan.

As you know, the school district recognizes and is supportive of continued growth within Boone County. However, the future development of large subdivisions will place an increased strain on the infrastructure of the school district. We believe that the Planning Commission needs to work with developers to move towards slow 'build out' plans, rather than massive immediate development. This would allow the district to phase in the increased costs of dealing with these large developments and provide a more natural growth pattern. Moreover, we suggest that the Planning Commission make it part of the conditions relative to zone change that the developer provide land for possible use by the school district. This would provide for the necessary future infrastructure to handle the student growth related to the development and offer a true selling point for the development.

Another point of concern is related to approval of individual developments that start as of small tracts of land and are later aggregated into a larger development. It is problematic that developers will propose a small subdivision grows into a large development, however, many times contiguous tracts are purchased in quick succession. This leaves the school district uninformed and ill prepared to take the necessary steps. Please encourage the Commission to review these multi-tracts. If at all possible, we would recommend applying the same criteria for these plans as you would a large development.

As always, thank you for your consideration. With your help, new large and multi-tract zone changes will be structured so that the School System can respond proactively. If you have further questions, please feel free to call me.

Sincerely,

Bryan Blavatt
Bryan Blavatt
Superintendent of Schools

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
October 1, 2003
7:30 P.M.**

Mrs. Susan Poston, Vice Chairwoman, called the meeting to order at 7:35 PM.

COMMISSION MEMBERS PRESENT:

Mr. Randy Barlow
Mr. Greg Breetz
Mr. Kim Bungler
Mrs. Janet Kegley
Mr. Don McMillian
Mr. Robert Newman
Mr. Randy Poe
Mrs. Susan Poston, Vice Chairwoman
Mr. Earl White
Mrs. Lisa Wilson, Secretary/Treasurer

COMMISSION MEMBERS NOT PRESENT:

Mr. Arnold Caddell, Chairman
Mr. Mark Hicks
Mr. Richard Knock, Temporary Presiding Officer
Mr. Charlie Reynolds
Mr. Bob Schwenke

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

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

ACTION ON PLAN REVIEWS:

1. Zoning Map Amendment

The request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for an 18.77 acre site at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single-family houses.

Mrs. Poston stated that attorney David Wallace submitted a letter on behalf of the applicants requesting that this item be deferred to allow them to submit a Revised Concept Development Plan (see Exhibit 1). She asked if the applicants or their representative were present. There being no response, she for comments from the Committee members.

Mr. Barlow questioned what "confusion" Mr. Wallace is referring to in his letter. Mr. Costello stated that he had anticipated the applicant being present to address that question. Mr. Barlow stated that if a Revised Plan is to be submitted, it should be presented for the public and the Commissioners to review. He stated that he thought the Committee addressed all of the issues brought up at the Public Hearing. Mr. McMillian questioned if a revised plan would have to go through the Public Hearing process. Counselor Wilson responded "no" and stated that it is not unusual for the applicant to revise the Concept Development Plan to address comments made at the Public Hearing.

Mr. Costello stated that the applicant heard the concerns of the Committee and was aware of the vote at the Committee level. Mr. Wallace then approached Mr. Costello and asked what happens if they revise the plan based on the comments made at the Public Hearing and at the Committee Meeting. Mr. Costello advised him that they could make this request, but it would be up to the full Commission whether to defer the request or proceed with the Committee's recommendation. He stated that Mr. Wallace submitted the letter and he thought he would be here to answer any questions.

Mr. Barlow stated that he is concerned about setting a precedent. He stated that the applicant was not willing to work with the Committee on the issues being discussed – but now that the Committee Report is against the proposal, they are making this request. He does not want applicants to go to that extent and then expect to go back to Committee. Mr. Costello stated that it would not set a precedent – it is rare, but it does happen.

Mr. Bunger stated that he is concerned about the construction along the roadway, the number of homes to be built, and the sizes of the lots. Mrs. Kegley, Committee Chairwoman, stated that at the Committee meeting there was agreement in regard to detention, but the Committee felt that there was no green space and the view from the main collector road (Bullittsville Road) was the backs of eleven houses – and

the Committee was looking at some changes there. She stated that the applicant asked for direction from the Committee, which was difficult to do because the development needs to be designed by an engineer. It is an oddly shaped small piece of land and there is no way to say that one particular thing will necessarily work. The applicant needed to explore all of the avenues and come back. When they came back, they made a change to less houses on Bullittsville Road -- but they were closer to the road, which she did not feel was a fair exchange. She was concerned about space for decks with the minimum rear yards. There is a concern if Bullittsville Road is ever widened since the houses are right on the road. She did not like the proposal. She stated that there was discussion about open space, density, and the sizes of the lots on Bullittsville. She questioned the applicant being able to meet all of the concerns since there were five people on the Committee and five different opinions on how to solve the problem.

Mr. McMillian stated that the public is interested in this and should be able to hear what the changes are. He recommended that there be another Public Hearing. Counselor Wilson stated that the public cannot hear the rationale of why the applicant wants to go back to Committee because the applicant is not here. Mr. Poe questioned why the applicant did not ask for an extension at the Committee level. Mr. Costello stated that his understanding from discussion with Mr. Wallace is that he had to discuss it with all parties involved and not all parties were at the Committee Meeting. Mr. Poe responded that they should have had all parties available at the Committee Meeting to make decisions.

