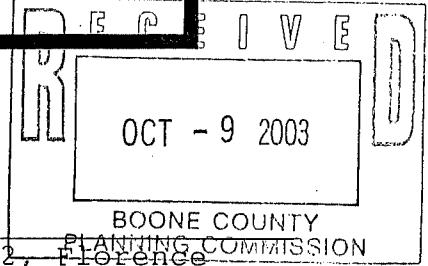


APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION



(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Name of Project U.S. 42 Medical Center
- 2. Location of Project Dilcrest Drive & U.S. Highway 42, Florence
- 3. Total Acreage of Site (37,520 sq. feet) .8613 acres
- 4. Current Zoning of Site RIF
- 5. Proposed Zoning (Classification being requested) 0-1A
- 6. Proposed Uses (please specify each use) Professional offices, principally medical offices
- 7. Names of Applicant(s) Eighteen, LTD.
Phone Number 859-371-0730 Fax No. 859-371-0745
- 8. Address of Applicant(s) 7415 Burlington Pike
Florence Kentucky 41042
City State Zip
- 9. Name of Property Owner(s) Dennis C. & Gayle S. Helmer and David L. & Sandra G Helmer
Phone Number 859-371-0730 Fax No. 859-371-0745
- 10. Address of Property Owner(s) 7415 Burlington Pike
Florence Kentucky 41042
City State Zip
- 11. Proposed Building Intensities (please specify) 2 Four Thousand (4000) square foot buildings to be used as professional offices.
- 12. Are there any existing buildings on the site? NO
How many? NONE
- 13. Deed Book 411 Page No. 246 Group No. 712 2048B
- 14. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance
- 15. Have you submitted a Concept Development Plan? YES
- 16. Have you had a pre-application meeting with BCPC Staff? YES
- 17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

- Boone County Water District
- Florence Water and Sewer Dept.
- Cinergy/U.L.H.&P. Co.
- 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

EXHIBIT

“A”

STAFF REPORT

Request of **Eighteen, Ltd. (applicant)** for **Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners)** for a Zoning Map Amendment from Residential One Family (R1F) to Professional Office One (O-1A), and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet, for a 0.8613 acre site located on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a zone change and a variance to allow an office development.

November 19, 2003

REQUEST

This application is for a zone change from Residential One Family (R1F) to Professional Office One (O-1A) for a 0.8613 acre vacant lot on the southeast corner of the US 42/Dilcrest Drive intersection. The application form states that the proposed uses include "professional offices, principally medical offices." A dimensional variance from Section 3645 "Buffer Yards" is also requested to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet; a minimum 60 foot wide buffer area is required without the provision of a berm, masonry wall, or fence in the buffer area, and a minimum 30 foot wide buffer area is required if a berm, masonry wall, or fence is provided - the narrowest part of the proposed buffer yard between the rear of the western building and the rear property line is 24.92 feet without a berm, masonry wall, or fence. The buffer yard width between the driveway by the curb cut and the rear property line scales to approximately 16 feet on the Concept Development Plan - a waiver for this reduction can be granted the Zoning Administrator.

The Concept Development Plan illustrates two identical buildings whose basic plan dimensions are 82 feet by 50 feet at the widest points (approximately 4,000 square feet each). Each structure is a one story, brick building which has a main hipped roof massing with two gabled massings which face US 42. Arched windows and doorways are proposed on the front facade facing US 42 and defined sills are proposed on the other facades (architectural concept is attached).

Vehicular areas are proposed along both street frontages. An access drive is proposed parallel to Dilcrest Drive and a thirty seven (37) space parking lot is proposed along the US 42 frontage. Two access points are proposed along Dilcrest Drive - a two way access is proposed in the southwest corner of the lot away from the US 42/Dilcrest intersection and an exit only access point is located near the street intersection itself. A "future" drive connection is shown to connect the parking area with the adjoining property to the east along the US 42 frontage. Sidewalks are proposed along both the front and rear of the buildings.

Landscape areas are proposed along both street frontages and the two interior lot lines. As noted above, a dimensional variance has been requested for the width of the rear buffer yard which abuts the adjoining residential properties to the south. A landscape concept has been submitted (attached). A storm water detention basin is proposed in the southeast (rear) corner of the lot, and a courtyard space is proposed in between the two buildings, with an ornamental fence proposed at each open end of this space. A retaining wall is proposed near the rear (south) property line - this is illustrated as a modular wall on the architectural elevations. A monument style sign is noted near the US 42/Dilcrest intersection.

SITE HISTORY

A request for a zone change from R1F to C-3 and a variance to reduce the rear landscaping buffer area to allow a flower retail center was submitted in 1994. The Planning Commission recommended conditional approval of the application on March 16, 1994, although the request was denied by the Florence City Council on June 7, 1994. A request for a zone change from R1F to C-2 and a variance to reduce the rear yard setback to allow the O-1 uses permitted in the C-2 zone by reference was submitted in 2000. A public hearing for this request was held on July 26, 2000 and the application was withdrawn on September 6, 2000.

SITE CHARACTERISTICS

As mentioned previously, the site is located on the southeast corner of the US 42/Dilcrest intersection and is an open field that contains 0.8613 acres. The site has approximately 148 feet of frontage along Dilcrest Drive and approximately 214 feet of frontage along US 42. A large masonry retaining wall runs along the east property line on the adjoining lot. The lot drains away from the street frontage towards the center area of the lot's rear - the greatest difference in elevation on the site is approximately 16 feet between the highest section along US 42 and the lowest point at the rear.

ADJOINING USES AND ZONING

The uses adjoining the subject site include the following:

- A. A subdivision comprised of detached, single family residences is located to the south and southwest (R1F).
- B. A vacant lot is located to the west across Dilcrest Drive, and a detached, single family residence is located further to the west (R1F).

- C. A retail pharmacy is located to the northwest, on the northwest corner of the US 42/Mall Road intersection, and two auto repair facilities are located directly to the north across US 42 (C-2). An apartment complex is located to the northeast, along the north side of the US 42 (UR-2).
- D. A shed/play equipment dealer and an auto repair facility is located immediately to the east along the south side of US 42, and a multi-tenant commercial building and a drive-through coffee booth are located further to the east (C-3).

RELATIONSHIP TO COMPREHENSIVE PLAN

The 2000 Boone County Comprehensive Plan's Future Land Use Map designates the site for "Suburban Residential" (SR) uses. This designation is described as "single family housing of up to four units per acre. This classification also includes any low density or estate residential developed as a formal subdivision."

The Land Use Element provides the following quotes that relate to the area.

- A. Development along US 42 from Mall Road to the Ewing Boulevard area should continue to be a mixture of professional and local, traffic-oriented commercial activity ("Florence Commercial Area," pg. 163).
- B. Vacant parcels and existing residences along the south side of US 42 near Dilcrest Drive and Bentley Court may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. An extremely well-designed, low-impact professional office use may be considered for this area, however, the potential developer must submit detailed buffering and building design plans, and demonstrate that the project would establish a positive focal point for the US 42 corridor in addition to minimizing visual, traffic, and stormwater impacts on adjacent residential uses. All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from US 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended ("Gunpowder Area," pg. 165).

The Land Use Element provides the following general statements which relate to the proposal.

- A. Developments in Boone County must recognize the potential impacts upon adjoining land uses and incorporate a transition of land uses, building setbacks, and/or landscaping to minimize these impacts. Potential impacts include visual, noise or vibrations, odors, dust, smoke, and light. Buffering to mitigate these impacts should be an integral part of the design of proposed projects; existing site features should be used in meeting this guideline. Developments should provide buffering along public roadways, to soften the visual impact. Appropriate wooded areas and stream valleys should remain as greenbelts and open space within developments and between developments ("Buffering," pg. 159).
- B. Developments in Boone County must include landscaping to accompany the proposed project. This landscaping should be designed to improve the public view of a development, and should be incorporated into parking lots and other vehicle circulation areas as well as within open spaces and around structures. Landscaping is intended to minimize the visual impacts of the development from adjoining properties and roadways . . .

Developments along major roadways in Boone County must include landscaping and/or the use of berms between the development and the right-of-way in order to promote the aesthetic appearance from the roads and to facilitate the compatibility of differing uses ("Landscaping," pg. 159).

- C. Developments in Boone County must recognize the potential impacts of stormwater run off. Developments must design and incorporate adequate provisions for the channelization and control of the rate of stormwater flow on and from the site . . . ("Stormwater Management and Erosion Control," pg. 159).
- D. Developments in Boone County must recognize the potential impacts of associated traffic on adjoining properties and transportation systems. The need exists to protect the capacity of the existing roadway network, and to plan improvements to accommodate new development and travel patterns. Access management provisions include the coordination of curb cuts, adequate corner clearance and site distance for access points, adequate space between access points, shared access points and parking facilities, and provisions for access connections to adjoining properties, and dedication of public right-of-way. In subdividing property, arterials or collectors should not be used for direct access to lots, rather a system of local streets should feed into the collector and arterial system ("Access Management," pg. 159).
- E. Development along existing arterials and collector roadways should not have direct driveway access, but be served by a local street. Appropriate road connections should be constructed to provide alternate routes for traffic to and through specific projects and to enhance the capacity of existing streets. The traditional grid system can provide an alternative to typical suburban design. Parallel and frontage roads should be used to minimize impacts of individual sites on collector and arterial roadways ("Transportation and Pedestrian Network," pp. 159 - 160).

- F. Developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify a specific development, but should not be used as a means to compete for motorist attention ("Designs, Signs, and Historic Preservation," pg. 160).

The Business Activity Element ("Areas of Future Commercial Activity," pp. 70 - 72) makes the following statements that relate to the general area.

- A. Since the immediate Florence area figures so prominently in Boone County's commercial activity, this region has the momentum to continue dominating any expansion of commercial activity.
- B. Many problems with the location and arrangement of commercial uses have emerged, especially along the KY 18 and U.S. 42 corridors. Commercial developments along KY 18 and U.S. 42 west of Mall Road should not be regionally oriented nor should they attract additional traffic, but rather be served by the existing or future population of the area.
- C. Commercial developments that occur in the KY 18 and U.S. 42 corridors should be limited in scale (e.g. building, intensity, use, etc.) and clustered to serve growing residential neighborhoods.
- D. Other types of projected commercial activity include the eventual redevelopment of older commercial areas, developments and corridors. This includes sites along Dixie Highway, U.S. 42 (in Florence), KY 18 (in Florence) and Dream Street. The 1990 Mall Road Study should be redone to address business vacancy issues, traffic circulation, and general image of the corridor.

The site is within the "Union-West Florence Area" section outlined in the Housing Element (pp. 87 and 88). However, this particular site and area is not specifically discussed in this section of the Comprehensive Plan.

The 2000 Boone County Comprehensive Plan Goals and Objectives provide the following pertinent statements.

- A. Development issues shall be viewed in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, within appropriately planned and designed neighborhood developments ("Overall," Objective 2).
- B. Proper design principles shall be applied in development ("Overall," Objective 3).

- C. Future growth shall be accompanied by adequate infrastructure and services. Existing infrastructure and services shall be maintained or improved as needed ("Overall," Objective 4).
- D. Boone County shall strive to achieve both a diversity and balance in land use. ("Overall," Objective 6).
- E. The needs of Boone County's population base are measured and fulfilled through the provision of orderly growth ("Population," Goal).
- F. New development or redevelopment within Boone County is designed, constructed and operated in such a way that the quality of the existing physical environment and social environment are protected and enhanced. Development within Boone County preserves and promotes a better quality of life ("Environment," Goal).
- G. New development or redevelopment shall attempt to design sites utilizing existing topography and vegetation, and encourage preservation of the existing character of the land. New development shall be designed in harmony with the physical environment in such a way that each site's existing physical assets are used. Residential development design in particular shall minimize grading work as opposed to clearing the entire site, without unduly restricting the development. 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).
- H. Employment opportunities shall be encouraged for the citizens of Boone County ("Economy," Objective 1).
- I. Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ("Business Activity," Goal).
- J. Compact, efficient development patterns shall be encouraged for business districts (e.g. industrial, commercial and office) with appropriately sized and well maintained buffer spaces between the business use and other land usage ("Business Activity," Overall Objective).
- K. Commercial uses shall be limited to strategic locations serving trade areas and neighborhood needs and shall have safe and effective access and ample parking space ("Business Activity," Commercial [Retail and Office] Objective 1).

- L. The large scale mixing of commercial and non-commercial uses shall occur in planned developments or in areas where consideration has been given to assure compatibility with surrounding land uses. The location of large scale commercial uses shall take into consideration existing or planned infrastructure conditions so as to protect the existing and future population and businesses. Small scale mixing of commercial uses within residential areas shall be carefully assessed and properly placed so as to enhance the neighborhood. Architectural Design Review and consistent sign standards shall be implemented on a corridor by corridor basis, when justified by legitimate land use planning principles ("Business Activity," Commercial [Retail and Office] Objective 2).
- M. New or redeveloped residential areas shall be designed to establish clearly defined neighborhoods with a mix of retail, public and recreational uses. Established neighborhoods shall be protected and enhanced and deteriorated neighborhoods shall be regenerated ("Housing," Objective 9).
- N. New infrastructure systems shall be built to definite planned and balanced capacities and for definite urban and rural forms ("Public Services and Facilities," Objective 2).
- O. Proper access to adjoining property shall be provided and/or retained when a property develops or redevelops ("Transportation," 2nd Goal, Objective 3).

STAFF COMMENTS

1. First, the Planning Commission and City Council will need to determine whether the proposal is in agreement with the Comprehensive Plan. As outlined previously, the Future Land Use Map designates the site for Suburban Residential uses, the text of the Business Activity Element discusses the area in a general sense, and this specific area is not discussed in the Housing Element. The text of the Land Use Element does discuss this specific area, stating that it "may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided."

The Land Use Element further states that "an extremely well-designed, low-impact professional office use may be considered for this area" provided a number of stipulations are met. In brief, these include the following (refer to previous Comprehensive Plan section for verbatim text).

- A. Detailed buffering and building design plans must be submitted.
- B. Demonstrate that the project would establish a positive focal point for the US 42 corridor.

C. Minimize visual, traffic, and stormwater impacts on adjacent residential uses.

The text continues by stating "all developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from US 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended." In short, the Land Use Element allows for the potential of three different types of basic uses on the site, with a successively higher tier of expectations based on the nature of the proposed use. Agreement with the Comprehensive Plan is mentioned in the application materials.

Relative to criterion #2 which pertains to inappropriateness of the existing zoning classification and appropriateness of the proposed zoning classification, the governing bodies need to consider that the site is located at the signalized intersection of two arterial streets, on a strip that is very commercial in nature, and will also need to consider the viability of the uses permitted in the R1F zone at this location.

2. The applicant has requested a dimensional variance to reduce the required rear buffer yard width from 60 feet to 24.92 feet at the smallest point to the rear of the western building, a decrease of 58.5 percent (if a berm, wall, or fence were provided, the required buffer width would be 30', representing a decrease in the required width of approximately 17% to 24.92'). Section 251 "Application and Standards for Variances" (attached) states there must be a finding "that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations." This section also outlines specific issues which must be considered when making such findings. The essential purpose of the expanded buffer yard between the R1F and O-1A zones is to assure that there is appropriate separation, buffering, and delineation between adjoining residential and commercial uses, although all components of Section 251 need to be evaluated before an appropriate decision can be made on this issue.

If the variance is granted, specific planting standards for the rear buffer area which appropriately relate to the width and topography of the space should be determined as a condition of approval. The applicant's narrative states that a fence or berm could be used, but that neither of these elements would add any real qualitative

measure to the development. Based on the design of the buildings and the grade of the lot, Staff has no real disagreement with this contention, but rather contends that a densely planted combination of varying evergreen and hardwood trees (with very few ornamental plantings such as flowering trees and small shrubs), along with the potential hedge along the rear walk discussed in detail under #5A below, is a viable buffering solution based on the proposal submitted. For informational purposes, not all of the required rear buffer plantings required by Article 36 of the zoning regulations, by either types or quantities, are shown on the submitted conceptual landscape plan.

The width of the rear buffer area between the driveway near the curb cut and the rear property line scales to approximately 16 feet. Staff contends that this portion of the buffer area could be expanded to at least the approximate 25 foot buffer width indicated on the Concept Development Plan for the adjoining building, especially when considering that the Florence Public Services Department does not believe that there is enough room to create a separate southbound left turn lane into the site on Dilcrest Drive (refer to attached 10/29/03 e-mail from Peter Glenn), and because as proposed a rather small buffer zone is separating an active vehicular area from a detached single family residence.

3. As stated on the application form, the applicant has proposed to limit the use of the site to "professional offices, principally medical office." Based on the direction given by the Land Use Element text ("an extremely well-designed, low-impact professional office use"), and the fact that some of the uses permitted in the O-1A are higher activity/higher turn over uses which do not have the same operational characteristics as a professional office (such as drive-through banks, eating and drinking establishments, business colleges, and recreation centers/gymnasiums as Principally Permitted Uses and day care centers as a Conditional Use), staff recommends that any approval of this application include a condition which limits the use of the site to "professional office and medical office uses which are principally permitted in the O-1A zone."
4. A driveway connection to the adjoining commercial property to the east along US 42 is shown on the Concept Development Plan in a hatched line and labeled "future connection." Due to the Land Use Element's direction ("all developments must provide for connecting parking lots or a frontage road"), and to ease impacts on the signalized intersection at the US 42/Dilcrest intersection, especially peak hour volumes, this connection should be constructed along with the initial site improvements versus some undefined point in the future. For the applicant's information, the "right-out" only access point shown on the Concept Development Plan near the intersection is not permitted by Article 32 "Transportation Management Regulations" of the zoning regulations. Additionally, a projected widening of US 42 that would likely affect any development of this site is anticipated - a precise alignment or extent of right-of-way acquisition has not yet been determined (refer to 11/4/03 e-mail from Bob Hill, Kentucky Transportation Cabinet).

5. Staff is concerned with the relationship of the proposed development to the adjoining residential uses, especially due to the close proximity of the adjoining residence on Dilcrest. Particular issues include:

A. As discussed under Section #2 above, a variance for the rear buffer yard width has been requested and Staff has recommended that specific landscape objectives and standards be set forth should the variance be granted (densely planted combination of varying evergreen and hardwood trees). As part of this scheme, Staff recommends that columnar evergreens (arborvitaes, upright junipers, etc.) or a tall continuous hedge be provided along the walk at the rear of the building (in addition to the hardwood and evergreen trees mentioned above). This would entail moving the rear walk immediately against the rear facade in order to provide a terrace area for these plantings. This scheme would also make more effective use of smaller plantings than shrub beds on the slope itself.

B. This site acts as the entrance or gateway to the adjoining Dilcrest area, as well as the transition between the commercial strip and the single family neighborhood. When considering that the buildings are designed to appear as larger single story residences, it is Staff's conclusion that the proposed design appropriately fulfills this role, provided the materials use understated natural tones.

Relative to signage, a monument sign has been noted on the Concept Development Plan and building mounted signage has not been outlined. Staff suggests that any monument style sign use the same brick material, colors, and design detailing as the buildings in addition to exterior illumination only, and that any building mounted signs be limited only to the front facade which faces US 42. Additionally, in order to integrate the dumpster enclosure into the overall design scheme, it should also use the same brick material, colors, and design detailing as the buildings.

C. Site lighting has not been addressed. Based on the lack of separation between the proposed use and the adjoining residential properties (little existing landscaping and no favorable topography for shielding lighting), Staff recommends that any site lighting behind the front building line be limited to bollard style fixtures only. These low scale fixtures will allow for safety and security, but will help avoid light pollution onto the adjoining properties.

6. Comments from Peter Glenn of the Florence Public Services Department are attached (e-mail dated 10/29/03). While several of the issues raised pertain more to a site plan type review, concerns of particular relevance for the zone change/Concept Development Plan evaluation include #1 (two curb cuts not

permitted), 4 and 5 combined (feasibility of dumpster location without drive connection/dumpster aligned in a one-way movement), 8 (size of site for two buildings), 9 (feasibility of left turn lane on Dilcrest), and 10 (detention overflow route).

7. For the applicant's information, all the standard zoning requirements will need to be met through the major site plan process should the application be approved, with the possible exception of the rear buffer yard width and its related landscaping due to the exceptions requested. Presumably due to the conceptual nature of the plan, compliance with all particular requirements has not been shown (i.e., bike rack, sidewalk connection between building and street, some landscaping requirements, as well as some issues noted in the previously mentioned Glenn/Florence Public Services e-mail).

CONCLUSION

This request needs to be evaluated by the governing bodies in terms of the three criteria for approving a Zoning Map Amendment as stated in Article 3 "Amendment" of the Boone County Zoning Regulations, the variance standards in Section 251 of the zoning regulations, and the potential impacts on the existing and planned uses in the area. The Future Land Use Map will need to be amended if the Planning Commission and City Council approve this request.

Respectfully submitted,

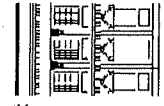
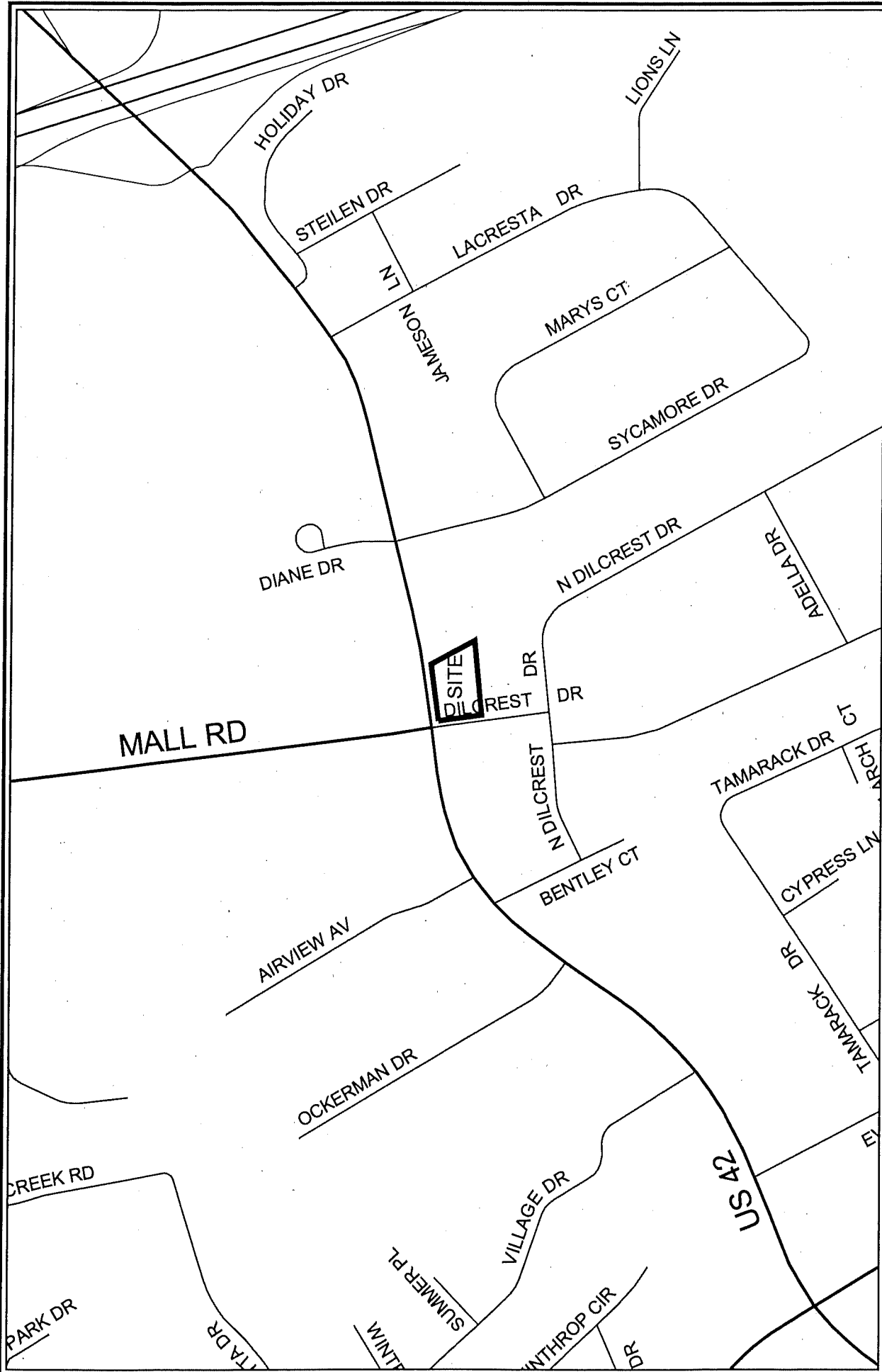


Kevin T. Wall, AICP CDT
Director, Zoning Services

KTW/pr

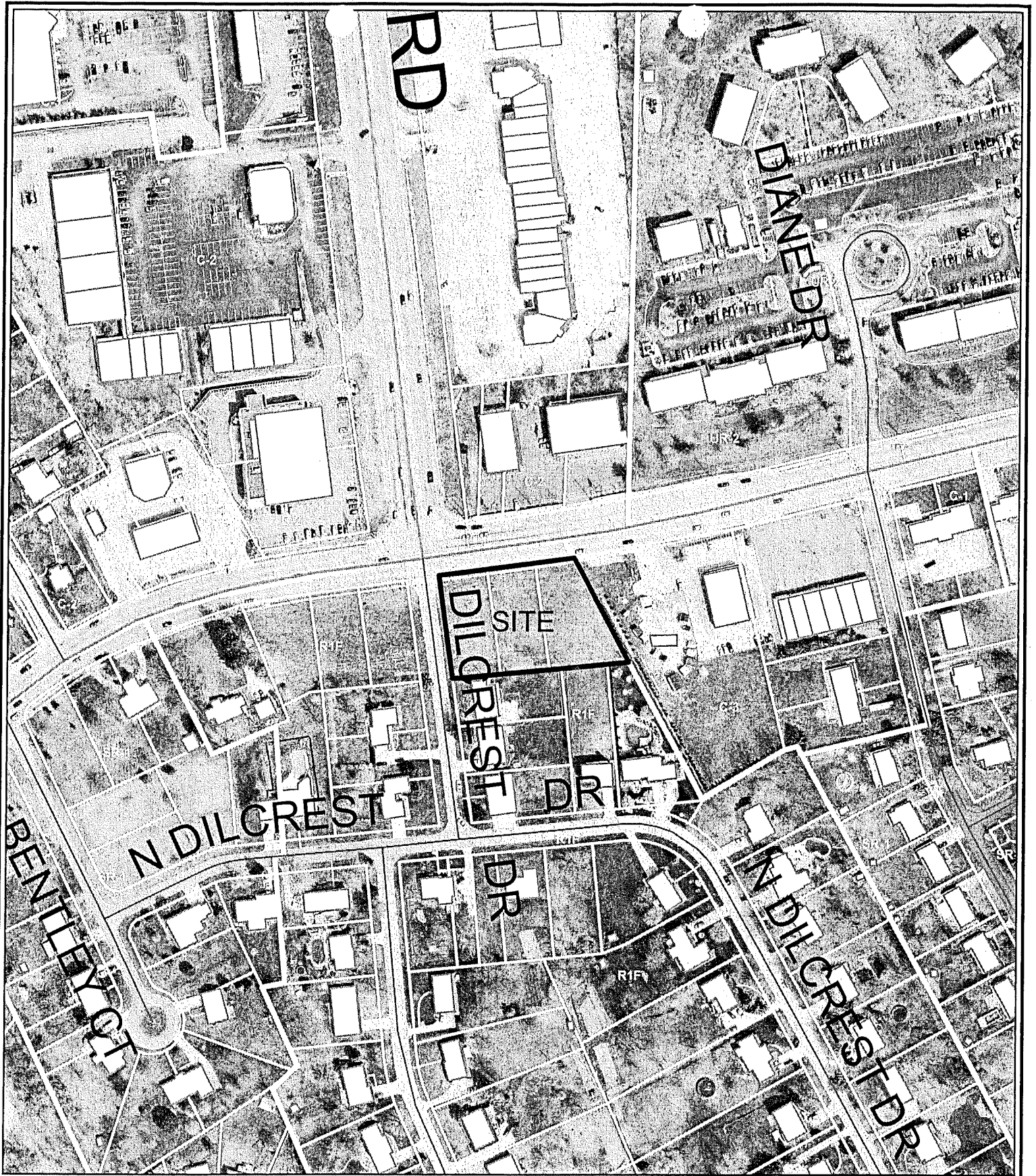
attachments:

- * location map
- * aerial photo w/ zoning information
- * Future Land Use Map excerpt
- * topographical map
- * Section 251 "Application and Standards for Variances" of Boone County Zoning Regulations
- * 11/4/03 e-mail from Bob Hill, Kentucky Transportation Cabinet
- * 10/29/03 e-mail from Peter Glenn, Florence Public Services Department
- * application materials including narrative and Concept Development Plan
- * public comments



1 inch equals 500 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 October 27, 2003

Location



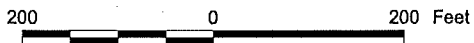
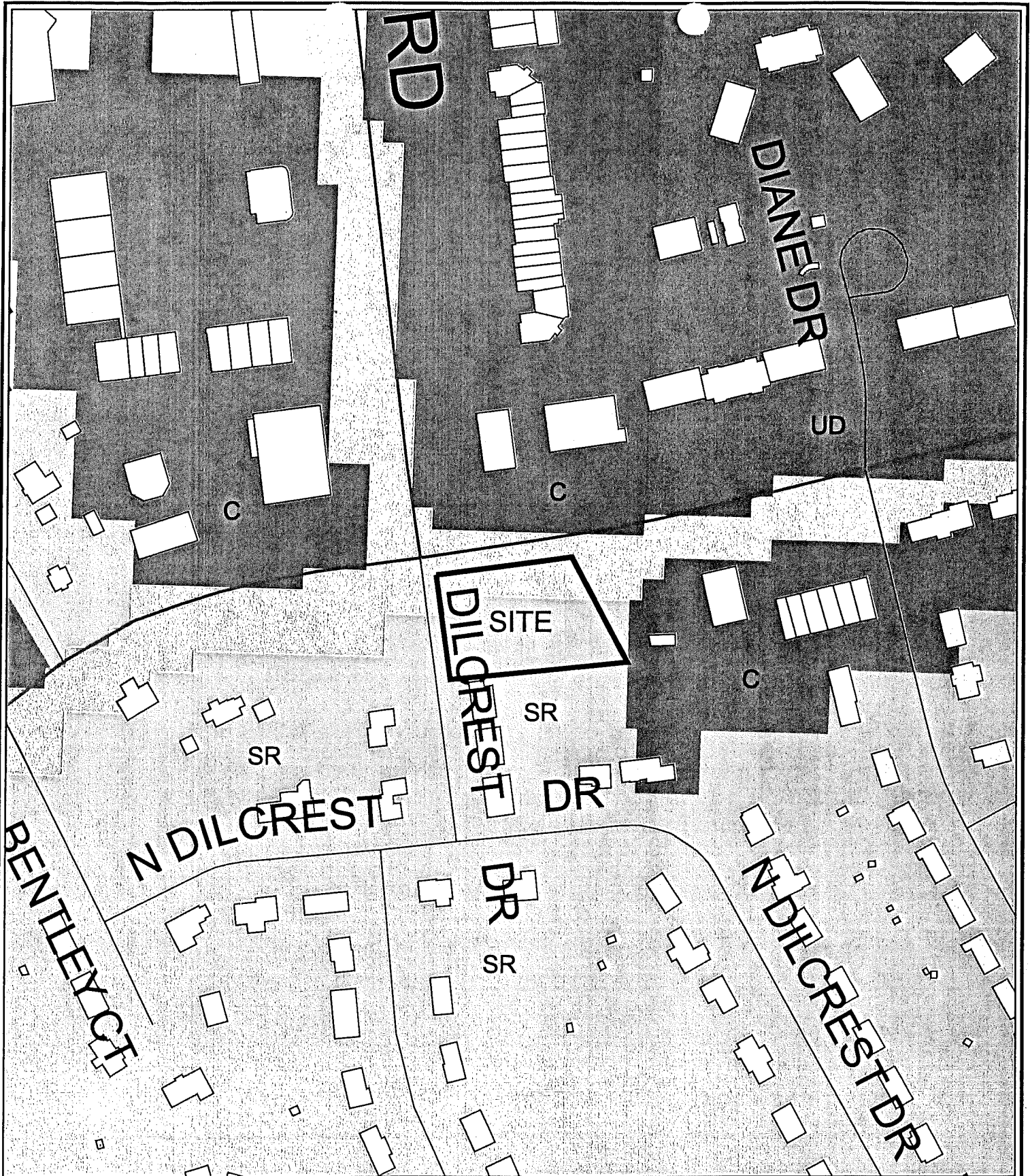
Zoning

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 GIS Services Division
 October 27, 2003

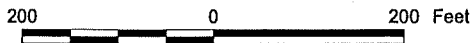
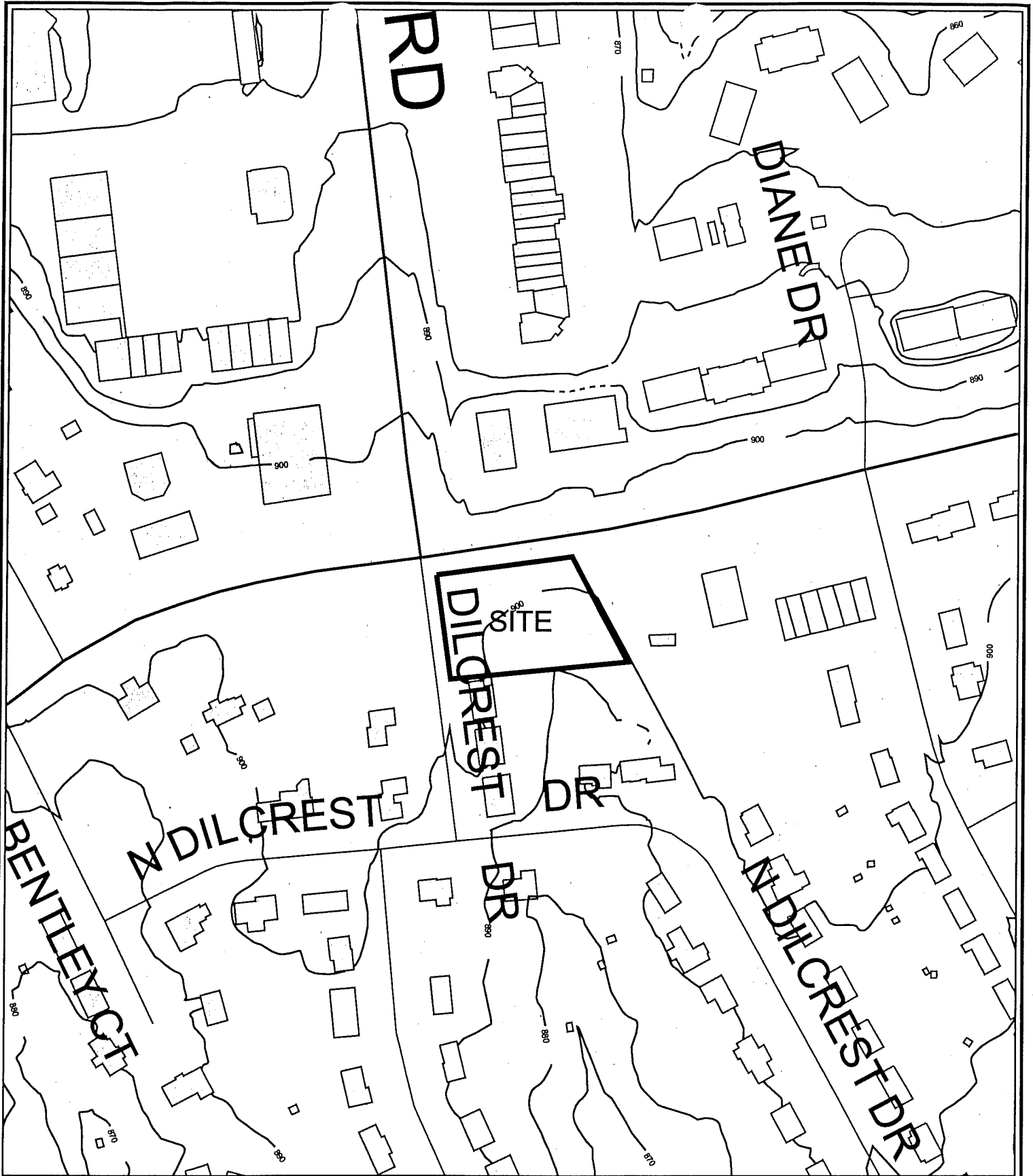




Future Land Use

1 inch equals 200 feet
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 Boone County Planning Commission
 GIS Services Division
 October 27, 2003





Topography

1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
October 27, 2003



SECTION 250

Dimensional Variance

The Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. Variance is defined as a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of K.R.S. 100.241 to 100.247.