Mrs. Poston stated that she attended the Committee Meeting. She believes the applicant knew from the Public Hearing and the first Committee Meeting what changes were being considered. She believes the applicant has had adequate time to make changes.

Counselor Wilson advised that the first issue is "Does it go back to Committee or not?" If the vote is not to go back to Committee, then the Committee Report can go forward this evening. He asked that the record reflect that the Chairperson asked if there was anyone present representing the applicant and no one has come forward.

Mr. Breetz questioned how many times an applicant can go back and forth to Committee. Counselor Wilson advised that the Planning Commission has ninety days to act on an application -- and he believes this is the 89th day. Mr. Costello agreed. Counselor Wilson asked if the applicant has waived the time limitation. Mr. Costello responded that a Waiver of Time Limitations has not been submitted.

At this time, **Mr. Barlow moved not to send the application not be sent back to Committee. Mrs. Wilson seconded the motion.** Mr. Bunger stated that he voted for the request in Committee, but is concerned that the applicant is not present -- which impacts his consideration. There being no further comments, **Mrs. Poston asked for a vote on the motion made by Mr. Barlow and it carried unanimously.**

Mrs. Poston stated that the request will not go back to Committee. She asked Staff to present the Committee Report.

Staff Member Mitch Light presented the Committee Report which recommended denial of the request based on the Findings of Fact (see Committee Report).

There being no discussion, **Mrs. Kegley moved by resolution to Boone County Fiscal Court that the request be denied based on the Committee Report. Mrs. Wilson seconded the motion and it carried unanimously.**

2. Zoning Map Amendment and Change in Concept Development Plan

The request of Kim Patton, GBBN Architects (applicant) for Gordon Bell (owner) for a Zoning Map Amendment from Rural Suburban Estate (RSE) to Commercial Two (C-2) for a 0.887 acre tract at 1964 Tanner Road, Boone County, Kentucky; and the request of Kim Patton, GBBN Architects (applicant) for Robert Flick (owner) for a Change in an Approved Concept Development Plan in a Commercial Two (C-2) zone for a 7.5 acre tract on the southeast corner of the North Bend Road/Tanner Road intersection, Boone County, Kentucky. The applications are to allow a retail center.

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

There being no discussion, **Mr. Barlow moved by resolution to Boone County Fiscal Court that the request be approved based on the Committee Report. Mr. Bunger seconded the motion and it carried unanimously.**

3. Zoning Map Amendment

The request of 237 Group, Leo Pfaehler (applicant) for 237 Group LLC and United Community Bank (owners) for a Zoning Map Amendment from Industrial One (I-1) to Commercial Services (C-3) for approximately two acres located along the north side of Northside Drive, Boone County, Kentucky. The request is for a zone change to allow retail uses.

Mrs. Poston stated that Agenda Item #3 is recommended for deferral to the October 15, 2003 Business Meeting at 7:30 PM. Mr. McMillian so moved. Mr. White seconded the motion and it carried unanimously.

EXHIBIT
"B"

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: October 1, 2003

RE: Request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for an 18.77 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family dwellings.

REMARKS:

We, the Committee, recommend denial of this request based upon the following findings of fact:

Findings of Fact

1. The Committee has concluded that the proposed Zoning Map Amendment and Concept Development Plan are not in agreement with the 2000 Boone County Comprehensive Plan. Specific facts that reinforce this conclusion include:
 - A. The Future Land Use Map designates this site for "Suburban Residential" uses. The Suburban Residential classification is described as "Single family housing of up to four units per acre. This classification also includes any low density or estate residential development as a formal subdivision." Thus, this designation does not mandate the construction of a stereotypical suburban style subdivision, such as that proposed in the submitted Concept Development Plan, but also permits "estate residential" that is within formal subdivisions such as the neighboring lower density single family residential subdivisions along Bullittsville Road (Millakin Place - 0.65 units/acre and Brentwood - 1.66 units/acre).
 - B. The Land Use Element ("Utilization of Existing Vegetation and Topography," pg. 158) states that "developments in Boone County should begin with an assessment of the existing site features to determine positive and useful attributes, as well as features which should or can be preserved. Development design should incorporate the use of these attributes for the benefit of the development and the County as a whole, rather than leveling an entire site to meet a pre-conceived project design." It is the Committee's conclusion that such an assessment was not adequately conducted before the Concept Development Plan was prepared. The proposal basically "levels" the entire site to provide a standard, suburban style residential subdivision as described under paragraph 1.A above versus a development plan that incorporated features from this site and the surrounding areas, such as the rolling pasture landscape, and lot widths and building setbacks

for the lots around the perimeter of the development which approximate those in the nearby developments. Although the development probably would not constitute a "spot zone" in the strict technical sense, the proposal does have spot zone characteristics in that it involves a zone change for a development which is incompatible with the surrounding environment, with tangible benefits afforded only to the owner of the property in question.

- C. The Population Element does forecast a substantial population increase in the general area. However, this forecast is for the overall traffic zone in question, and does not target this or any other specific site for a substantial population surge, nor does it encourage a style or nature of development which is not in agreement with the other aspects of the Comprehensive Plan.
- D. 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. Residential development design in particular shall minimize grading work as opposed to clearing the entire site. 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).