Variances are appropriate by reason of exceptional narrowness, shallowness or unusual shape of a site on the effective date of these regulations or amendment thereof or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the above dimensional terms of the zoning regulations would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The dimensional terms pertaining to height, width and location involve such items as structures, parking space stalls, driveway aisles, and landscaped buffers and signs (excepting the number of signs). Lot frontages, the size of yards and open spaces refer to minimum yard dimensions such as building setbacks. The Board shall not possess the power to grant a variance to permit a use of land, building or structure, which is not permitted by the zoning regulation in the zone in question, or to alter the density requirements in the zone in question. Density is defined as the number of units or square footage of a building per net acre of land developer. A variance runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

All adjoining property owners shall be notified of the public hearing at least two weeks in advance. The applicant shall be responsible for supplying the names and addresses of all adjoining property owners and shall pay costs of notification. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of property owners. A sign, that announces the fact that a Board of Adjustment and Zoning Appeals hearing has been scheduled, shall be posted on the subject property at least 7 days prior to the public hearing.

SECTION 251

Application and Standards for Variances

A variance from the terms of this order shall not be granted by the Board of Adjustment and Zoning Appeals unless and until a written and signed application for a Variance is submitted to the Zoning Administrator and the Board of Adjustment and Zoning Appeals, along with any additional information the Board may find appropriate.

1. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - b. The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

2. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

SECTION 252

Supplementary Conditions and Safeguards

In granting any appeal or variance, the Board of Adjustment and Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this order. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this order and punishable under Section 430 of this ordinance.

SECTION 253

Notice of Hearing

Notice of the time, place and purpose of a hearing of a notice of appeal or application for variance shall be published in a newspaper of general circulation at least seven (7) days, but not more than twenty-one (21) days before the date of the hearing.

Also, all adjoining property owners involved in an appeal and a variance request shall be notified in writing of the public hearing at least two weeks in advance. The applicant shall be responsible for supplying the names and addresses of all adjoining property owners and shall pay costs of notification. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of property owners. In addition, a written notice of the appeal shall be made to the applicant or appellant and the Zoning Administrator and a sign, that announces the fact that a Board of Adjustment and Zoning Appeals hearing has been scheduled, shall be posted on the subject property at least 7 days prior to the public hearing if a specific site is being reviewed and subject to an appeal.

SECTION 254

Action by Board of Adjustment and Zoning Appeals

The Board of Adjustment and Zoning Appeals shall hear and decide upon the notice of appeal or application for variance within sixty (60) days of filing. The Board of Adjustment and Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 245, or disapprove the request for appeal or variance. The Board shall further make a finding that the reasons set forth in an application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. If the request is disapproved, the board shall state the reasons for disapproval in writing. Appeals from Board decisions shall be to the appropriate court of jurisdiction as provided by law.

SECTION 260

Conditional Use Permits

Conditional uses shall conform to the procedures and requirements of Sections 261-267, inclusive of this order and the requirements of K.R.S. 100.237.

SECTION 261

Contents of Application for Conditional Use Permit

An Application for Conditional Use Permit along with whatever additional information the Board may find appropriate, shall be filed with the chairperson of the Board of Adjustment and Zoning

Kevin Wall

From: Bob.Hill@mail.state.ky.us
Sent: Tuesday, November 04, 2003 9:26 AM
To: kwall@boonecountky.org
Cc: Mike.Bezold@mail.state.ky.us; Kevin.Rust@mail.state.ky.us; Ed.Thompson@mail.state.ky.us; dgeohegan@boonecountky.org
Subject: US 42 between I-75 and KY 842

Kevin,

Dave Geohegan asked me to pass this information about a project that the Cabinet is currently carrying on our Unscheduled Needs List (UNL) in this area. The UNL is a list of needs that have been identified by various sources. Every two years projects are added to this list as we prepare for the upcoming Six Year Plan. Projects that are currently on the list and those that have been added are prioritized as either high, medium or low priorities. They are prioritized at four levels.....local by county transportation committees, regional by the MPO which in this case is OKI, district by the local highway district office and central office by cabinet officials. Projects receiving a high priority at all four levels are eligible to move into the Six Year Plan. A recommended plan is prepared by the Cabinet and sent to the Governor. The Governor reviews the plan, makes changes as he feels appropriate and then sends the recommended plan to the General Assembly. They make the final decision as to which projects will be funded in the Six Year Plan.

The current UNL lists a project to widen US 42 from I-75 to KY 842. This project was prioritized as the number one need in District 6 by the local community, OKI and the District 6 Office. We do not know what priority it was given by central office or if it has been added to the recommended Six Year Plan. The Northern Kentucky community has positioned this project to move forward as soon as funding is available.

Unfortunately, our understanding is that there will be very little funding available for new projects to be added to the Six Year Plan. Your guess is as good as mine when it comes to speculating as to whether this project will be funded by the legislature when they meet in early 2004.

I hope this information is useful as Boone County reviews possible uses and access to the property in the southeast quadrant of the US 42 and Dilcrest intersection.

If you have any questions, please don't hesitate to contact me.

Bob

Kevin Wall

From: Peter Glenn [PGlenn@CityofFlorenceky.com]
Sent: Wednesday, October 29, 2003 5:44 PM
To: 'kwall@boonecountyky.org'
Subject: Zone Change Study @ US 42 and Dilcrest

Kevin: I've gathered the following comments on the above listed development from the Public Services Department and Viox and Viox Inc.

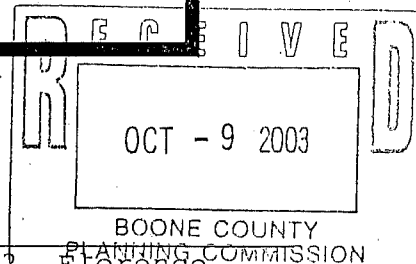
1. The correct amount of street frontage along Dilcrest isn't enough for two curb cuts. The exit is too close to the intersection.
2. The landscaping drawings don't show the proper mounding and privacy fence along the back portion of the property in order to reduce the buffer yard down to 30'. The west side of the rear buffer yard is in fact shorter than the reduced 30' buffer yard being requested.
3. The buffer yard along the Dilcrest side of the property is encroaching onto the R/W.
4. The dumpster location will not work. Trucks will be unable to exit the property.
5. Look at requiring the future connection be made now. This would greatly help with traffic flow out of this property.
6. The detention basin is located very close to the "Great Wall". The grade lines show earth being removed from this area which could adversely effect this wall. An engineers report show the effects of this excavation on the "Great Wall" would need to be provided.
7. The turning radiuses of the entrance is not conducive for two way traffic. Emergency vehicles would not be able to make the turns.
8. The site seems to be too small for both buildings. Maybe one larger building that utilizes the current empty space between buildings would better provide space for an entrance that can handle two way traffic.
9. There's no left turn only lane currently on Dilcrest. I don't believe there's enough room to make a "turn only lane" and actually get vehicles completely into it before they need to turn.
10. Where is the detention basin overflow? If there's a paved overflow swale it would have no place to go other than into the adjacent residential properties.
11. The plan needs to show the parking stall depths along with the isle width along the US 42 side of the property.
12. Need to show the location of the required bike rack.
13. What size is the sanitary effluent line once the two 6" laterals connect.
14. I can't find the water line connection.
15. Should a lighting plan be provided for this phase of the zone change? It may help when surrounding residents have questions.

Let me know if you have any questions.

PMG

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION



(See Boone County
Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Name of Project U.S. 42 Medical Center
- 2. Location of Project Dilcrest Drive & U.S. Highway 42, Florence
- 3. Total Acreage of Site (37,520 sq. feet) .8613 acres
- 4. Current Zoning of Site RI'
- 5. Proposed Zoning (Classification being requested) 0-1A
- 6. Proposed Uses (please specify each use) Professional offices, principally medical offices

- 7. Names of Applicant(s) Eighteen, LTD.
Phone Number 859-371-0730 Fax No. 859-371-0745
- 8. Address of Applicant(s) 7415 Burlington Pike
Florence Kentucky 41042
City State Zip

- 9. Name of Property Owner(s) Dennis C. & Gayle S. Helmer and David L. & Sandra G Helmer
Phone Number 859-371-0730 Fax No. 859-371-0745
- 10. Address of Property Owner(s) 7415 Burlington Pike
Florence Kentucky 41042
City State Zip

- 11. Proposed Building Intensities (please specify) 2 Four Thousand (4000) square foot buildings to be used as professional offices.

- 12. Are there any existing buildings on the site? NO
How many? NONE

- 13. Deed Book 411 Page No. 246 Group No. 712

- 14. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance

- 15. Have you submitted a Concept Development Plan? YES

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

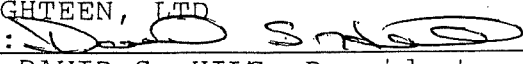
- 17. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

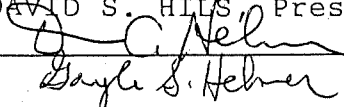
- Boone County Water District
- Florence Water and Sewer Dept.
- Cinergy/U.L.H.&P. Co.
- Sanitation District #1
- Cincinnati Bell
- Owen County Rural Electric
- Boone County Public Works Department
- Kentucky Transportation Cabinet
- City of Florence Public Services Department
- Boone County Building Department

ZONING MAP AMENDMENT
APPLICATION
PAGE 2

- _____ 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 | _____ | Walton |
| <u>X</u> | Florence | _____ | Union |

19. Applicant's Signature BY: EIGHTEEN, LTD


DAVID S. HILLS, President
- Property Owner's Signature 

Gayle S. Heber

SECTION B (To be completed by BCPC Staff)

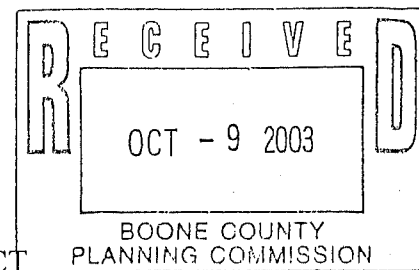
1. Date Received 10-9-03
2. Review Fee \$1401.61 R# 36857
3. Check what has been submitted:
 - Application.
 - Fee
 - Legal Description
 - Concept Development Plan
 - Address of Adjoining Property Owners
 - 5 Number of copies of plan received**
4. Is application complete? _____ Yes _____ No
5. Staff Reviewer KENIN WALK
6. Committee Chairman _____
7. Scheduled Public Hearing Date 11/19/03
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.

U.S. 42 MEDICAL CENTER
CONCEPT DEVELOPMENT PLAN
DESCRIPTION OF THE PROJECT
CONSIDERATIONS IN PLANNING THE PROJECT



Description of the Applicant/Developer

Eighteen Limited, the developer, is a Kentucky corporation primarily operating as the owner of the office building at 7415 Burlington Pike, Florence, Kentucky 41042. Eighteen Limited has a contract on the subject real estate with the owners David L. Helmer, Sandra G. Helmer, Dennis C. Helmer, and Gayle S. Helmer. David S. Hils and Dennis C. Helmer are the principal shareholders of Eighteen Limited.

Proposed Plan for the Property

Eighteen Limited proposes to use the property as medical offices. At this time it is anticipated that Pediatrics of Florence (Dr. Paul Tagher, Dr. Robert Tagher and associates) will own and practice in the building on the western end of the site, moving from a present location on U.S 42 in Florence. It is the preference of Pediatrics of Florence and the developer that the other building will be either owned by or rented to an occupant with a medical use. This may include therapists, laboratories, or physician offices. It is anticipated that the building on the eastern end will have one or two practices in the 4,000 square foot building.

The buildings proposed to be built are two (2) four thousand square foot (4,000) buildings. The buildings will have a hip roof hip structure and will have a design more residential in characteristics to be consistent with the adjacent Dilcrest Manor neighborhood. The look of an upscale residence with a parking lot, monument sign and minimal building signage is the look the developer is trying to achieve and is the reason that two buildings are contemplated instead of a "strip center" look that would result from one long building of 8,000 square feet. Obviously, this type of construction is at greater cost to build.

The Changed Character of the neighborhood

Every parcel of land along U.S. 42 from Interstate 75, east of the property, to the Hopeful/Weaver road intersection and beyond, west of the property, is zoned C-2 or C-3, except for the Ockerman/School Board public facilities, which is zoned PF, and this parcel and adjacent parcels along the Dilcrest Subdivision. None of the parcels along the U.S. 42 corridor is actually used as a residence except for the old Dils residences along U.S 42. Thirty (30) years ago, prior to the development of the Florence Mall in 1976, the properties along U.S. 42 in this same area were residences and farms, with a few businesses.

Other Uses Considered

The parcel is presently zoned R1F, which use requires single family residences, no more than four (4) per acre. Due to the size of the lot, three residences would be permitted. It is the belief of the Developer that this use is not practical as the parcel is located adjacent to one of the busiest intersections in the county, the intersection of U.S. 42 and Mall Road. As most permanent residents look to have a modicum of privacy, and residents with children usually try to avoid high traffic streets, any residences constructed on the lots are more likely only to be used for short term (transient) housing, that is, housing that would serve families until they moved to more appropriate accommodations or moved from the area. If residences were constructed for sale to the public, they would have to be constructed at a low price point so as to make the properties appealing as a "bargain", in an attempt to try to find the family that may be accept lower privacy and reduced safety for lower cost housing.

The Developer has considered Urban residential development, as allowed in UR-1, UR-2 or UR-3, but the small size of the lots makes any multi-family use impractical. The lots do not have the space to have facilities that many competing facilities provide, such as tennis courts, swimming pools, party rooms, exercise facilities, et cetera, and do not provide the private, limited traffic, residential character that a duplex or four family on a residential street provides. The Developer also believes that multi-family housing or inexpensive residential housing would have not be desirable at the entrance to Dilcrest Subdivision, while the well designed professional offices proposed would complement and provide harmonious contrast to the residential subdivision to the rear of the property.

The Impact on the Adjacent Properties

Traffic

The use as a medical office will have minimal impact on surrounding areas in the area of traffic. Generally, Pediatrics of Florence, or other medical facility, operates primarily from 8:00 am to 5:00 pm, Monday through Friday. Any office traffic would be generated at such times that most residents who are employed outside the home are gone to work. There are thirty-eight (38) parking spaces, including handicapped spaces, so that would be the maximum vehicles present upon the premises at once. It is anticipated that there would usually be considerably fewer vehicles. This use should not increase or affect Christmas traffic or other seasonal shopping traffic that is generated at the intersection of Dilcrest Drive and U.S. 42, as this traffic would mostly occur at times later in the day and on weekends. No significant truck traffic would be generated from the proposed use. The Dilcrest Drive entrance and exit has been utilized to reduce direct exposure to U.S. 42 and to utilize the traffic light available, especially for traffic intending to travel west. The nearest traffic light to the east is Sycamore Drive, which would be too far away to practically utilize. Provision has been made for a future frontage road between adjacent properties on both the east and west.

Noise

The contemplated use should not generate any appreciable noise. Currently several homes in the Dilcrest Estates Subdivision have their rear yards exposed to the traffic and noise of U.S. Highway 42, with only a vacant lot in between. The lot is the beginning of a valley which carries throughout Dilcrest Estates. The construction of the buildings as proposed will, in effect, "wall up" and baffle the beginning of that valley and should result in the perception of reduced noise, not only for the adjacent home owners, but from homes near the valley which extends through the subdivision.

Stormwater

The plans as submitted include a retention pond for controlling the storm water generated by the pavement and roofs. The volume of water generated in the area should be the same as is now, as the area will not change and no new water will be generated. After the construction, however, substantially all water will be controlled and piped into the retention pond, thereafter flowing to existing storm drains. Now storm water rolls down the hill and across yards to the rear of the property and ultimately into an existing storm drain, or it continues down the valley. The current storm water pipes to the rear of the property will be more efficiently utilized to route excess storm water.

Visual

The visual impact of the project will be an improvement to the community. Currently the lot is an unimproved field sloping down from the highway to the rear of houses in the subdivision. The project, besides giving privacy to existing housing, includes landscaping and, after fill is completed, will be considerably higher in grade, giving the appearance, from the rear, of a landscaped berm with brick buildings at the top. No parking will be in the rear of the buildings and the brick, doors and sidewalk in the rear will give a residential appearance. The front appearance will be that of what can be described as a large modern home-like structure, with generous exposure of roofing, brick and glass. The 4,000 square feet planned for each building will give a residential-professional upscale appearance to the offices, that is, smaller and more like large homes.