The Committee concluded that the proposed development did not meet this objective. The construction of approximately 45 new single family detached dwelling units on this 18.77 acre site would require extensive grading and the clearing of the vast majority of the trees and vegetation on the site and would change the essential character of the land.

- E. 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 maintained and enhanced. Development within Boone County preserves and promotes a better quality of life ("Environment," Goal).

The Committee determined that the construction of approximately 45 new single family detached dwelling units on this 18.77 acre site would not enhance the physical or social environment or promote a better quality of life for the existing residents.

- 2. The Committee was not presented with, nor have they identified, any facts which supported a finding that the existing zoning classification is inappropriate and the proposed zoning classification is appropriate, at this time. To the contrary, the Committee determined that the Bullittsville Road corridor has been predominately developed with 0.5 acre to 1.0+ acre residential lots.

October 1, 2003

Fryar/Bullittsville Road

3. The Committee was not presented with, nor have they identified, any facts which supported a finding that there have been major changes of an economic, physical, or social nature which were not anticipated in the adopted comprehensive plan.

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/Concept Plan Committee Vote.

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
August 27, 2003
6:30 P.M.

PUBLIC HEARING

Commission Members Present: Mr. Barlow, Mr. Breetz, Mr. Bunger, Mrs. Kegley, Mr. McMillian, Mrs. Poston - Vice Chairperson, and Mr. Schwenke.

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

Legal Counsel Present: Mr. Dale Wilson

Mrs. Susan Poston, Chairperson, called the meeting to order at 6:34 PM and introduced the item on the Agenda:

1. Applicant: Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners)

Request: Zoning Map Amendment

The request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for an 18.77 acre site at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single-family houses.

Note: The original Public Hearing for this request was held on July 23, 2003. A second Public Hearing is being held in response to public notification.

Counselor Wilson advised that Kentucky law requires notice of a Public Hearing to be given in three ways – 1) a sign on the property, 2) by mail to adjoining property owners, and 3) by publication in the newspaper. Newspaper advertising did not occur when the Public Hearing for this request was held on July 23, 2003 due to a problem at The Boone County Recorder. Since there may be someone who would have attended the Public Hearing if the newspaper advertising had

occurred, and the applicant being willing, the Public Hearing is being held again this evening. The Staff Report, which is the same as the one presented at the July 23, 2003 Public Hearing, and the minutes of that Public Hearing will be in the record of this Public Hearing. He stated that anyone who wishes to speak at this Public Hearing has the right to do so.

Mr. Costello stated that copies of the original Staff Report dated July 23, 2003 are available on the table outside the meeting room. He stated that the Staff Report, the Minutes, the Power Point Presentations (by Staff and by the applicant), and all of the submitted exhibits from the July 23, 2003 Public Hearing will be included as part of the record of this Public Hearing.

Mrs. Poston stated that comments made at the prior Public Hearing are in the minutes and a part of the record this evening and do not need to be repeated. She asked if the applicant had any comments.

Attorney David Wallace stated that The Boone County Recorder has issued an apology to the Planning Commission, but has not done anything in regard to the applicant. He stated that the applicant agrees that the full minutes from the previous Public Hearing are a part of the record this evening. He stated that there are no changes to the application and it is introduced exactly as it was on July 23, 2003.

Mrs. Poston asked if there was anyone present who wished to present new information in favor of this request. There being no response, she asked if there was anyone present who wished to submit new information in opposition to the request.

Ms. Carolyn Hollis Nixon, 3239 Bullittsville Road, stated that she and her brother have a 340-acre farm next to Brentwood Subdivision. She stated that Brentwood Subdivision has been in progress for five years, and there are no connecting roads to their farm from that subdivision. She stated that it appears that there will be a connection from KY 20 to Bullittsville Road. She stated that Mr. Wallace indicated at the previous Public Hearing that he could not state a price for the houses because of the Fair Housing Act – but she cannot find anything in the Fair Housing Act that prohibits him from providing that information. She submitted a copy of the Fair Housing Act (see Exhibit 1). Ms. Nixon stated that the County Engineer, Greg Sketch, said that the number of lots in the green space should be increased. She stated that he is referring to the developmentally sensitive Woolper Creek area. She noted that at the last meeting she submitted traffic information about the volume of cars on Bullittsville Road. She stated that there will be big problems out there when KY 20 and Bullittsville Road are connected. She stated that there is a letter from Boone County Schools concerning the effect on the schools when small subdivisions become large subdivisions (see Exhibit 2). She is concerned about water coming out of the retention ponds onto the properties that are right over the hill. She stated that Burlington is the county

seat. Bullittsville Road is three miles from Hebron and three miles from Burlington – it is connected to Hebron and to Burlington. She stated that she does not want to look at the backs of houses, swimming pools, fences, decks and garbage cans on Bullittsville Road and the streets can be designed so that the houses are not backwards on Bullittsville Road. There are currently no houses on Bullittsville Road that are backwards. She stated that the Comprehensive Plan on Page 173 puts the Bullittsville Road area in Hebron, but they are not in Hebron. She stated that stormwater coming onto her property and the Hollis farm will have to be addressed.