MINIMUM REQUIREMENTS OF THE CONCEPT DEVELOPMENT PLAN

General Characteristics

Ownership – The property is currently owned by Dennis C. Helmer, his wife Gayle S. Helmer, David L. Helmer, and his wife Sandy G. Helmer. The property is under contract with Eighteen, Limited which would develop the site as planned.

Topography- The submitted drawings show the topography. Generally the land is level with U.S. 42 and Dilcrest Drive on its western end, but slopes down from both travel ways, with the eastern rear of the property being the lowest point. The plans provide for filling the site to bring it slightly below the elevation of U.S. 42.

Soils- The real estate was formerly farm grassland, historically only having been disturbed from the construction of U.S. 42 on the north, Dilcrest Drive on the west, the wall to the east and the houses to the south. It is not anticipated that soil tests will show anything unique to the area.

Drainage- The property has no current drainage infrastructure, all surface water currently moving down the natural valley to the rear of the property. The plans provide for a drainage pond to control surface water and connecting to existing storm water pipes.

Vegetation and other physical characteristics- The property is currently a grass field with no trees or other plants. Landscaping plans have been provided which provide for decorative and functional plants and trees.

Transportation Patterns

The adjoining roads are noted on the site plan. The impact of traffic was discussed above under impact on adjacent properties.

Land Use Characteristics

All of the land use characteristics are described above, as well as the intended use and intensity.

Utilities and Infrastructure

All required utilities and infrastructure connections are adjacent to or upon the property and the incremental increased demand for utility services would be insignificant.

Relationship of the Proposed Zone Change with Comprehensive Plan

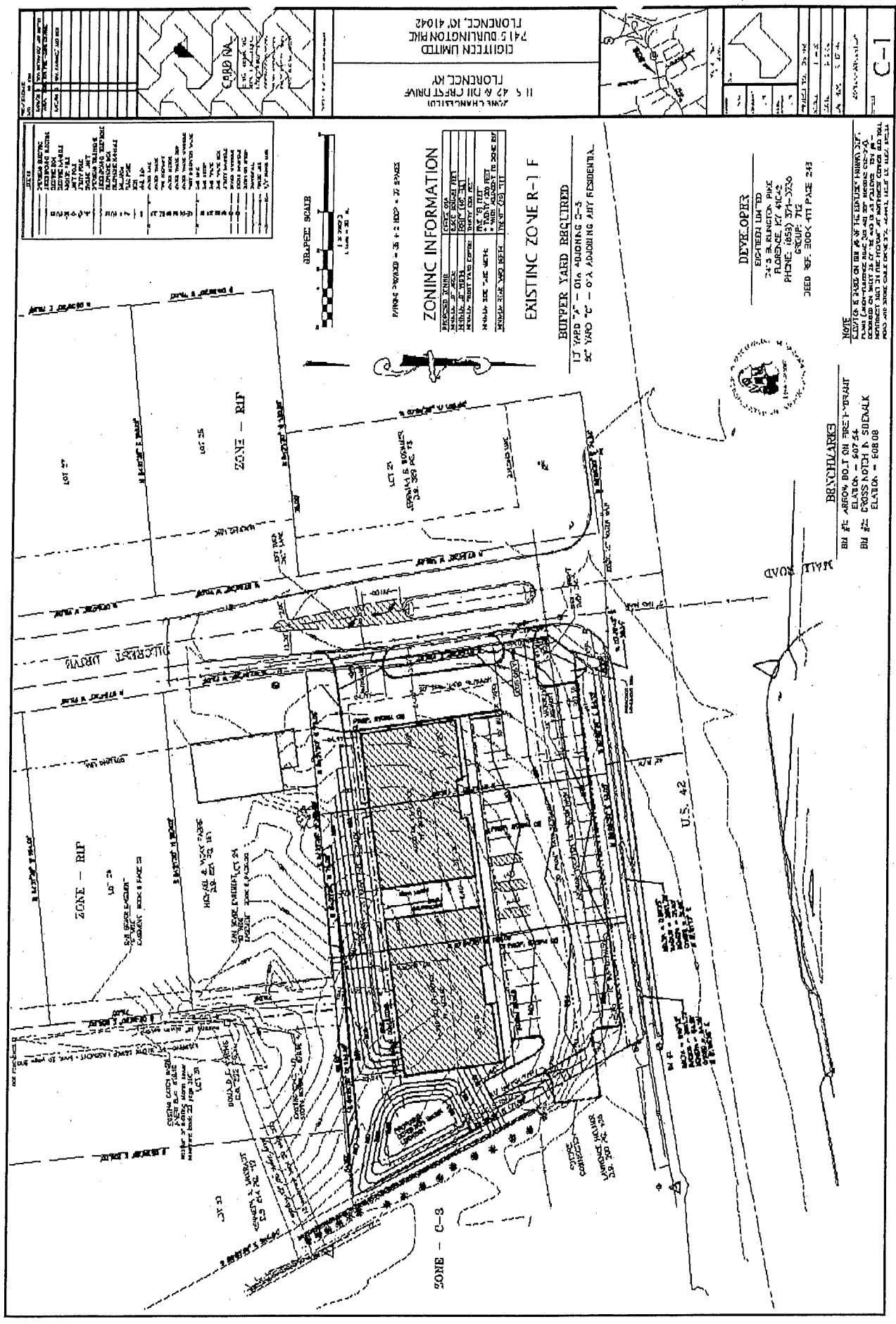
This area is specifically mentioned in the second paragraph of the "Gunpowder Area" of the Comprehensive Plan. All requirements of the Comprehensive Plan have been provided for and the Plan permits an extremely well-designed, low-impact professional use for the property.

Reduced Copy of the Plan

Same is included with the application.

Written Explanation of any required variance or Conditional Use Permit

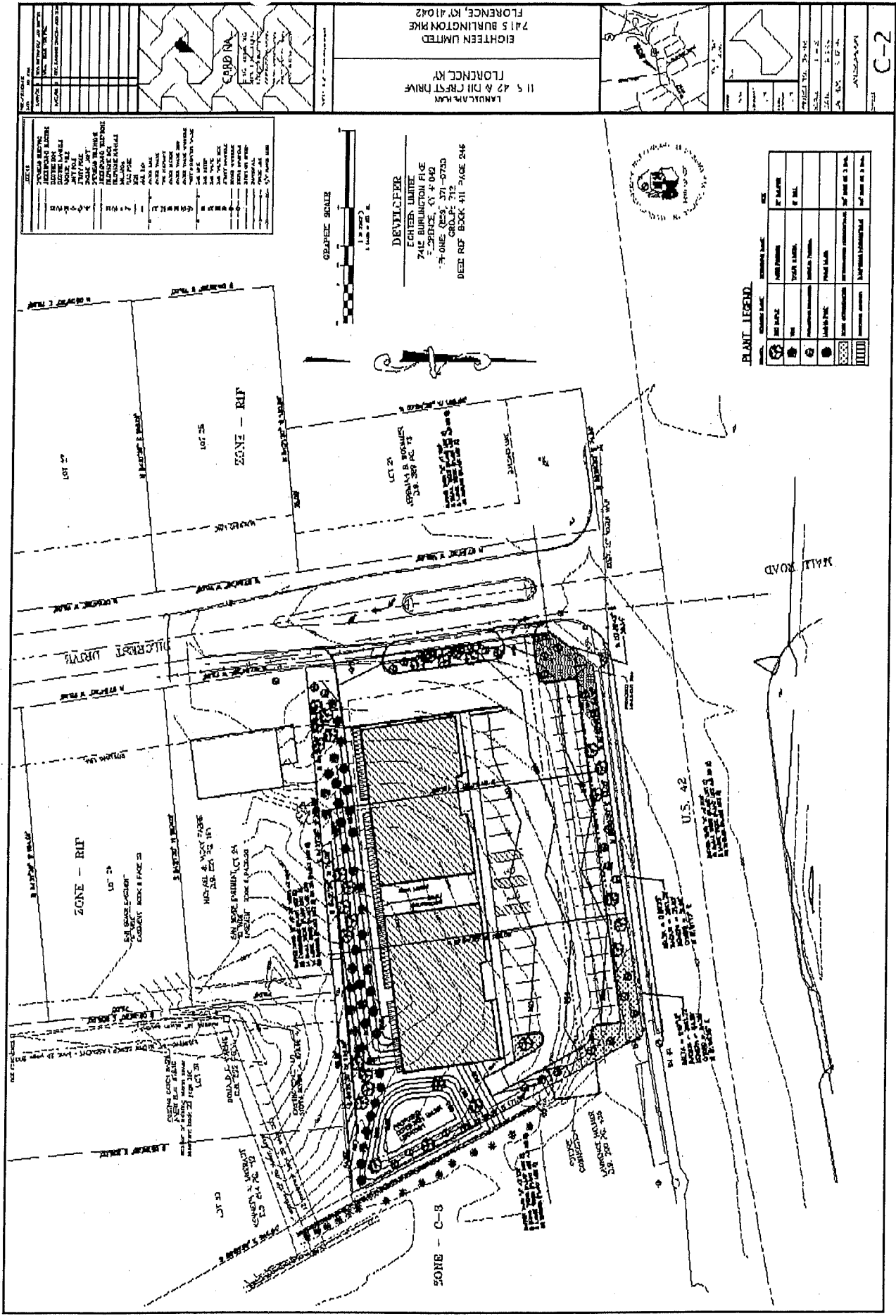
The only requested variance is deleting the necessity of a berm or fence to the south (rear) of the project. Since the property will be filled, the rear will already appear as a earthen hill, to which a berm will add little, other than making the hill very steep. The alternative of a fence can be used, but the Developer believes the proposed buildings are more attractive than would be a fence blocking the lower part of the buildings from view. The retaining wall and bank of the filled area serves as a fence in all practical aspects.



11 S 47 & DILL CREST DRIVE
 FLORENCE, KY
 DILL CREST LIMITED
 2415 DUNLINGTON BLVD
 FLORENCE, KY 41042

C-1

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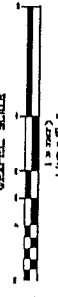
PLANT LEGEND

SYMBOL	PLANT NAME	QUANTITY
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DEVELOPER
 EIGHTEN LIMITED
 7415 BURLINGTON PIKE
 FLORENCE, KY 41042
 PHONE: 502-742-0730
 FAX: 502-742-0732
 DEER REF BOOK #11 PAGE 246

NOTES

1. SEE ALL NOTES ON PREVIOUS SHEETS.
2. ALL DIMENSIONS ARE IN FEET AND INCHES.
3. ALL DISTANCES ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
4. ALL CORNERS ARE TO BE SET BY THE SURVEYOR.
5. ALL UTILITIES ARE TO BE DEPTH MARKED AND PROTECTED.
6. ALL CONSTRUCTION IS TO BE IN ACCORDANCE WITH THE CITY OF FLORENCE SPECIFICATIONS.
7. ALL MATERIALS ARE TO BE APPROVED BY THE CITY ENGINEER.
8. ALL WORK IS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
9. ALL EROSION CONTROL MEASURES ARE TO BE INSTALLED AND MAINTAINED THROUGHOUT CONSTRUCTION.
10. ALL NEIGHBORHOODS ARE TO BE KEPT ADVISED OF ALL ACTIVITIES.
11. ALL TRAFFIC CONTROL MEASURES ARE TO BE IN PLACE AT ALL TIMES.
12. ALL UTILITIES ARE TO BE DEPTH MARKED AND PROTECTED.
13. ALL CONSTRUCTION IS TO BE IN ACCORDANCE WITH THE CITY OF FLORENCE SPECIFICATIONS.
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17. ALL NEIGHBORHOODS ARE TO BE KEPT ADVISED OF ALL ACTIVITIES.
18. ALL TRAFFIC CONTROL MEASURES ARE TO BE IN PLACE AT ALL TIMES.



PROJECT INFORMATION

PROJECT NO. 20-000
 SHEET NO. 1-2
 DATE: 10/07/03
 DRAWN BY: [Name]
 CHECKED BY: [Name]

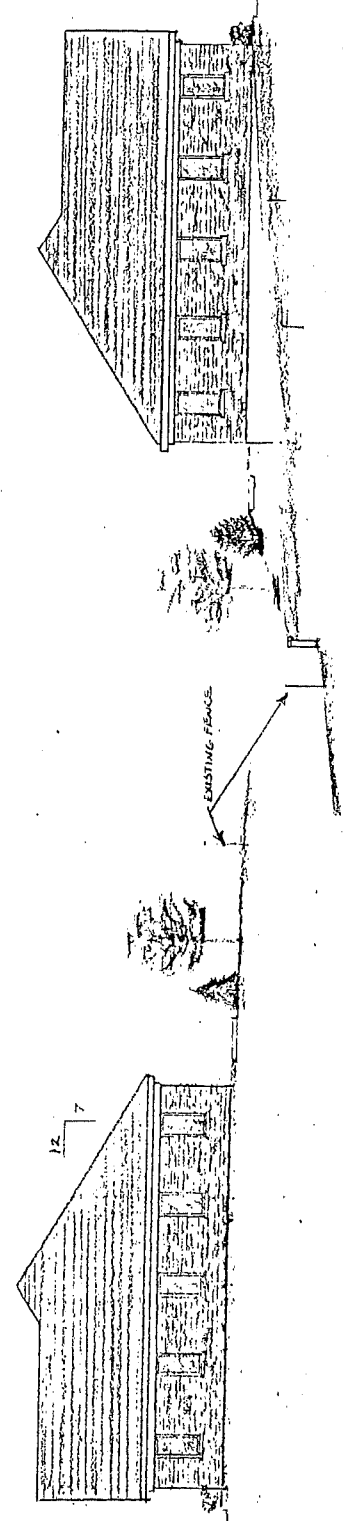
SCALE
 AS SHOWN

DATE
 10/07/03

PROJECT LOCATION
 11 S 42 & DILLON DRIVE
 FLORENCE, KY 41042

CLIENT
 EIGHTEN LIMITED
 7415 BURLINGTON PIKE
 FLORENCE, KY 41042

C-2



RECEIVED	
DATE	NOV - 5 2003
BY	
FOR	

Kevin Wall

From: Pat Russ
Sent: Monday, November 17, 2003 4:49 PM
To: Kevin Wall
Subject: FW: zoning change-Dilcrest Manor Subdivision

-----Original Message-----

From: Ballinger, Carolyn A (Gateway) [mailto:carolyn.ballinger@kctcs.edu]
Sent: Monday, November 17, 2003 4:49 PM
To: plancom@boonecountyky.org
Subject: zoning change-Dilcrest Manor Subdivision

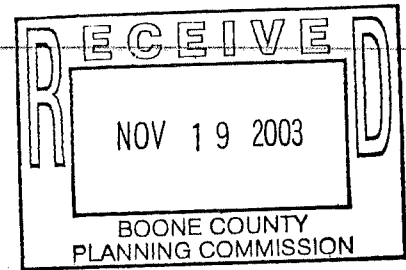
I am unable to attend due to a prior engagement. I am very concerned over the size of the development and there has not been a good amount of compliance with nearby projects. US 42 is scheduled to be widened and this could develop into a nightmare especially with reduction in buffer zones, signage and such. I feel a drive through would be dangerous.

I hope you will not approve such a large project without much discussion or limits.

Carolyn A. Ballinger, 133 W. Dilcrest Cr.

Pat Russ

From: JSBoehmer [JSBoehmer@msn.com]
Sent: Tuesday, November 18, 2003 7:43 PM
To: plancom@boonecountyky.org
Subject: Lots located on US 42 at and near the intersection of Dilcrest Dr.



In Re: Zone Change Request for Properties located at U. S. 42 and Dilcrest Dr.,
Florence, Kentucky

To whom it may concern;

The time is far over due to allow these property owners the opportunity to develop their respective lots. For thirty years the residents of Dilcrest Manor have enjoyed the use of their respective properties and it is high time that the rest of us have the opportunity to do something with ours. All of the lots fronting U.S. 42 have no value and no use as residential. I would think that the City, County, State and local residents would not want to see homes built on these lots with multiple new driveways giving unsafe ingress and egress from U.S. 42.

If the City, County or Dilcrest resident's don't want these properties developed then they should buy them and set the area aside for parks, recreation and/or beautification. Short of that, it completely unfair to continuously deny us the opportunity to do something with our properties. What would be so horrifying to have a bank, flower shop, accounting firm or law office on any of these lots.?

I recently lost the opportunity to sell my lots (southwest corner of the intersection) to a bank. As I understand it, the bank was told that the City wants to expand U.S. 42 by taking 22 feet off the front of my lots so that the Department of Transportation (DOT) can add an additional 11 foot turn lane onto Mall road and an 11 foot deceleration lane for access to my lots and/or for turning into Dilcrest. **However, the DOT informs me that they have no such plans and certainly no budget to purchase this land.** However, the loss of the 22 feet and all the additional set backs and buffer zones made it impossible for the bank to locate it's building on the remaining property. My question is; Where does that leave me? The bank walked away. No one is offering to actually buy the 22 feet of frontage and according to the DOT there is no plan to ever buy the 22 feet. I'm just asked to keep paying the taxes and keep the grass cut like it is a yard.

After 7 years in and out of Court and winning at the County, Appellate and finally the Supreme Court level hands-down, I think enough is enough. The time has come to let us develop our properties and if the City and County won't work with us we'll have no other choice but to ask the Courts to intervene.

Be advised, I was not notified or informed by anyone from the City of Florence

nor Boone County that a hearing relating to my property or a neighboring property was about to take place. For that matter, I have never received any notice whatsoever from the City or County that my property was going to be the subject of any meeting or hearing. I hereby formally request that I be notified well in advance of any future meetings and/or hearings that may have any bearing or effect on my property.