Ms. Joyce Ferrell stated that their property is on the border and shares the fence line down one side with the Durward Fryar property. She understands that there will be a 15-foot buffer area there. She questioned if the buffer area should be larger – possibly 20 or 25 feet wide. She stated that they do not want the large trees taken down.

Mr. Light responded that the 15-foot buffer is shown on the Concept Plan. He stated that there are no minimum requirements and he raised the question in the Staff Report of whether 15 feet is enough, or would 20 – 25 feet be more appropriate?

Mr. Joe Conrad, 2903 Petersburg Road, Hebron, speaking for his wife and himself, stated that he is concerned about the fence. He will not wait until the subdivision is in and deal with each individual property owner in order to get the fence -- he will get a lawyer. He is willing to pay half the cost of the fence. He has to have a fence because of his livestock. He stated that no one has contacted him since the last meeting in regard to the fence.

Mrs. Poston asked if there was anyone else present who wished to speak regarding this application. There being no response, she asked if there were any comments or questions from the Commissioners.

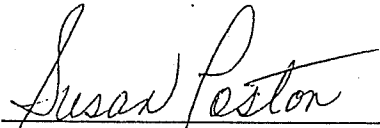
Mr. Barlow asked if Mr. Conrad has a fence on his property now. Mr. Conrad responded “yes” but the back fence was put up when he bought the property in 1965. His property was originally part of the Elizabeth Conrad farm. He does not know if the fence is on his property and questioned having it surveyed.

Mr. Costello responded that usually the developer pays to survey the property. He stated that whether the zone change is approved or denied, the issue of the fence still remains. He stated that Mr. Conrad is bringing the issue up now because the property is going through the zone change process.

Mr. Conrad stated that it is easier to deal with one person than with fifteen individual lot owners.


There being no further comments, Mrs. Poston stated that the Committee Meeting for this item will be on September 3, 2003 at 4:00 PM in this room. This item will be on the Agenda for the Business Meeting on September 17, 2003 at 7:30 PM.

APPROVED:



Susan Poston, Vice Chairperson

Attest:



Jan Hancock, Recording Secretary

Exhibits -

1. Copy of the Fair Housing Act submitted by Carolyn Hollis Nixon
2. Letter from Bryan Blavatt, Superintendent, Boone County Schools to Mr. Kevin Costello dated January 16, 2003 submitted by Carolyn Hollis Nixon.

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
July 23, 2003
7:00 P.M.

PUBLIC HEARINGS

Commission Members Present: Mr. Bunger, Mrs. Kegley, Mr. McMillian, Mr. Newman, Mr. Poe, Mrs. Poston - Vice Chairwoman, Mr. Reynolds, Mr. Schwenke, Mr. White, and Mrs. Wilson - Secretary/Treasurer.

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

Legal Counsel Present: Mr. Larry Dillon

Mrs. Susan Poston, Vice Chairwoman, called the meeting to order at 7:05 PM and introduced the first item on the Agenda:

1. Applicant: Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners)

Request: Zoning Map Amendment

The request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for an 18.77 acre site at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single-family houses.

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

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

Mrs. Poston asked for the applicant's presentation.

Attorney David Wallace with the law firm of Coors & Bassett was present on behalf of the applicants. Mr. Wallace provided the Commissioners with hard copies of his Power Point presentation and submitted a copy for the record (see Exhibit 1). Reviewing the presentation, he stated that the total project is 24.24 acres with 5.4 acres zoned RS and 18.77 acres zoned RSE. They are only talking about the 18.77 acres for the map amendment. The proposal is for sixty lots, which is a density of 2.48 lots per acre. Reviewing the Site Plan, he noted the conservation easement along the perimeter of the property which will preserve the mature trees. He indicated the three existing detention areas and stated that the applicant is aware of the requirements for storm water detention. Mr. Wallace reviewed the current zoning in the area and stated that approximately 23% of the total project is correctly zoned. The property lines were split when the zoning lines were drawn. He presented an aerial photograph and indicated the conservation easement. He reviewed the requirements for a Zoning Map Amendment in KRS 100.213. He stated that the proposed map amendment is in agreement with the adopted Comprehensive Plan Future Land Use Map, which designates the site as Suburban Residential. He reviewed the Future Land Use Map showing the property outlined in red. He stated that there are higher density uses close to the property. He stated that Suburban Residential is defined in the Comprehensive Plan as single-family housing of up to 4 units per acre – and the proposal is for 2.48 units per acre, which is well below what could be approved for the site. The proposed development is consistent with existing developments in the area. He stated that Millakin Place and Brentwood are denser subdivisions. RS allows three lots per acre and they are requesting less than that. He stated that the existing zoning classification is inappropriate because it splits the site and causes the property to be in two inconsistent zones – one zone allows one lot per acre and the zoning of approximately one-quarter of the property allows three units per acre. Those zones are inconsistent and deny the property owner the highest and best use of the property. Mr. Wallace stated that there is a letter from the Sanitation District attached to the Staff Report that says that the property has available service. Lots sizes are 12,000 to 15,000 square feet. There could be up to 72 lots on the property, but the proposal is for 60 lots. The Comprehensive Plan would allow four units per acre and there could be 96 lots. The developers intend for this to be a quality subdivision with adequate restrictions. They have not contracted with any builders and no specific builders have been identified. He stated that the price of the 15,000 square foot lots will generate a certain type of housing. He stated that the development is in compliance with the Comprehensive Plan. They have talked with some of the adjoining property owners regarding buffering -- the Gillespies have a concern about buffering. They are in agreement with the Staff Comments regarding landscaping and landscape berming along that property line and are in general agreement with all of the Staff Comments. The Concept Development Plan addressed those concerns prior to the filing of the application. Mr. Wallace stated that their engineer Logan Murphy and the property owners are present. This concluded the applicant's presentation.