Please incorporate this open letter into the official records. You have my permission to read this and/or publish it at your related meeting set to occur 11/19/2003 at 7:30pm, Boone Courthouse, 3rd Floor

Jeremiah S. Boehmer

Owner of the lots situated on the southwest corner of US 42 and Dilcrest,
Florence, KY

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
November 19, 2003
7:30 P.M.**

PUBLIC HEARINGS

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

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

Legal Counsel Present: Mr. Dale Wilson

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:30 PM. Following an explanation of the Public Hearing process, Mrs. Poston introduced the first item on the Agenda:

Applicant: Eighteen, Ltd. for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners)

Request: Zoning Map Amendment and Variance

The request of Eighteen, Ltd. (applicant) for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners) for a Zoning Map amendment from Residential One Family (R1F) to Professional Office One (O-1A) and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet for a 0.8613-acre site on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a Zone Change and a Variance to allow an office development.

Staff Member Kevin Wall presented the Staff Report which included a Power Point presentation (see Staff Report).

Mrs. Poston asked for the applicant's presentation.

Mr. Dennis Helmer, 65 Acades Drive, Florence, Kentucky, a shareholder in Eighteen, Ltd. stated that he and his brother and their wives own the lot, which is under contract to Eighteen, Ltd. He introduced his wife Gayle Helmer, David Hils who is a principal in Eighteen, Ltd., their engineer Joe Hoh; Dr. Tagher who will move his practice to this location, and Gary Fisher who will be involved in the construction. Mr. Helmer's presentation was accompanied by an exhibit board showing the two proposed medical office buildings. He stated that Dr. Tagher practices pediatrics in Florence and needs approximately 4,000 square feet and they designed one of the buildings based on that requirement. They believe that two buildings can fit on the site. He stated that they could get 30-feet in the back, and the regulations allow 30-feet with a berm – but the lot is not exactly a rectangle. The building setback is 24.92 feet on one end and 32 feet on the other end. He has been a resident of Florence for 46 years and remembers when the area was farmland. He noted existing apartments down the road and across the street. He noted C-2 and C-3 uses along US 42 from I-75 to Weaver Road, which make residential use of this property inappropriate. He stated that they considered rental housing – but renters want the same things as homeowners (privacy, low traffic streets, etc.) – or they will be transient renters which would not be the proper type of entrance into Dilcrest subdivision. They looked at urban housing/apartments but with .86 acres and the current economic environment, there is not much they could do with that use. He stated that four-families are not built any more and most rental housing is more dense than that. The site is not large enough for a pool and exercise rooms. There could be three rental houses, but that is not an economically feasible project. A professional use of a medical nature would have a low impact on the neighborhood because they work 8 AM to 5 PM and there are no evening hours. There is no need for excessive lighting, and there would just be security lighting. There would be no need for parking at night. There is no seasonal rush and no weekend traffic. Delivery trucks with supplies would be about the only truck traffic. This would be the most appropriate use of the site. The design is residential in character with large roof lines and exposed shingles. If they put the two buildings together, even at 6,000 square feet it will look like a strip center and change the character of what they want to do there. The two buildings are more expensive because they are building extra walls and roof, but they will give a better approach and better look to the area. Traffic from the development should not be significant and there would be minimal truck traffic. The use would not generate any significant noise – probably less than a typical residence. If they do the fill with the wall behind it and the banks, it will have a tendency to quiet the neighborhood behind it. The existing houses pick up noise from US 42, and this would stop the noise to some extent. The trees and buildings would also help to create a noise buffer. They have the necessary easements to provide for stormwater retention and there would not be any more water created than there is now. There is a retention pond to catch runoff from the parking lot and pipe it into the existing storm water easements. He stated that there is an e-mail from Bob Hill (attached to the Staff Report) and he has spoken with Mr. Hill. He stated that the e-mail explains that the state keeps several lists of projects and the U.S. 42 project in this area is on

the Unfilled Needs List. He stated that if a project is moved from the Unfilled Needs List to the Six-Year Plan, that does not mean it will be built in six years and projects go on and off the list. Right now there are too many projects on the Six-Year Plan – about \$100 million more than the state has money to build. This project is not on the Six-Year Plan. He is not sure when a six-lane highway would be built and, if it is built, it is not clear where it would be built. The fact that a six-lane highway is being considered speaks to the changed character of the neighborhood and he does not see how anyone could build a residence on a six-lane highway. He stated that the lot has been subject to litigation. The Circuit Court affirmed that there were no restrictions and the Supreme Court declined to hear it – so it stands that there are no residential restrictions. He stated that they believe they have provided a well-designed plan – but they could “tweak” the plan. They intend to do brick and shingles of a residential character. He stated that it is an improvement to the neighborhood and will improve the look of the area. This concluded the applicant’s presentation.

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

Mr. Larry Brown, 8202 Adella, Florence, Kentucky, a resident of Dilcrest, presented and submitted his written comments (*see Exhibit 1 – with attached pages from the Boone County Comprehensive Plan, the Zoning Regulations, and e-mail dated November 4, 2003 from Bob Hill to Kevin Wall*). He added that you can say an area has changed depending on how far back you want to go – but the Mall and the development have been there for twenty years and there has not been a change. He stated that a curb cut on a residential street needs to be residential.

Mrs. Lisa Hickey, 8108 Harms Hill Drive, submitted eight pictures of flooding in the area (*see Exhibit 2*) and a petition from neighbors of Harms Hill “We do not approve of the zoning change at the top of Dilcrest Subdivision” with 5 lines of signatures (*see Exhibit 3*). Mrs. Hickey stated that she was speaking on behalf of the residents of Harms Hill and Dilcrest and asked that the zone change not be approved. She stated that it is not fair to the people in Dilcrest to have more commercial property at the entrance of the subdivision and to endure more congestion and more cars. They want more green space and buffer. It is not fair to have increased water runoff in her backyard. She stated that the pictures she submitted (*see Exhibit 2*) show the water they receive every time it rains. They have lived in their home for nine years and have seen an increase in the runoff and watched their property erode. If more disruption takes place at U.S. 42, there will continue to be a problem with flash flooding, eroding and garbage. She asked that the zone change be denied.

Mr. John Grout, 8206 North Dilcrest, agreed with the others.

Mr. Robert Lawrence, 141 West Dilcrest, a resident for 28 years, stated they only get five seconds to get out at the light and it is hard to get out with all the traffic. Three cars can get out and the fourth will be on the yellow light. This request will affect the traffic because they want to cut in for a driveway at the top end. If someone is coming up and someone is trying to turn, they will be waiting. He stated that a lot of housing is being built west on U.S. 42 and vehicles come around Bentley Court and up the hill and through the light going to the mall and other commercial buildings. He has seen cars backed up to the bottom of the hill and even to the curves during the holidays. He asked that the traffic be considered. He stated that the people on North Dilcrest and on West Dilcrest want this property to be residential. His lot is 250 feet deep and the runoff comes across his property. He agreed with the comments made by the other speakers. He stated that if there are more parking spaces, there will be more runoff since water soaks into the ground when it rains, but it will not soak in if there is blacktop and concrete. He has seen flooding like a creek and asked that the runoff be considered. He stated that there will be oil dripping from the cars there and in a hard rain it will run off onto his property. A hard rain will kill the buffer and the water will overflow and come onto their properties. He is opposed to the request.

Mr. Brinkman, 137 West Dilcrest, agreed with the others. He is against two buildings on the property and against the curb cuts on Dilcrest.

Mr. Bill Greene, 201 West Dilcrest, stated that his deed said that there would be no zone changes unless everyone there agreed and he does not agree. He questioned how restrictions can be wiped out. Counselor Wilson advised that deed restrictions are not zoning regulations and the Planning Commission cannot enforce private deed restrictions. If deed restrictions apply to the lots, then those who have the authority to enforce them would have to bring an action. He stated that it sounds like there has been some legal action where people have sought to enforce deed restrictions. Enforcement of private deed restrictions is not through the Planning Commission.

Mr. Gene Cunningham, 146 West Dilcrest, presented and submitted his written comments (see **Exhibit 4**). He added that the next house down has children playing and the applicant's argument about the property not being residential is not a good argument. He also submitted a petition "We the following as residence of Dilcrest Manor Subdivision, Boone County, Florence, KY are opposing any zoning changes within the subdivision from R1F to Commercial Zoning" (see **Exhibit 5**).

Jamie Warren, 210 West Dilcrest, agreed with the others. He is concerned about the impact any deviation from the code would have on the homeowners. He asked that the impact on the community be considered. He stated that the structures would be close to the residences at the beginning of the street.

Mr. Jim Day stated that his name is on the sign across the street. He referred to a letter from Jeremy Boehmer (copy attached to the Staff Report) who owns the lot on the west side of Dilcrest. He stated that they lost the Boone National Bank on their lot because of these same complaints which they have heard over the years. Mr. Costello stated that there has been no application submitted to the Planning Commission for the property across the street.

Mr. John Grout stated that always around the holidays there is bad traffic at the intersection. He stated that cars come off Mall Road heading toward Dilcrest and, if someone was coming off Mall Road and went around the corner and wanted to turn into this property, someone would crash into them when they stop to immediately turn right into the lot. There is a safety issue there.

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

Mrs. Kegley asked where the pictures of flooding were taken. Mrs. Hickey responded that there is flooding in the back of the subdivision and most of the water is coming down to the back end of their property.

Mr. Bunger asked if the water currently leaves the property and how it flows. A resident responded that it flows south right down the hollow. Mr. David Hils stated that the person most qualified to respond is Mr. Hoh with Cardinal Engineering.

Mr. Hoh stated that Cardinal Engineering prepared the plan. He stated that the site slopes from U.S. 42 to the south. He indicated on the Power Point slide where they propose a detention basin. He stated that the parking lot would be in the front and the buildings would drain into the detention basin. He stated that the county has regulations that would restrict the release to the same runoff that would be created by three single-family homes. The detention basin would not release any more water into the creek than three-single family homes would create, which is per the Subdivision and Zoning Regulations. The detention basin has not been sized at this time. He stated that they are aware of the traffic on U.S. 42, Mall Road and Dilcrest – but someone put a barrier down the middle of Dilcrest limiting access to this property. He does not think the Highway Department would allow three driveway cuts onto U.S. 42, which hampers this property for any use at all and makes this property peculiar and needing special consideration. The property has been saddled with situations that cannot be met in a normal manner, which needs to be considered. Things have changed since the subdivision was developed – the mall was not there at that time. Over the years, things have changed.

Mr. Newman stated that he was on the Zone Change Committee the last time this property came up and they did not disallow curb cuts from Dilcrest – it was

discussed, but there was not a decision and the application went away. He questioned how the island on Dilcrest got there and who put it there. Mr. Costello responded that it is a city street and that portion of the street was rebuilt after the last application. Mr. Newman stated that there is no island shown there in the aerial photograph. Mr. Costello responded that it may have been taken out for the reconstruction. He stated that Staff can contact the city and find out. Mr. Newman stated that he wants to know when it was put there, why it was put there, and who applied for the change. Mr. Costello will find out this information. A resident stated that thirty-two years ago there was a sign there that said "Dilcrest" and when the highway came through, they took it down – and then the city put it back up. Mr. Newman stated that it limits access to this property. Mr. Newman would also like to know the number of residences in Dilcrest.

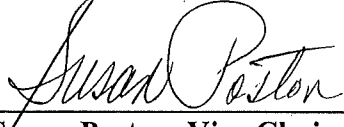
Mrs. Poston asked that the minutes from the previous Public Hearing in regard to this site be provided to the Committee. That request was withdrawn.

There being no further comments from the Commissioners, Mrs. Poston asked if there were any additional comments from the applicant.

Mr. David Hils stated that he has been a real estate broker for thirty years. He was selling homes in Dilcrest thirty years ago and there was an island there – but it was smaller and not the same. The island has been extended over a period of time. He suggested that the Planning Commission may want to look at the size of it when it was created versus the size of it today.

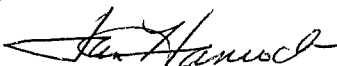
There being no further comments, the Mrs. Poston stated that the Committee Meeting for this item will be on December 3, 2003 at 5:00 PM in this room. The public is welcome to attend, but no further information will be taken. This item will be on the Agenda for the Business Meeting on December 17, 2003 at 6:30 P.M. Mrs. Poston closed this Public Hearing.

APPROVED:



Susan Poston, Vice Chairwoman

Attest:



Jan Hancock, Recording Secretary

Exhibits –

- 1 Comments submitted by Larry Brown with attachments (9 pages total)**
- 2 Eight pictures of flooding submitted by Lisa Hickey**
- 3 Petition submitted by Lisa Hickey**
- 4 Comments submitted by Gene Cunningham (16 pages)**
- 5 Petition submitted by Gene Cunningham (6 pages)**

This is presented to the Boone Planning & Zoning Commission regarding the US42 Medical Center project at Dilcrest and US42 in Florence. The request is for O1A from RIF.

The project is currently part of the Dilcrest subdivision that is entirely made up of single-family homes. The average home size exceeds 2000 square foot, but few exceed 2500. Approximately 1/2 of the homes are located on 1 acre or better lots. The subdivision has been present for several decades and still has several residential lots for sale. Several new homes have been built in the past few years.

The first issue is **the size** of the two, not one, but **two buildings**. At 4000 square feet each (8000 total), the two story buildings will dwarf the adjacent homes. The project is located on .8613 of an acre making the footprint two or three times the average single home on 1 acre. We need total assurance that the building's **architecture will compliment** the adjoining homes and neighborhood. The slope of the property will make it difficult to blend into the neighborhood. We will have them looking down on the residential lots or the US42 view will be roof tops. A detailed elevation drawings need to be provided showing the views from the residential lots, Dilcrest drive from the west and from US 42.

The size of the project has required them to ask for a variance on the only protection that homeowners have from commercial development, an adequate landscape buffer. An **adequate buffer (buffer C)** should be required to assure privacy. Once again the severe slope of the property and height of the proposed buildings makes privacy a great concern.

The Storm water drainage from the project goes directly into the back yards of homes. The project should be required **to provide a water study** demonstrating their ability to retain 100% of the water runoff (roof & paved parking) from a 50 year storm or better. Again the slope of the property is great and currently is grass but will be replaced with largely roof and pavement.

Lights and signage need to be addressed as follows; the parking lighting should not be pole mounted and should low level and be entirely directed within the property. Any signage should be low level monument style and with minimum lighting. **No building signage** or lighted signage should be permitted. Professional office sites serving the local community need not attract interstate travelers.

Traffic is a major problem at this intersection. The residential street was not made to handle commercial traffic. The light is the shortest of the cycles and only handles 4 or maybe 5 cars (usually on a yellow). The City of Florence conducted a **Mall Road/Connector Road Traffic** study just of few years ago. The conclusions of that study were that Mall Road and US42 intersection will incur substantial delays and the new connector road would have no impact on this intersection. If memory serves me, time delays in excess of 90 seconds with traffic backing up past Weaver (to the west) and to the I75 (to the east) were going to be the norm.

Bob Hill, of the **Department of Transportation**, has stated that this intersection is the **Number ONE priority** for the local government, OKI and the local highway district to improve this intersection with at least two turn lanes from east bound US42 onto Mall Road. (see attached)

Most damning evidence regarding the traffic is the Boone County Comp Plan, under the Land Use section, on page 165, it states **“all developments must provide for connecting parking lots or a frontage road. Development must accommodate plans for double left turn lanes from US42 to Mall Road.”** In addition, the same section of the comp plan states **“an extremely well-designed, low impact professional office use may be considered for this area.”** It also states the developer must submit **“detailed”** plans and **“demonstrate”** the project’s impact on visual, traffic, and storm water to adjacent residential uses.

I content that:

- 1) An 4000 square foot print plus parking lot is **not visually enhancing** the residential neighbors. 2) Without a professional hydrologist's report demonstrating the method of **storm water retention, adjacent residential users are at risk.** 3) That **traffic is not being accommodated** by not tying this project into the existing adjacent commercial development. Traffic is not best served by inconveniencing the residential users **by ignoring the current, successful U.S. 42 curb-cut** which can accommodate both properties **without any residential disturbance.** The present business has been successfully located there for many years. Plus, the adjacent property owner is a sister of the two applicants/owners. 4) Traffic is not best served **by allowing the maximum build out** when the state, both local governments and OKI have stated this intersection needs two additional lanes. 6) The **variance on the landscaping buffer should be denied.** The project is obviously too big for the site. 7) Only the following principal uses should be allowed if this proceeds: use appropriate numbers as listed in Zoning regulations if not correct. # 4, insurance, #5 real estate, #14 bus/mgt consulting, #16 physicians/dental, #18 accounting/bookkeeping, #23 Vet without boarding. **No drive through business should be permitted.** No accessory uses other than walls or fencing should be allowed, and no conditional uses permitted. Please see attached listing of uses as the copy I used was a draft copy at the Union library 8) The building(s) need to **be constructed of brick** and have the **appearance of residential use**, especially the back(s). 9) Any garbage containers need to be hidden in an appropriate manner and as far away from residential structures as possible. 10) *email questions & comments from Peter Glen of City Plan*

11) *Noise will travel off hard surfaces further into subdivision area than before.*
This project as proposed does not meet any of the criteria for a zone change. The applicant purchased the property zoned as residential and residences are still be built therefore the current zone can apply. The area has not substantially changed since his purchase. The Mall and substantially all the development nearby were present when the applicant purchased the property and have been so for twenty years. The proposed zone change does not better reflect a use than does the current use of residential home ownership or of other types of residential uses in general. I therefore ask you to deny this request.