Mr. Reynolds arrived during the applicant's presentation.

Mrs. Poston asked if there was anyone else present who wished to speak in favor of the request. There was no response. Mrs. Poston stated that Mr. Costello will call the names of those who signed slips to speak in opposition to the request, beginning with Donna Powers.

Donna Powers, 3514 Bullittsville Road, stated that the applicant said that there are no trees where the Gillespie and Powers properties abut the site – but there are trees on her property. She is concerned about the drainage from the detention pond. She stated that most of the drainage from the Gillespie and Fryar properties comes down on the her property. She is concerned that the applicant first said there were no trees and then said that the trees would not be bothered.

Mr. Russell Stamper, 3116 Bullittsville Road, stated that his property adjoins the Durward Fryar property on the north and goes all the way to KY 20. He stated that there is already a lot of traffic on Bullittsville Road and he does not believe it can handle the traffic from another sixty houses. If they develop a road, it would go on his property and he would have to pay for the road frontage. He stated that the sewage would have to come down the creek and it is on his property, so he would also have to pay for the sewage. The drainage from one of the drainage ponds would come down through the backside of his property. He stated that the applicant said that they would leave a fifteen foot buffer zone and the existing trees on the north side, but there are not too many trees there of any size and he is concerned that the Farrell's (his in-laws) will get a lot of noise from the development. He stated that the map shows his property to be zoned RS, but it was zoned RSE and he was never notified that it was changed.

Mr. Don Rogers 2939 Petersburg Road, is concerned about the run-off. He stated that one of the detention ponds is a frog pond and needs to be enlarged. He stated that the bridge gets flooded because of the housing towards Hebron and the flooding gets more intense every year. There is flooding on KY 20. He questioned if the Commissioners walk the areas they rezone and stated that the Commissioners need to see exactly what is happening. He questioned his recourse if the developer does not live up to the agreements if the zone change is approved. He stated that the runoff and the sewer should be considered. He read an article from the July 17 edition of The Cincinnati Enquirer by Shiela McLaughlin regarding stormwater runoff in Union Township.

Mr. Joe Conrad, 2903 Petersburg Road, bought his eighteen acres in 1965 and raised his family there. He stated that the applicant said there was a detention pond on his property, but no one has approached him about it. He has approached Elizabeth Conrad and Mr. Fryar about replacing the fences, which are old, and they have livestock – but they did not do anything. He stated that there is a gas line that runs next to his property that goes from Brentwood to KY 20. He stated that houses in the subdivisions are built right on the road and will have to be

purchased if KY 20 is widened. In Cutter Ridge, they built houses along the creek. He has seen the creek over the 12-foot high bridge. He is not against development, but this is too many lots. He would prefer a development like Millakin Place. He does not want three, four or five houses per acre.

Ms. Carolyn Hollis Nixon, 3239 Bullittsville Road, stated that she and her brother own a 430-acre farm directly across the road from the Fryar's twenty-four acres and have lived there since the 1950's. Ms. Nixon submitted pictures (see Exhibit 2) and asked the Commissioners to look at the stormwater that goes in her side yard. She stated that the total site is in front of her property and she wants the berms to be fifteen feet high and staggered. Brentwood drains stormwater onto her property and she wants the stormwater controlled. She questioned the price of the proposed homes and the width of the street. She asked who is involved in the development. She stated that one nice home per lot is equal to four homes on the tax base -- they can build homes of \$200,000 and up and have the same taxes as four smaller houses. She read from the Stormwater Regulations (Page 3.18) and emphasized that the regulations say that stormwater runoff from a site shall not adversely impact natural drainage or adjacent properties. She read from the Soil Erosion and Slope Control regulations. She read from Page 157 of the Comprehensive Plan in regard to Developmentally Sensitive Areas. She stated that Woolper Creek runs from Hebron to the Ohio River and goes at a rapid pace because the developers are not putting detention ponds in correctly. She stated that the Sanitation District takes over on August 1. She stated that it costs more to put silt control in than to pay the fine, and developers are ignoring the regulation. If this development connects to the Elizabeth Conrad property and to KY 20, everyone will cut through there. She stated that Public Works said that heading south, there were 938 cars one way and north there were 818 cars. She stated that people come up the hill and on the straight stretch they are going 75 – 80 MPH and they are continually wiping out her fences. Bullittsville Road has only been resurfaced twice since 1966 – nothing will be done to the road and there will be two hundred more cars. There will be more children in the school system. She stated that half of Western Boone County is environmentally and developmentally sensitive and it is not developed at four houses per acre. With sixty houses there will be three acres of impervious area causing water runoff – at one inch per hour there will be 10,500 cubic feet of water, which is 77,500 gallons of water in an hour – and the pictures show part of the results. The streets will add another six tenths of an acre of impervious surface and 15,000 gallons of stormwater. If they keep to one house per acre, the stormwater can be handled.

Mr. Michael Ruberg, attorney with the law firm O'Hara Ruberg & Taylor, representing Tony Gillespie, stated that they have reached agreement with Mr. Wallace regarding buffer between their properties (a six-foot buffer with evergreens). He stated that this is a high accident area and they are concerned about traffic. The speed limit is 45 MPH, which needs to be considered. He stated that they agree with the Staff Recommendation. They are concerned about runoff, but do not know that it will affect them.

This concluded the names from the sign-in sheets. Mrs. Poston asked if there was anyone else present who wished to speak.

Mr. Dennis Sullivan, 3536 Bullittsville Road, stated that his property is between the Conrad's and the Powers'. He is concerned about traffic. The speed limit is 45 MPH. His mailbox has been hit. He stated that the future road on the Conrad property looks to be adjacent to his property. If the road goes through to join KY 20 to Bullittsville, and there is this high-density development, there will be a real problem on Bullittsville Road. There is a sharp bend in front of the old Fryar house and he has been hit head-on twice there and had his car totaled. There have been several accidents in the vicinity and cars have been run off the road. If this density is allowed, then the rest of the properties will also be allowed high-density.

Mr. Michael Dirr, 3877 Miramar Drive in Brentwood subdivision, stated that he works in downtown Cincinnati and drives forty minutes to and from work to get away from the urban and suburban overcrowding. Brentwood was built with one-half acre and larger lots because that is the way the area was developed. He came to Brentwood for the rural landscape. Boone County is a rural county, but for the last three or four subdivisions that have gone in every house has been on less than one-third acre – and they are vinyl on four sides. Millakin and Brentwood are beautiful to look at and don't stress the infrastructure and the school system. He asked that houses be on one-acre lots and that decisions not be made based on money.

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

Mr. Schwenke referred to the Joe Conrad property and questioned a fence to keep the cattle away from the people and the people away from the cattle. Mr. Wallace responded that the lots that are sold will have to be fenced. They cannot sell lots in the subdivision with cows roaming on them. This is something the owners will have to address.

Mr. Schwenke asked if the engineer has looked at the water retention. Mr. Wallace responded that the Concept Plan shows three areas designated for stormwater detention. He stated that they will submit Grading Plans and Stormwater Detention Plans to keep the water on the property so that no more goes off after development than currently. He stated that the requirements are becoming more stringent now because of issues that have arisen in Boone County and other counties. The Sanitation District is taking over on August 1. Mr. Schwenke asked the applicant to bring the flow rate and particulars on the stormwater to Committee. Mr. Logan Murphy with Hicks & Mann stated that he can provide flow rates for what is there now and post development. Mr. Costello

stated that they need to look at the existing conditions and asked Mr. Murphy to review the photos submitted by Ms. Nixon which show a lake overflowing.

In response to questions from Mr. Newman, Mr. Murphy indicated the three detention areas. The first one is part of Lot #21 and it will be dedicated to the Sanitation District. It will not be a buildable lot. Mr. Newman asked if it is one of the sixty lots. Mr. Murphy responded that it is part of Lot #21. Mr. Wallace stated that on the Final Plat, it would be a separate lot and Lot #21 would be a separate lot. He stated that the detention area will be a separate unbuildable lot dedicated to the Sanitation District. Mr. Newman asked if it is one of the sixty lots. Mr. Wallace responded "yes", but he does not think an unbuildable area is considered a lot. Mr. Costello agreed. Mr. Murphy stated that their proposal was for the detention area to be part of Lot #21 with an easement – making it a separate tract was Staff's comment. Their proposal was a lot with a detention area and a home. Mr. Newman stated that they are taking one lot and making it smaller. Mr. Murphy disagreed and explained that for it to be dedicated to the Sanitation District, it has to be a stand-alone tract. He stated that their proposal was just to grant easements across to the detention area. Mr. Newman asked that the Committee address this issue.

Mr. Costello asked if there will be a stand alone lot for the lake. Will the lot owners maintain the lake? Mr. Murphy responded that the lake is existing and will be the responsibility of the lot owners. He put an easement around the lake to show that there is a drainage easement. He stated that the photos submitted by Ms. Nixon show flooding along the road. Mr. Costello asked if they will direct water along the road to the lake. Mr. Murphy responded "yes" and stated that they will try to take care of their stormwater in the central part of the site.

Ms. Nixon stated that the water is coming directly off the property and zooming into the ditch and onto her property because it is not absorbed.

Mr. Poe noted that Joe Conrad mentioned that one of the detention areas was going to be on his property, but no one discussed it with him. Mr. Wallace responded that there are no detention areas on any properties other than properties owned by the Fryars. He stated that the only mention of Joe Conrad's property was in the Staff Recommendation that there be an additional stub-in street. In response to a comment from Mrs. Poston, Mr. Wallace stated that there is detention along Mr. Conrad's property line, but not on his property.