Presented by: Larry Brown 8202 Adella Florence Ky 41042

downtown area that coincides with the final alignment of U.S. 42. It was recommended that this downtown area be characterized by reduced setbacks, shared parking areas located between and behind buildings, and a pedestrian-oriented streetscape that builds upon the existing small town fabric. The downtown uses were recommended to include a variety of resident-oriented services and retail, and may include residential uses on second or subsequent floors.

Neighborhood-oriented commercial uses may be provided along U.S. 42 between Farmview Subdivision and the Union city center in the form of small-scale nodes that are focused upon existing and future road intersections; regional retail uses are not appropriate in the U.S. 42 corridor. The physical development of these commercial nodes should be reflective of the existing rural environment and should include such elements as vernacular influenced architectural treatments, site planning arrangements reflective of the farmsteads in the area, parking areas situated at the sides and rear of buildings, tree lines along side property lines, and post and rail fencing. Residential subdivisions in this area should be cluster form so that the open space areas and pastures along U.S. 42 are maintained; density bonuses are encouraged for residential subdivisions in this area to accomplish this purpose. The new alignment of U.S. 42 offers a unique opportunity to prepare a model plan of a Transit Oriented Development (TOD) for the new corridor. This Comprehensive Plan recommends that such a specific area plan, that includes design review procedures, be explored for the U.S. 42 corridor between Farmview Subdivision and the south end of the Union city center within a few years of this Plan's adoption.

All major residential developments should provide recreational facilities, or other public facilities, through cooperative efforts between developers, legislative bodies, and other agencies/ organizations. These facilities should be designed not only to serve the residents of the specific subdivision but, where appropriate, to serve surrounding populations in order to mitigate the impacts upon existing facilities. This section of Boone County should develop as a major population area, and sites for recreation and other public facilities should be planned and obtained before prime sites are no longer available or become too costly.

Gunpowder Area

The area south of the Saddlebrook Farms Subdivision along Weaver Road, should develop in an Urban Density Residential manner consistent with this subdivision, with adequate buffering for adjacent to single-family residential uses. Commercial uses should not expand along the west side of the interstate beyond the recently approved addition for Security Self Storage, and the Lion's Park site should remain as a recreation area.

Vacant parcels and existing residences along the south side of US 42 near Dilcrest Drive and Bentley Court may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. An extremely well-designed, low-impact professional office use may be considered for this area, however, the potential developer must submit detailed buffering and building design plans, and demonstrate that the project would establish a positive focal point for the U.S. 42 corridor in addition to minimizing visual, traffic, and stormwater impacts on adjacent residential uses. All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended.

West of I-75 and along Weaver Road should develop residentially in a similar fashion to Saddlebrook Farms Subdivision. The vacant parcel between the Grammas strip center and the Weaver Road fire station should develop as a low traffic professional office use. This part of Weaver Road is not suitable for commercial driveway access. In addition, a connector road should be completed from Mt. Zion Road to Weaver Road along the west side of I-75. South of this area should remain Suburban Density Residential in nature. Existing tree stands should be preserved to establish the contrast of this area from the Northern Kentucky Industrial Park, and to decrease noise impacts of I-75 and the airport.

~~10. Landscaping and Buffering:~~

- ~~a. Open belt - The minimum landscaped area between any storage, service, parking, or loading area and the district boundary abutting a residential district shall be 25 feet. This area shall be designated an "open belt" and landscaped. This open belt shall not be used for storage, service, parking, loading, or other industrial use;~~
- ~~b. Screening fence - A solid masonry fence, at least six feet high but not more than eight feet high, shall be erected if deemed appropriate by the Boone County Planning Commission to screen the conflicting uses along all site property lines abutting the district zone boundary, if the abutting zone permits a residential use.~~

~~11. Building Design:~~

- ~~a. Buildings shall be constructed of masonry brick, stone, or block (excluding plain concrete block); architectural steel and glass, or precast concrete panels of a design compatible with surrounding buildings and adjoining zoning districts;~~
- ~~b. Design of all buildings shall be compatible in form, textures and colors, consistent with a campus-like setting;~~
- ~~c. Where a rear or side elevation of a structure is adjacent to or across the street from a residential district, the facade shall be articulated through architectural design, change in building materials, use of berms and/or landscaping in order to avoid the monotonous view of a flat, lineal and unbroken facade.~~

~~12. Placement of Dumpsters and Outdoor Storage Facilities:~~

- ~~All outdoor storage facilities and trash receptacles, shall be enclosed by a fence, wall, and/or landscaping not less than five feet high, and shall be screened from view of adjacent residential or institutional properties and public rights-of-way.~~

~~13. Roof Types and Shapes:~~

- ~~Roof types and shapes should be designed in accordance with the design of surrounding buildings. Every effort should be made to screen mechanical equipment or utility equipment located on building roofs in commercial office and industrial zones and visible from public view from a public street.~~

~~All principally permitted, accessory, and conditional uses, building and structures in this district are subject to the above standards, as well as other applicable Articles of this Zoning Order including Articles 30, 31, 33, and 34. In addition, uses in this district are subject to any local, state, or federal law regulating nuisances and the environment and any conditions as set forth by the local and state health boards.~~

*Draft Copy @ Library -
Number may have
changed.*

SECTION 1180

PROFESSIONAL OFFICE ONE (O-1A)

(THIS ZONING DISTRICT APPLIES TO THE CITY OF FLORENCE ONLY)

The purpose of the Professional Office One district is to create a low density, low rise office environment to provide professional and personal services and employment opportunities in close proximity to and compatible with residential districts. The Professional Office One district should

accommodate smaller scale and independent office uses which need not be located within a larger, consolidated Office Two district or which do not need be located within a larger, consolidated Office Two district or which do not need or desire to locate in a commercial district. Professional Office One districts will be located on suitable lands within established or planned urban entities where adequate infrastructure and services are available or proposed.

SECTION 1181

Principally Permitted Uses

The following uses are permitted:

- if acceptable to applicants - medical & dental only

- No 1. Bank related services (including drive-thru facilities);
- No 2. Business and personal credit services and title services;
- No 3. Security brokers, dealers and flotation services and finance companies;
- Yes 4. Insurance agents, brokers and services;
- Yes 5. Real estate agents, brokers and management services;
- Yes 6. Real estate services and builders offices excluding any outside storage equipment and the like;
- Yes 7. Holding and investment services;
- No 8. Photographic services;
- No 9. Eating and drinking establishments including alcoholic beverages and with drive-thru facilities; (Does not apply to property inside City of Florence limits.)
- No 10. Direct mail and advertising services;
- No 11. Stenographic services and other duplicating and mailing services;
- No 12. News syndicate services and employment services;
- No 13. Research, development and testing services of an office nature;
- Yes 14. Business and management consulting services and associations;
- No 15. Motion picture, audio-visual and similar media production and distribution services;
- Yes 16. Physician and dental services including medical, dental laboratories;
- Yes 17. Legal, engineering, architectural, education and scientific research services;
- Yes 18. Accounting, auditing and bookkeeping services;
- No 19. Welfare and charitable administration offices;
- No 20. Professional membership organizations and labor organizations and civic associations;

- No* 21. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
- No* 22. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;
- Yes* 23. Veterinary services not including the boarding of animals;
- No* 24. Business colleges or schools;
- No* 25. Recreation centers, gymnasiums and other related recreational facilities.

SECTION 1182

Accessory Uses

Accessory uses, buildings, and structures customarily incidental and subordinate to the purposes of the district including:

- No* 1. Recreation uses or spaces of integral relation to the developed portions of the district including:
 - a. Temporary exhibit spaces;
 - b. Aquariums, botanical gardens and other natural exhibitions;
 - c. Stages and similar assembly areas;
- 2. Accessory uses for an office facility:
 - No* a. Garages and parking;
 - OK* b. Structures such as fences and walls;
 - No* c. Buildings such as storage sheds;
- Yes* 3. Directional and incidental signage (See Article 34);
- Yes* 4. Parking (See Article 33);
- 5. Temporary buildings incidental to construction;

SECTION 1183

Conditional Uses

NONE should be allowed except # 4 medical outpatient service

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided; a) the activity is an integral and subordinate function of a permitted office use; or b) the arrangement of uses, buildings, or structures will be compatible with the organization of permitted and accessory uses to be protected in the district:

1. Single-family or multi-family dwelling units provided the structure was originally designed for residential use, including:
 - a. Private garage and parking;
 - b. Structures such as fences and walls;
 - c. Buildings such as storage sheds;
2. Nursery and day care centers;
3. Retail and sales of drugs and proprietary goods;
4. Medical clinics--out patient services.

SECTION 1184

Intensity

The maximum total intensity of all uses in a Professional Office One district shall not exceed 20,000 square feet of gross floor area per acre.

SECTION 1185

Minimum Size

There is no minimum size or extent required of a Professional Office One District.

SECTION 1186

Minimum Standards

See Article 31 for dimensional standards. (Site Plan Review is required for all permitted uses) (See Article 30).

SECTION 1187

INDUSTRIAL FOUR (I-4)

(THIS ZONING DISTRICT APPLIES TO UNINCORPORATED BOONE COUNTY ONLY)

Subsurface Mining District

The purpose of this district is to regulate subsurface mining, excavation, extraction, processing, storage, conveying, loading, and hauling of stone and similar natural resources, as well as industrial processes using these natural resources as raw materials. These regulations are designed to protect the public health, safety, and welfare by ensuring that the subsurface mining and associated activity does not adversely impact the environment or surrounding land uses.

SECTION 1188

Applicability

The I-4 zone regulates both the underground mining and the associated surface activity of a subsurface mine. All mined areas, including those owned or leased by the mining operation and those where mining rights have been obtained are subject to these regulations.

Kevin Wall

From: Bob.Hill@mail.state.ky.us
Sent: Tuesday, November 04, 2003 9:26 AM
To: kwall@boonecountyky.org
Cc: Mike.Bezold@mail.state.ky.us; Kevin.Rust@mail.state.ky.us; Ed.Thompson@mail.state.ky.us; dgeohegan@boonecountyky.org
Subject: US 42 between I-75 and KY 842

Kevin,

Dave Geohegan asked me to pass this information about a project that the Cabinet is currently carrying on our Unscheduled Needs List (UNL) in this area. The UNL is a list of needs that have been identified by various sources. Every two years projects are added to this list as we prepare for the upcoming Six Year Plan. Projects that are currently on the list and those that have been added are prioritized as either high, medium or low priorities. They are prioritized at four levels.....local by county transportation committees, regional by the MPO which in this case is OKI, district by the local highway district office and central office by cabinet officials. Projects receiving a high priority at all four levels are eligible to move into the Six Year Plan. A recommended plan is prepared by the Cabinet and sent to the Governor. The Governor reviews the plan, makes changes as he feels appropriate and then sends the recommended plan to the General Assembly. They make the final decision as to which projects will be funded in the Six Year Plan.

The current UNL lists a project to widen US 42 from I-75 to KY 842. This project was prioritized as the number one need in District 6 by the local community, OKI and the District 6 Office. We do not know what priority it was given by central office or if it has been added to the recommended Six Year Plan. The Northern Kentucky community has positioned this project to move forward as soon as funding is available.

Unfortunately, our understanding is that there will be very little funding available for new projects to be added to the Six Year Plan. Your guess is as good as mine when it comes to speculating as to whether this project will be funded by the legislature when they meet in early 2004.

I hope this information is useful as Boone County reviews possible uses and access to the property in the southeast quadrant of the US 42 and Dilcrest intersection.

If you have any questions, please don't hesitate to contact me.

Bob

Exhibit #2

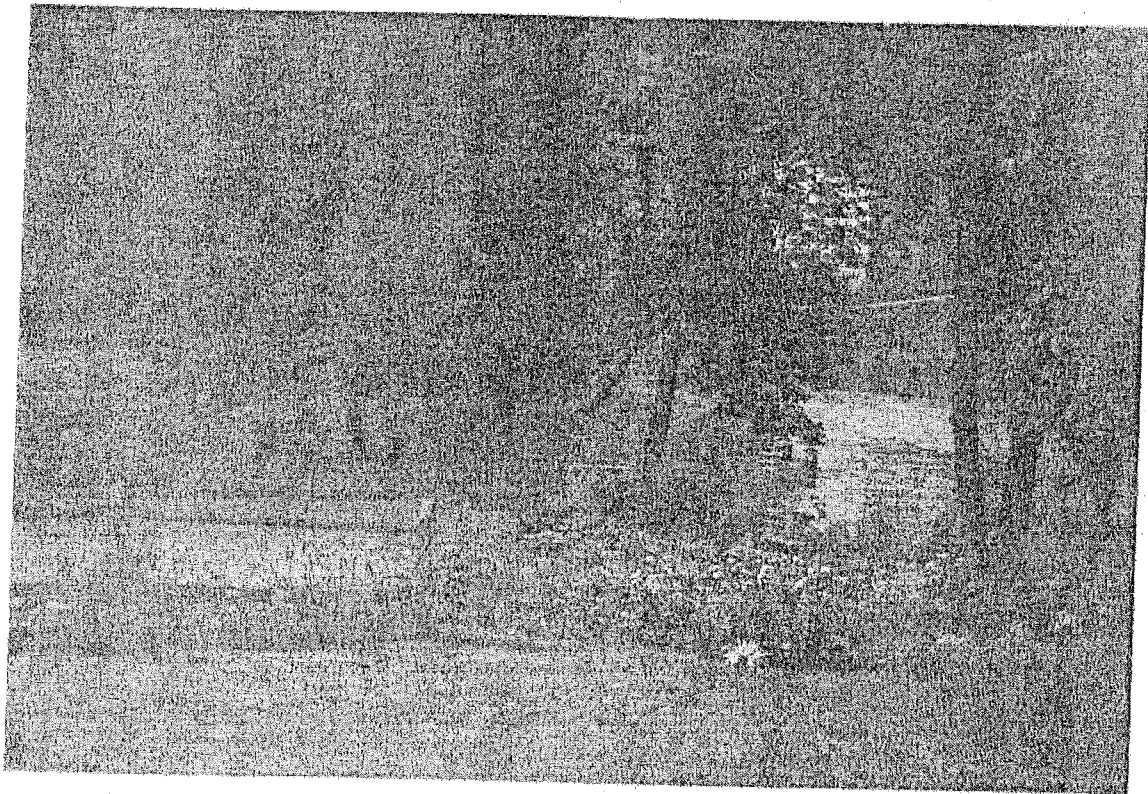


Exhibit #2

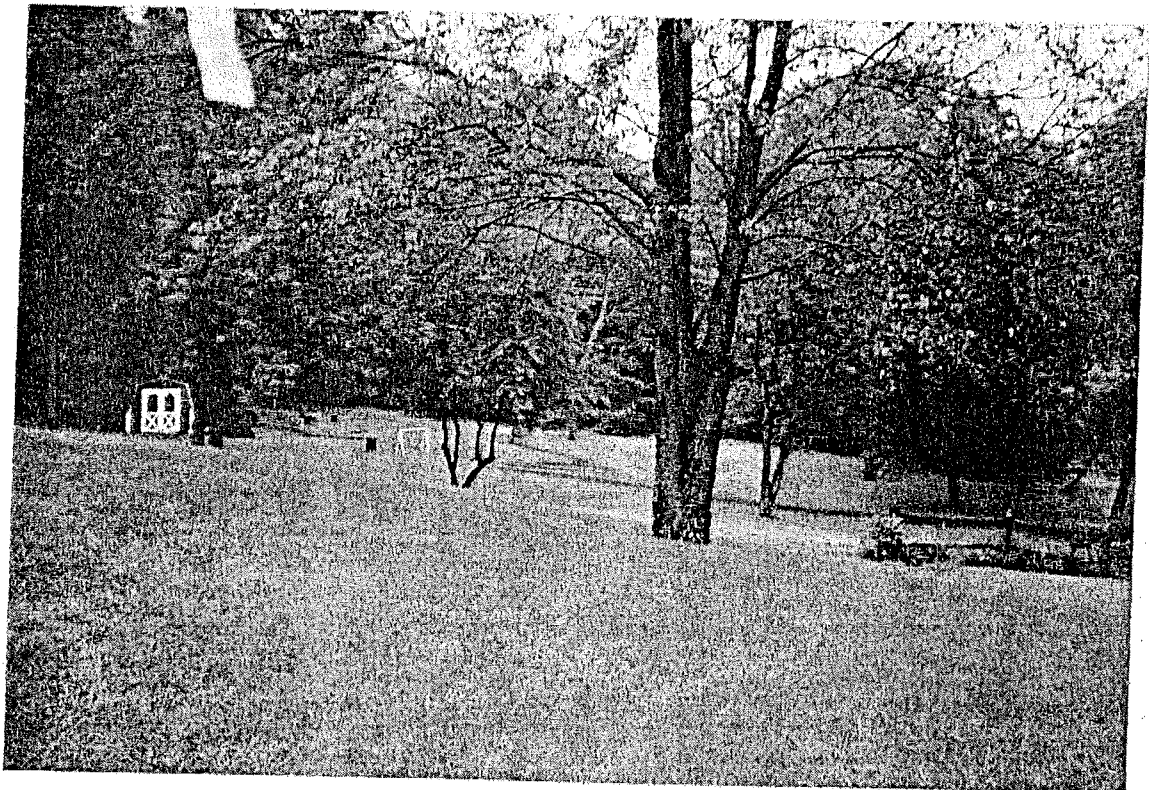
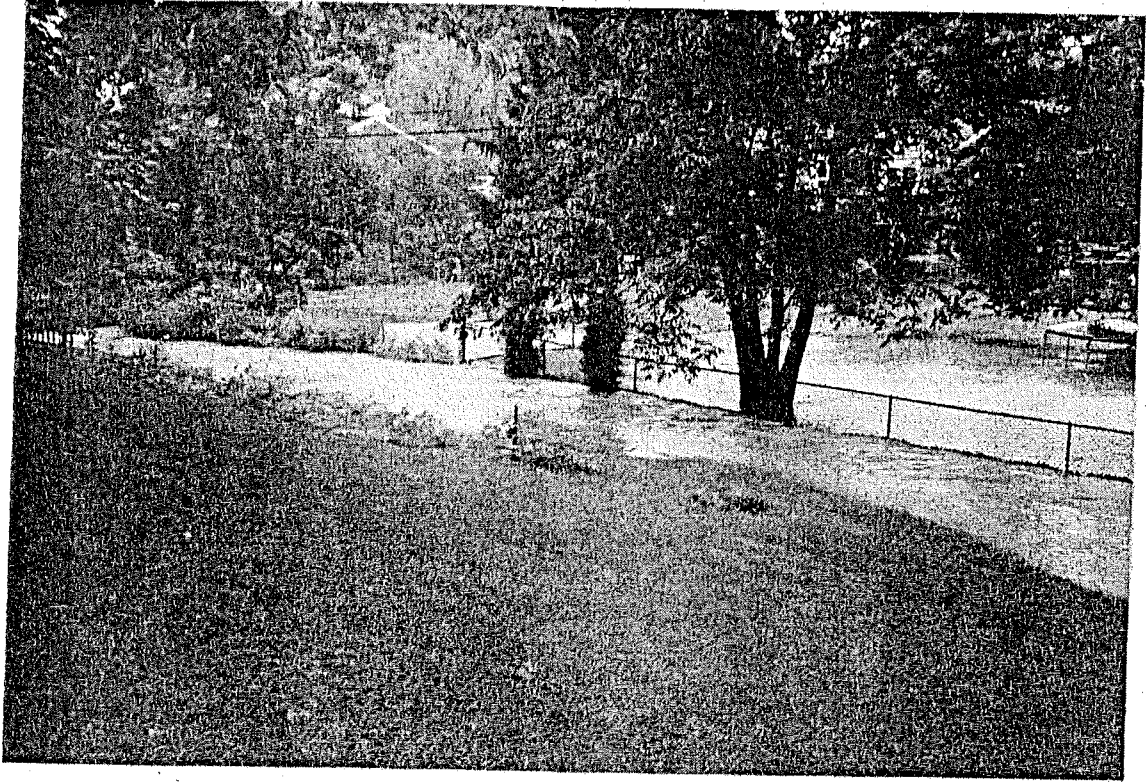