Mrs. Kegley stated that maintenance of the detention areas will be addressed in Committee. She noted the comment about recourse if a developer does not live up to the agreements. Mr. Costello responded that if the Zone Change is approved subject to agreed conditions, and Fiscal Court approves the Zone Change, the Planning Commission is charged with enforcing the conditions through the Subdivision Review process. If something happens five years down the road and the condition is still in effect, there is recourse to make sure that the

developer complies. If the condition is driven by the developer and the developer is still around, or if it is caused by the individual homeowner in the subdivision – the Planning Commission can enforce the conditions.

Mr. Bunger questioned the width of the street. Mr. Wallace responded that it is 25 feet with curb and gutter.

Mr. Bunger asked if the finished grade when the site is completed will be such that the trees will survive and not be negatively impacted. Mr. Murphy responded that the intent is to save the mature trees around the perimeter of the site. Some of the trees, especially where the roads go, will be impacted. He stated that if they were to put three feet of fill around a tree, they may as well take it down – the concept is to grade where the roads are and no more than that.

Mr. McMillian asked if the backs of houses will face Bullittsville Road. Mr. Wallace responded “yes” and stated that they will have street addresses on the interior street. Seven lots will have the backs of houses towards Bullittsville Road.

Mrs. Wilson asked if Ms. Nixon wished to submit the document she has from the Public Works Department. Ms. Nixon submitted the document (see Exhibit 2). Mr. Costello stated that it is a counter and questioned if the number of cars was in a 24-hour period. Ms. Nixon responded that it was from last Thursday until yesterday (Tuesday).

Mrs. Poston questioned the buffer around the property. Mr. Light responded that it would only be what the Planning Commission imposes as a condition. Mrs. Poston stated that there is no minimum and the applicant has proposed fifteen feet.

Mrs. Poston stated that there were questions about the average home size and cost. Mr. Wallace responded that he believes that question violates the Fair Housing Act – the economic value of a house is not to be considered. He stated that it will be a quality subdivision and the price will be driven by the builders. Other subdivisions with similar lot sizes sell in the \$175,000 to \$200,000 range. Mr. Costello stated that the Planning Commission can regulate lot sizes and setbacks – but not whether it is a two-story or a ranch, or the price of housing. If the Planning Commission could regulate the price of housing and set a standard, in ten years that standard would be low. He stated that there is a federal law that deals with housing, but the Planning Commission can look at how the overall development fits in with what is developed in the area. He noted that there were comments about Brentwood and Millakin in terms of lot sizes and arrangement of the lots.

Mrs. Poston stated that there were questions about sewage and where the sewers will go through to meet this property. Mr. Murphy indicated the existing gravity

line and force main. He stated that the easement abuts this property and is right along the property line. He stated that the Sanitation District prefers, due to the topography, that they go with a gravity system – which would involve easements. The alternative would be to tie into the force main or along Bullittsville Road and tie into the sewer on KY 20. It is just a question of which way is most feasible.

Mrs. Poston questioned the gas line. Mr. Murphy responded that they did not know about the gas line. Mrs. Poston asked that they research the gas line and bring a response to Committee.

Mrs. Poston questioned the density of Brentwood subdivision. Mr. Light responded that in the early 1990's Brentwood was changed from RSE to RS. At that time RS was two units per acre. In 1996, the RS zone was changed to allow three units per acre, and the second phase of Brentwood would be three units per acre. He will provide build-out numbers to the Committee.

Mrs. Poston asked if there were any more comments or questions.

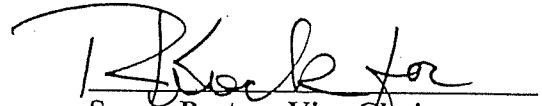
Mr. Wallace stated that storm water detention will be covered in Committee and they will submit a Stormwater Detention Plan. He stated that the proposal is for 2.48 units per acre and that is what they will build if the request is approved. They are bound by what they submit and what they agree to as conditions. He stated that there are sections of Brentwood being developed at three units per acre. Durward Fryar, Tom Fryar, Greg Rudolf, and Jerry Brown will be in a partnership doing the development and there are no other developers involved. There are currently no contracts to sell lots to builders, but there are preliminary discussions with builders. He stated that the houses will be comparable to most subdivisions with this lot size. They have reviewed the Staff Recommendation regarding a decel lane and are in general agreement with all the Staff Recommendations. The issue of traffic on Bullittsville Road is a speed issue that needs to be controlled with enforcement.

Ms. Nixon questioned the proposed driveway coming onto Bullittsville Road – how close is it to her driveway? Mr. Murphy responded that the centerline is approximately 200 feet from her driveway. Ms. Nixon stated that the sewer line may only be large enough to serve Brentwood. Mr. Costello responded that there is a letter attached to the Staff Report from the Sanitation District saying that sewer is available and they can connect to it. Ms. Nixon asked if that refers to the Elizabeth Conrad line or the one for Brentwood. Mr. Costello will discuss that question with the Sanitation District.

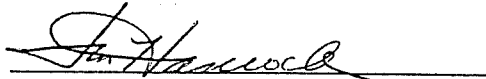
There being no further comments, the Mrs. Poston stated that the Committee Meeting for this item will be on August 6, 2003 at 4:00 PM in this room. The public is welcome to attend, but no additional testimony will be taken. This item will be on the Agenda for the Business Meeting on August 20, 2003 at 7:30 PM.