Exhibit # 2

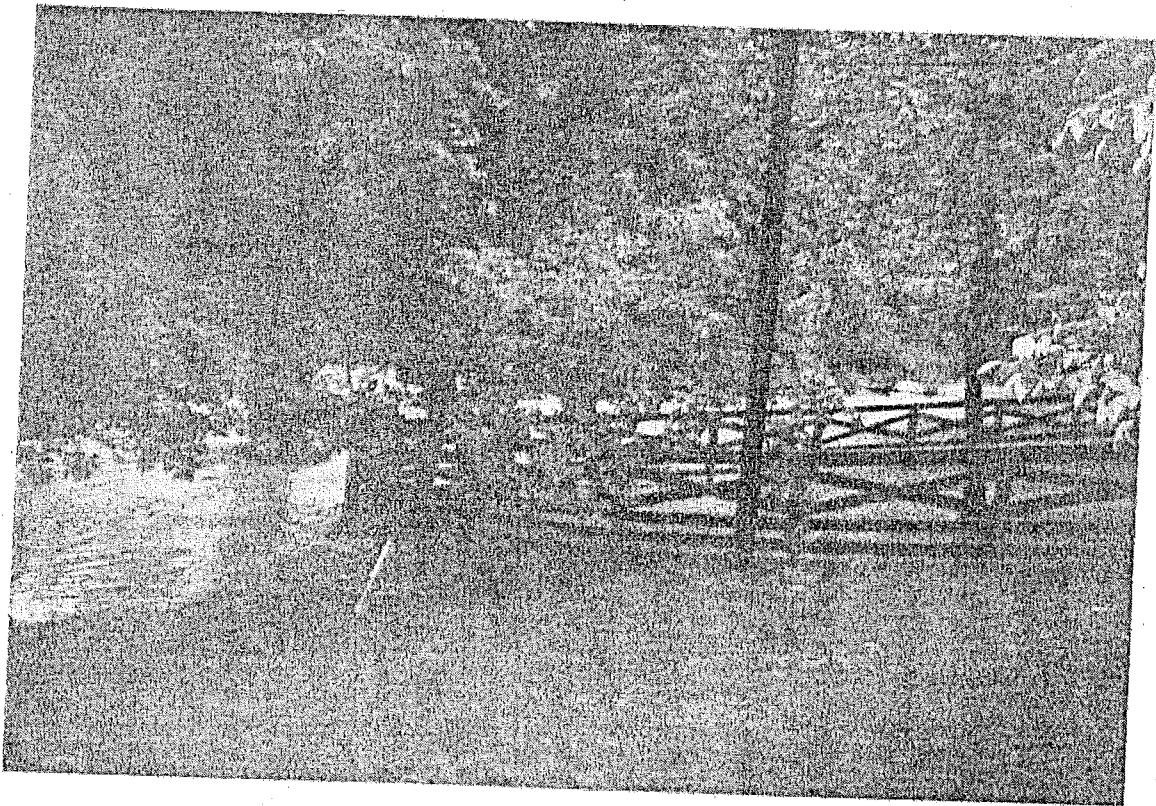
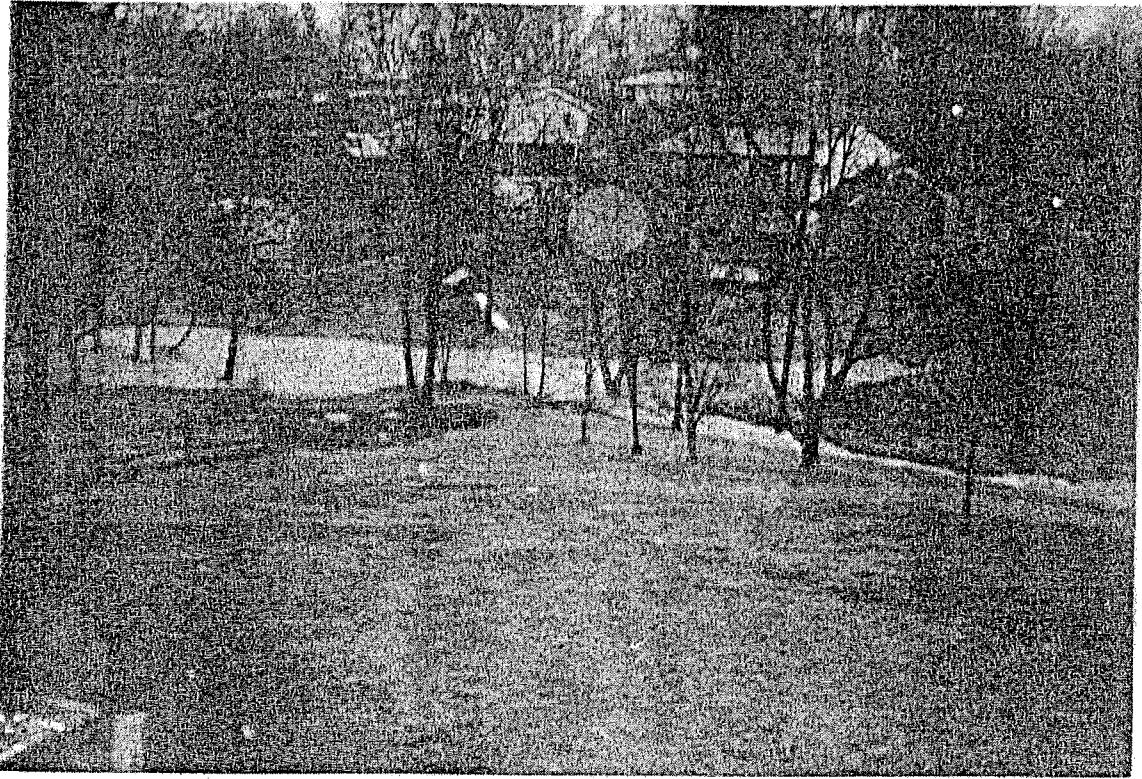


Exhibit # 2



Neighbors of Farms Hill

WE DO NOT APPROVE OF THE ZONING CHANGE AT THE TOP OF DILCREST SUBDIVISION:

Andy & Dan Stiffen

Brandon & Missy Casper

Steve & Michelle Lambert

Bernice & Kathy Luffen

David & Lissa Hickey

1/16

HISTORY OF OF THE LOTS DAVE/DENNIS HELMER E E BEEN REQUESTING
A ZONE CHANGE.

BOONE COUNTY PLANNING COMMISSION

Date: 11/19/03 Public Hearing # / Exhibit # 4

FEB. 1994

THE HELMERS ASKED FOR A ZONE CHANGE ON THESE LOTS ALONG US 42,
FOR R-1F TO C-3. FOR A 3000 SQ. FT. BUILDING.

MARCH 1994

BOONE COUNTY PLANNING COMMISSION APPROVE THE REQUEST.

JUNE 1994, SPECIAL MEETING BY THE FLORENCE CITY COUNCIL.

COUNCIL DENIED ZONE CHANGE REQUEST BY UNANIMOUS VOTE.

JUNE 2000

DENNIS/DAVE HELMER REQUEST ANOTHER ZONE CHANGE ON THE SAME LOTS.
ALONG US 42. FROM R-1F TO O1 FOR A 7688 SQ. FEET BUILDING.

JUNE 21- 2000 THEY AMEND THEIR REQUEST FROM O1 ZONE TO C-2,
RESTRICTING TO ONLY O1 USE.

JULY, 2000

PUBLIC MEETING (PLANNING 7 ZONING) DENNIS HELMER STATED THAT HE
MISTAKENLY THOUGHT THE PROPERTY COULD BE ZONE O-1 (OFFICE ONE)
BUT IT IS NOT AN ACRE IN SIZE, SO THERE FORE THEY AMEND THEIR
REQUEST C-2 WITH O-1 USE

THIS REQUEST C-2 TO USE O-1 USE WOULD HAVE A HARD TIME OF FLYING.

AUG. 2, 2000, AT THE BOONE COUNTY ZONING WORK SHOP ON THE
REQUEST.

THE CHAIRMAN OF THE MEETING ASKED DENNIS/DAVE HELMER TO DOWN SIZE
THE BUILDING, FROM 7688 SQ. FT. TO 5000 SQ. FT. AND REPORT BACK
AT THE NEXT MEETING, AUG. 16, 2000.

ALSO THERE WAS CONCERNS ABOUT THE COMMERCIAL BUILDING BEING TOO
CLOSE TO THE RESIDENTIAL LOT.

CONCERNS ABOUT LANDSCAPING.

CURB CUT OF US 42 TO THE LOTS TO CLOSE TO THE INTERSECTION, THE
OTHERS CURB CUT ON HEARTLAND LOT. THEY ASK DAVE HELMER TO SEE IF
HEARTLAND WOULD SHARE THIS CURB CUT AND REPORT BACK.

NO BODY WILL TURN LEFT GOING SOUTH ON US 42, TOO DANGEROUS. WILL
BE WORSE WHEN US 42 IS WIDING.

THE CURB CUT OF DILCREST DRIVE TOO DANGEROUS, THEY OMITTED THIS
CURB CUT.

CONT. HISTORY OF THE LOTS.

AUG. 16, 2000, WORK SHOP MEETING

CHAIRMAN ASKED MR. HELMER IF THEY HAD CUT DOWN THE SIZE OF THE BUILDING. MR. HELMER REPLYED HE DID NOT REMEMBERED BEING ASKED TO DO SO.

THE CHAIRMAN AGAIN ASKED MR. HELMER TO DOWN SIZE THE AND REPORT BACK AT THE NEXT MEETING. ON SEPT. 1, 2000,

DAVE HELMER WAS ASKED IF THEY WOULD BE ALLOW TO USE HEARTLAND CURB CUT. HE ANSWER NO.

SEPT. 1, 2000

THE HELMER'S WITHDRAW THEIR APPLICATION FOR THE ZONE CHANGE.

JAN./FEB./FEB. 2001; IN THE LONG RANGE PLANNING/COMPRENSIVE PLAN COMMITTEE PUBLIC MEETING. 2000/2025

SEE ATTACHED SHEETS.

Gunpowder Area

The area south of the Saddlebrook Farms Subdivision along Weaver Road, should develop in an Urban Density Residential manner consistent with this subdivision, with adequate buffering for adjacent to single-family residential uses. Commercial uses should not expand along the west side of the interstate beyond the recently approved addition for Security Self Storage, and the Lion's Park site should remain as a recreation area.

Vacant parcels and existing residences along the south side of US 42 near Dilcrest Drive and Bentley Court should develop as professional office uses limited to the frontage lots on US 42. Access management is critical in this area and all developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended.

LAND USE ELEMENT (page 165)

Vacant parcels and existing residences along the south side of U.S. 42 near Dilcrest Drive and Bentley Court ~~should develop as professional office uses limited to the frontage lots on US 42~~ may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. Access management is critical in this area and All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal

LAND USE ELEMENT (page 165)

Vacant parcels and existing residences along the south side of U.S. 42 near Dilcrest Drive and Bentley Court ~~should develop as professional office uses limited to the frontage lots on US 42~~ may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. [An extremely well-designed, low impact professional office use may be considered for this area, however, the potential developer must submit detailed buffering and building design plans, and demonstrate that the project would establish a positive focal point for the U.S. 42 corridor in addition to minimizing visual, traffic, and stormwater impacts on adjacent residential uses.] Access management is critical in this area and All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended.

4

AT THE PUBLIC HEARING ON JULY 26, 2000, THE STAFF DIRECTOR OF ZONING SERVICE STATED THEIR CONCERNS ON THE REQUEST TO REZONE THIS SITE BY DAVID HELMER AND DENNIS HELMER IN THEIR STAFF REPORT AS READ.

PAGE 3, ITEM "A", DEVELOPMENTS IN BOONE COUNTY MUST RECOGNIZE THE POTENTIAL IMPACTS UPON ADJOINING LAND USE---ETC,

ITEM "C", DEVELOPMENTS MUST RECOGNIZE THE POTENTIAL IMPACTS OF STORMWATER RUN OFF, ETC.

ITEM "D", DEVELOPMENTS IN BOONE COUNTY MUST RECOGNIZE THE POTENTIAL IMPACTS OF ASSOCIATED TRAFFIC ON ADJOINING PROPERTIES ETC. THE NEED EXISTS TO PROTECT THE CAPACITY OF EXISTING ROADWAY ETC. ACCESS MANAGEMENT PROVISIONS INCLUDE THE COORDINATION OF CURB CUTS, ADEQUATE CORNER CLEARANCE AND SITE DISTANCE FOR ACCESS POINTS, ETC.

ITEM "E" DEVELOPMENT ALONG EXISTING ARTERIALS (US 42) AND COLLECTOR ROADWAY (BILCREST DRIVE) SHOULD NOT HAVE DIRECT DRIVEWAY ACCESS, BUT SERVED BY A LOCAL STREET.

PAGE 4, ITEM "A" THE BUSINESS ACTIVITY ELEMENT, FOLLOWING COMMENT

MANY PROBLEMS WITH THE LOCATION AND ARRANGEMENT OF COMMERCIAL USE HAVE EMERGED, ESPECIALLY ALONG KY. 18 AND US 42 CORRIDORS. COMMERCIAL DEVELOPMENT ALONG KY. 18 AND US 42 WEST OF MALL ROAD SHOULD NOT BE REGIONALLY ORIENTED NOR SHOULD THEY ATTRACT ADDITIONAL TRAFFIC, BUT RATHER BE SERVED BY THE EXISTING OR FUTURE POPULATION OF AREA.

NOTE. THIS SITE NOW IS SHOWING SUBURBAN RESIDENTIAL "SR" AND NOT COMMERCIAL "C" IN THE FUTURE LAND USE MAP 2000 COMPREHENSIVE PLAN. CITY OF FLORENCE REQUEST THIS TO BE SHOWN "SR".

THE SITE IS WITHIN THE UNION-WEST FLORENCE AREA, HOWEVER THIS PARTICULAR SITE AND AREA IS NOT SPECIFICALLY DISCUSSED IN THE THIS SECTION OF THE COMPREHENSIVE PLAN.

ALSO THE 2000 BOONE COUNTY COMPREHENSIVE PLAN GOALS AND OBJECTIVES PROVIDE THE FOLLOWING PERTINENT STATEMENTS ON PAGE 4, ITEM "A"

DEVELOPMENT ISSUES SHALL BE VIEWED IN TERMS OF PROMOTING OVERALL QUALITY OF LIFE. MIXING OF RESIDENTIAL AND OTHER LAND USES SHALL BE ENCOURAGED.

5

CONT. THE 2000 BOONE COMPREHENSIVE PLAN GOALS AND OBJECTIVES

PAGE 5, REF. "F"

NEW DEVELOPMENT OR REDEVELOPMENT WITHIN BOONE COUNTY IS DESIGNED, CONSTRUCTED AND OPERATED IN SUCH A WAY THAT THE QUALITY OF THE EXISTING PHYSICAL ENVIRONMENT AND SOCIAL ENVIRONMENT ARE PROTECTED AND ENHANCED. AND PRESERVES AND PROMOTES A BETTER QUALITY OF LIFE.

REF. "I"

...WELL MAINTAINED BUFFER SPACES BETWEEN BUSINESS USE AND OTHER LAND USAGE..

REF. "J"

COMMERCIAL USES SHALL BE LIMITED TO STRATEGIC LOCATIONS SERVING TRADE AREA AND NEIGHBORHOOD NEEDS AND SHALL HAVE SAFE AND EFFECTIVE ACCESS AND AMPLE PARKING SPACE.