Mrs. Poston closed this Public Hearing and called for a five-minute recess.

APPROVED:


Susan Poston, Vice Chairwoman

Attest:


Jan Hancock, Recording Secretary

Exhibits –

1. Power Point presentation submitted by attorney David Wallace “Fryar Subdivision – Request for Map Amendment RSE to RS”
2. Pictures submitted by Ms. Nixon
3. Traffic data submitted by Ms. Nixon (3 pages)

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: September 17, 2003

RE: Request of **Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for a 18.77 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family dwellings.

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.

Janet R. Kegley
Janet Kegley, Chairwoman

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

R. Barlow
Randy Barlow

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

Greg Breetz
Greg Breetz

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

Kim Bunger
Kim Bunger

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

Susan Poston
Susan Poston

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

Charlie Reynolds (Alternate)*

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

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

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: September 3, 2003

RE: Request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for a 18.77 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family dwellings.

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.

Janet Kegley

Janet Kegley, Chairwoman

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred

Greg Breetz

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

Susan Poston

Susan Poston

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred

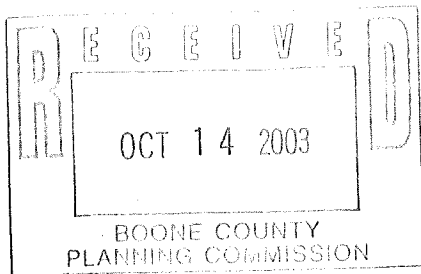
Randy Barlow (Alternate)*

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____

Charlie Reynolds (Alternate)*

For Project ____ Absent ____
Against Project ____
Abstain ____ Deferred ____

TOTAL: 5 DEFERRED — FOR PROJECT — ABSENT
— AGAINST PROJECT — ABSTAIN



October 14, 2003

VIA FACSIMILE 334-3105
and Ordinary U.S. Mail

James E. Parsons
Boone County Administrator
P.O. Box 900
2950 Washington Street
Burlington, KY 41005

**Re: Application for Zoning Map Amendment – Request of Durwood Fryar,
Pearl Jean Fryar, Tom Fryar and Theresa Fryar**

Dear Mr. Parsons:

Please be advised that this firm represents the applicants in the above referenced zoning map amendment request. At this time, my clients wish to formally withdraw their application for zoning map amendment, thereby negating the necessity of any action by the Boone Fiscal Court regarding the application.

Thank you for your assistance in this matter. If you need any further information or documentation from me, please immediately contact me.

Sincerely,

Cors & Bassett, LLC

A handwritten signature in black ink, appearing to read "H. David Wallace".

H. David Wallace

HDW/rjs

cc: Mr. Kevin Costello (via facsimile and regular mail)

Mr. Durwood Fryar

229871.1

TRANSACTION REPORT

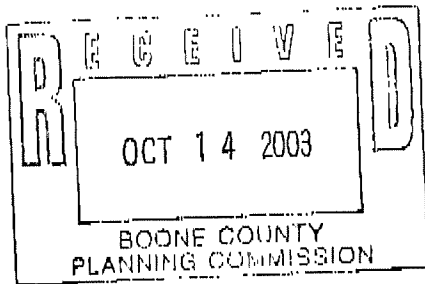
Transmission
Transaction(s) completed

NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
895	OCT. 14 13:27	96894010	0' 00' 38"	001	OK	Normal

OCT-14-2003 12:50

CORS & BASSETT, LLC

859 331 5337 P.02



October 14, 2003

VIA FACSIMILE 334-3105
and Ordinary U.S. Mail

James E. Parsons
Boone County Administrator
P.O. Box 900
2950 Washington Street
Burlington, KY 41005

**Re: Application for Zoning Map Amendment – Request of Durwood Fryar,
Pearl Jean Fryar, Tom Fryar and Theresa Fryar**

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Thank you for your assistance in this matter. If you need any further information or documentation from me, please immediately contact me.

Sincerely,

Cors & Bassett, LLC

ATTORNEYS AT LAW

1881 Dixie Highway, Suite 350
Ft. Wright, Kentucky 41011

Telephone: (859) 331-6440
Telecopier: (859) 331-5337

FAX TRANSMITTAL SHEET

DELIVER TO: Kevin Costello	COMPANY / FIRM:	FAX NUMBER: 334-2264
CC:		

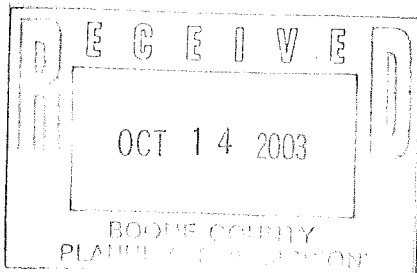
Date: October 14, 2003 **Total Pages:** 2 (including cover sheet)

From: H. David Wallace
Partner
Direct Dial: 578-5412
E-Mail: hdw@corsbassett.com

Re: Fryar - Application for Zoning Map Amendment

Please deliver this information immediately upon receipt to the person named above.
If you do not receive all the pages, please call Roberta at (859) 331-6440.

Comments:



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