REF. "M"

ESTABLISHED NEIGHORHOODS SHALL BE PROTECTED AND ENHANCED AND DETERIORATED NEIGHORHOODS SHALL BE REGENERATED.
(HOUSING, OBJECTIVE 9)

STAFF COMMENTS

PAGE 7, REF. "3"

STAFF IS CONCERNED WITH THE RANGE OF USES PROPOSED, ESPECIALLY THE MORE HIGH VOLUME, HIGH TURNOVER USES INCLUDING CONVENIENT STORES, BANK, GYMNASIUMS (I.E., HEALTH CLUBS), DAY CARE CENTERS AND FUNERAL HOMES. THESE HIGHER ACTIVITY USES ARE TROUBLESOME TO STAFF WHEN CONSIDERING THAT FOR A CORNER LOT AT AN INTERSECTION OF ARTERIAL AND LOCAL STREETS, IT IS GENERALLY MORE DESIRABLE FROM A TRAFFIC MANGEMENT PERSPECTIVE TO HAVE A CURB CUT ON THE LOWER VOLUME LOCAL STREET WITH THE TRAFFIC CONTROLLED BY A SIGNALIZED INTERSECTION, RESULTING IN A CHANGE OF THE ESSENTIAL (BASIC) CHARACTER OF THE VICINITY TO THE DETRIMENT (SOMETHING THAT CAUSES DAMGE, HARM, OR LOSS) OF THE ADJOINING RESIDENTIAL USES. THIS CURB CUT WAS OMITTED AT THE WORK SHOP ON AUGUST 2, 2000, REASON TOO DANGEROUS.

REF. "4"

STAFF IS ALSO CONCERNED WITH THE RIGHT-IN/RIGHT-OUT CURB CUT PROPOSED TO SERVE THIS LOT EXCLUSIVELY. THE CURB CUT DOES NOT MEET THE SPACING REQUIREMENTS FROM THE SIGNALIZED INTERSECTION (230 FEET MINIMUM) OR THE DRIVEWAY ON ADJOINING PROPERTY HEARTLAND LOT, TO THE EAST (275) STAFF RECOMMENDS THAT THIS CURB CUT BE ELIMINATED, AND THAT THE APPLICANT SHARE A CURB CUT WITH THE ADJOINING DEVELOPMENT TO THE EAST (HEARTLAND/CAR X)

NOTE: HEARTLAND/CAR X WOULD NOT AGREE TO THIS, SHARING A CURB CUT AS REPORTED BY DAVE HELMER ON AUGUST 16, 2000, WORKSHOP MEETING.

PAGE 7. REF "4" CONT. NOTE

BY HEARTLAND NOT ALLOWING THIS SHARING OF THE CURB CUT, THIS DOES NOT FULFILL THE COMPREHENSIVE PLAN'S POLICIES REGARDING ACCESS MANAGEMENT.

PAGE 7, REF. "5"

STAFF IS CONCERNED WITH THE RELATIONSHIP OF THE PROPOSED FACILITY TO THE ADJOINING RESIDENTIAL USES, ESPECIALLY DUE TO THE CLOSE PROXIMITY OF THE ADJOINING RESIDENCE ON DILCREST AND THE OPEN VISTA BETWEEN THIS SITE AND THE ADJOINING RESIDENTIAL LOTS AT THE REAR. PARTICULAR ISSUES INCLUDE:

PAGE 8

REF "A" BUFFER YARD C IS REQUIRED ALONG THE REAR PROPERTY (60 FT. WIDE WITH SPECIFIED PLANTING OR 30 FT. WIDE WITH A BERM, WALL OR FENCE, , , , AND SPECIFIED PLANTINGS) THE CONCEPT DEVELOPMENT PLAN SHOW A 31 FT WIDE BUFFER YARD, HOWEVER, THE REQUIRED BERM, WALL, OR FENCE IS NOT SHOWN AND INSUFFICIENT PLANTING HAVE BEEN SHOWN ON THE CONCEPTUAL PLAN PROVIDE.

NOTE: REMEMBER THIS SITE IS ALREADY UNDER ONE AREA, WHEN YOU TAKE INTO ACCOUNT THE BUFFER REQUIRE ALONG US 42 THE SIDE WALK, AND THE SET BACK REQUIRE FROM THE OUT SIDE CURB TO THE BUILDING, AND THE CORRECT BUFFER AT THE REAR, I THINK YOU WILL WIND UP WITH VERY BUILDING SPACE.

PAGE 8, REF. "6"

SEVERAL SITE PLAN REQUIREMENTS THAT RELATE TO THE PROJECT AND THE ABILITY TO FIT THE PROPOSED BUILDING AND REQUIRED IMPROVEMENT ON THE LOT HAVE NOT BEEN MET, ASIDE FROM THE REQUESTED VARIANCE. THESE INCLUDE THE FOLLOWING;

- A) THE STREET FRONTAGE LANDAGE AREA ALONG US 42 DOES NOT ENTIRELY MEET THE MINIMUM 10 FOOT WIDTH AND THE SIDE YARD BUFFER REQUIREMENT ALONG THE EAST PROPERTY LINE IS NOT MET. (10 FEET MINIMUM UNLESS SHARE WITH THE ADJOINING PROPERTY, A 8 FT HIGH WALL)

PAGE 9, REF. "7" BASED ON THE REQUESTED VARIANCE AND THE COMMENTS NOTED ON #6, THE SIZE OF THE BUILDING MAY NEED TO BE DOWN-SIZED IN ORDER FOR THE USE TO APPROPRIATELY FIT ON LOT. THIS COMMENT IS NOT MEANT TO BE CONSTRUED THAT EITHER THE THE REQUESTED VARIANCE, OR PERHAPS A SMALLER VARIANCE, MAY NOT BE APPROPRIATE PURSANT TO THE STANDARDS IN SECTION 251 OF THE ZONING REGULATIONS, BUT RATHER IT IS APPARENT THAT NOT ALL OF THE APPLICABLE SITE PLAN ELEMENTS ARE BEING PROPIDED ON THE SUBMITTED CONCEPT DEVELOPMENT PLAN.

END OF STAFF REPORT

NOV. 19, 2003

BOONE COUNTY PLANNING & ZONING PUBLIC MEETING

THE COUNCIL NEEDS TO TAKE INTO ACCOUNT THAT THEY ARE NOT ASKING TO REZONE THESE LOTS FOR A ONE SIZE BUILDING, THIS IS MISLEADING AND IT IS A MISNOMER AND CONTRARY TO WHAT THEY WOULD LIKE THIS BODY TO BELIEVE. THEY WANT GET THESE LOTS REZON, THAN BUILD WHAT EVERY THEY WANT.

STARTING AT ELSMERE AND FLORENCE CITY LIMITS ON US 42 AND DRIVE SOUTH TO WEAVER ROAD YOU WILL PASS A LOT OF COMMERCIAL SITES, THERE WILL OFFICE SPACES FOR RENTAL, THERE WILL BE OTHER FOR SALE, AS WELL AS RETAIL STORES, FAST FOOD RESTAURANTS, APARTMENT BUILDINGS, AUTO REPAIR STATIONS, USES CAR LOTS, STRIP MALLS, GAS STATIONS BANKS, DOCTOR OFFICES, DENTIST OFFICES, OFFICE COMPLEXES, HOUSE RENTALS, LIQUOR STORES, DRUG STORES, OFFICE EQUIPMENT STORE, MOTELS, HOTELS, RENTAL BUSINESS, HARDWARE STORE, AND ONLY ONE RESIDENTIAL SUBDIVISION TOUCHING US 42, THIS IS DILCREST MANOR.

NOW SOME 15/20 YEARS LATER AFTER THIS STRIP ALONG US 42 WAS DEVELOPED, THERE IS NOW A COMPELLING NEED AND THERE HAVE BEEN A MAJOR CHANGES IN ECONOMIC, PHYSICAL AND SOCIAL CHANGES IN THIS AREA TO JUSTIFY A ZONE CHANGE. I THINK NOT.

ALSO THE BOARD MUST REMEMBER WE, THE PEOPLE OF BOONE COUNTY DID NOT WRITE THE FOLLOWING;

- (1) BOONE COUNTY ZONING REGULATIONS.
- (2) CHAPTER 100, PLANNING AND ZONING IN THE KENTUCKY REVISED STATUTES.
- (3) THE COMPREHENSIVE PLAN.

BUT MOST OF THE PEOPLE APPROVE THE PLANS, ZONING REGULATIONS AND THE COMPREHENSIVE PLAN, I FOR ONE DID.

BUT WE AS RESIDENTS OF BOONE COUNTY EXPECT THE BOARD TO COMPLY WITH THEM, BUT WITH SOME VARIANCES TO SUIT A CASE BY CASE. BUT NOT TOTALED IN FAVOR OF THE APPLICANT WHO IS APPLYING FOR THE ZONE CHANGE.

BUT WE MUST INSIST THAT THE BOARD TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WILL NOT CAUSE A HAZARD OR NUISANCE TO THE RESIDENTS OF DILCREST SUBDIVISION, WHEN DECIDING THIS ZONE REQUEST.

IN THE BOONE COUNTY ZONING REGULATIONS

UNDER ARTICLE (1), "PURPOSE AND AUTHORITY", SECTION 308, FINDINGS FOR MAP AMENDMENT, ITEM NUMBER TWO (2) WAS REWRITTEN FROM: " THAT THE ORIGINAL ZONING CLASSIFICATION GIVEN TO THE PROPERTY WAS INAPPROPRIATE OR IMPROPER". TO " THAT THE EXISTING ZONING CLASSIFICATION GIVEN TO THE PROPERTY IS INAPPROPRIATE AND THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPRIATE".

I AND OTHERS FIND THIS TO BE ARBITRARY, UNREASONABLE AND DISCRIMINATING AGAINST THE PRESENT PROPERTY OWNERS IN DILCREST SUBDIVISION ARE DEPRIVE OF OUR PROTECTION GRANTED TO US UNDER THE ORIGINAL ZONING BY THE BOONE COUNTY ZONING COMMISSION, WHEN WE PURCHASED LOTS IN OUR SUBDIVISION,

THIS PARAGRAPH WAS REWRITTEN TO FAVOR THE PERSON REQUESTING THE ZONE CHANGE AS ANY ONE CAN SAY, "THE EXISTING CLASSIFICATION IS INAPPROPRIATE AND THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPRIATE. WITHOUT HAVING TO PROVE ANYTHING.

THEY HAVE NOT SHOWN THAT THEIR PROPOSED REZONING CLASSIFICATION IS APPROPRIATE. THEY HAVE SHOWNED THAT THEY MADE A BAD INVESTMENT AND NOW WANTING THE ZONING BOARD TO PULL THEM OUT OF THE MESS. I GOT SOME "ENRON" STOCK I WOULD LIKE TO SELL.

BUT THE ZONING BORAD MUST USE THE FOLLOWING CASE IN BASING THEIR DECISION.

CASE RULING: 1998, FRITZ V. LEXINGTON-FAETTE URBAN COUNTY GOV'T, 986S.W.2D 456 (KY.CT. APP. 1998).

UNDER THE STATUTE, IN ORDER TO GET A REQUESTED ZONE CHANGE, THE PROPONENT MUST SHOW, INTER ALA, THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPRIATE.

CASE RULING: 1977, BRYAN V. SALMON CORP., 554 S.W.2D 912 (KY. CT. APP. 1977)

WHILE THE COMPREHENSIVE PLAN IS EXTREMELY IMPORTANT AND MUST NOT BE TREATED LIGHTLY IN CONSIDERING APPLICATIONS FOR ZONE CHANGES, IT IS A GUIDE RATHER THAN A STRAIGHTJACKET.

THE PAINTIFFS HAVE NOT SHOWN A COMPELLING NEED TO REZONE OR THAT THERE HAVE BEEN MAJOR CHANGES OF ECONOMIC, PHYSICAL, OR SOCIAL NATURE CHANGES IN THE AREA, OR THEY HAVE CONCERNS FOR THE PROTECTION OF THE HEALTH, MORALS, SAFETY, TRAFFIC AND THE GENERAL WELFARE OF DILCREST RESIDENTS.

THE BOONE COUNTY COUNTY PLANNING COMMISSION AND STAFF DID TAKE IN THE NEEDS OF THE MAJORITY OF PEOPLE CONCERNS WHEN THEY CONSTRUCTED THE 2000/2025 COMPREHENSIVE PLAN.

I WOULD LIKE TO READ SOME OF THEIR CONCERNS THEY HAVE FOR PROTECTION, HEALTH, AND SAFETY OF THE RESIDENTS OF BOONE COUNTY.

COMPREHENSIVE PLAN, 2000/2025 BOONE COUNTY

BUSINESS ACTIVITY, COMMERICAL (RETAIL AND OFFICE)

- 1) COMMERCIAL USES SHALL BE LIMITED TO STRATEGIC LOCATIONS SERVING TRADE AREA AND NEIGHORHOOD NEEDS AND SHALL HAVE SAFE AND EFFECTIVE ACCESS AND AMPLE PARKING SPACE.

THEY HAVE NOT DEMONSTRATED A SAFE EFFECTIVE ECCESS TO THE LOTS

HOUSING

- 9) ESTABLISHED NEIGHBORHOODS SHALL BE PROTECTED AND ENHANCED AND DETERIORATED NEIGHBORHOODS SHALL BE REGENERATED.

TRANSPORTATION

- 11) PRORITY SHALL BE GIVEN TOWARDS MAINTAINING, PROTECTING THE CAPACITY AND SAFETY OF THE EXISTING ROAD SYATEM.

HOUSING PAGE 85

OPEN SPACE SUBDIVISION DESIGN SHOULD BE ENCOURAGED BY CREATING INCENTIVE PROGRAMS.

THE ZONING COMMISSION SHOULD NOT ASK THE DILCREST RESIDENTS TO GIVE UP THEIR OPEN SUBDIVISION SPACE, CAUSE SOMEONE MADE A BAD INVESTMENT.

RECENT GROWTH PATTERNS, PP 152

THERE HAS ALSO BEEN INCREASED DEVELOPMENT OF LOCAL-ORIENTD COMMERCIAL DEVELOPMENT, IN FORM OF STRIP MALLS LOACTED ALONG MAJOR ARTERIAL SUCH AS US 42 AND KY. 18. THESE COMMERCIAL AND INDUSTRIAL EXPANSIONS HAVE RESULTED IN CHRONIC TRAFFIC CONGESTION PROBLEMS ON THE ATRERIAL AND COLLECTOR ROADS,

THE PLAN OF ALL THE LOTS OWENERS ALONG US 42 AND DILCREST SUBDIVISION IS MAKE THESE LOTS INTO ANOTHER STRIP MALL. IN WHICH WILL BRING MORE TRAFFIC, ULTIMATELY, INCREASED CONGESTION AND UNSAFE INTERCHANGE AT US 42, MALL ROAD AND DILCRST DRIVE.

TRANSPORTATION AND PEDESTRAIN NETWORK PP160

DEVELOPMENT ALONG EXISTING ARTERIALS AND COLLECTOR ROADWAYS SHOULD NOT HAVE DIRECT DRIVEWAY ACCESS,ETC. PARALLEL AND FRONTAGE ROADS SHOULD BE USED TO MINIMIZE IMPACTS OF INDIVIDUAL SITES ON COLLECTOR AND ARTERIAL ROADWAYS.

DILCREST DRIVE TRAFFIC IS CONTROLLED BY A SIGNALIZED INTERSECTION, AND SHOULD BE CONSIDERED^A COLLECTOR STREET. ALLOWING ABOUT THREE CARS THRU ON THE SECOND OR THRID TRIP.

COMPREHENSIVE PLAN, 2000/2025 BOONE COUNTY CONT.

AREAS OF FUTURE COMMERCIAL ACTIVITY, PP 70

MANY PROBLEMS WITH THE LOCATION AND ARRANGEMENT OF COMMERCIAL USES HAVE EMERGED, ESPECIALLY ALONG THE KY 18 AND U.S. 42 CORRIDORS. COMMERCIAL DEVELOPMENTS ALONG KY 18 AND U.S. 42 WEST OF MALL ROAD SHOULD NOT BE REGIONALLY ORIENTED NOR SHOULD THEY ATTRACT ADDITIONAL TRAFFIC.

HOUSING DEMAND PP 74

THE DEMAND FOR MORE AFFORDABLE SINGLE AND MULTI FAMILY RESIDENCES GENERATED BY THE COMMERCIAL AND INDUSTRIAL EMPLOYMENT GROWTH CENTERS, HAS HELPED GENERATE THE DEVELOPMENT OF MANY NEW SUBDIVISIONS AND APARTMENT DEVELOPMENTS. HOWEVER, THE DEMAND FOR NEW AFFORDABLE HOUSING HAS NOT BEEN COMPLETELY MET BY THE HOUSING MARKET.

PLEASANT VALLEY WEST FLORENCE AREA PP 163

HOPEFUL CHURCH ROAD SHOULD CONTINUE TO SERVE AS A RESIDENTIAL CORRIDOR, AND NO COMMERCIAL USES SHOULD OCCUR PAST THE KY 18 OR U.S. 42 FRONTAGE PROPERTIES.

CONT. COMPREHENSIVE PLAN, 2000/2025 BOONE COUNTY

FLORENCE COMMERCIAL AREA

THE MALL ROAD AREA SHOULD CONTINUE TO DEVELOP AS A REGIONALLY ORIENTED COMMERCIAL DISTRICT. THIS REGIONALLY-ORIENTED GROWTH SHOULD BE CONFINED TO MALL ROAD AND HUSTON ROAD, AND SHOULD NOT EXPAND ON TO US 42,

END

ON JANUARY 31, 2001 A STAFF REPORT COVERING, 2000 COMPREHENSIVE PLAN ELEMENT WAS SUBMITTED AND SIGN BY DAVID A. GEOHEGAN, DIRECTOR OF PLANNING SERVICES, I WILL QUOTE THE FOLLOWING FROM THAT REPORT;

BUSINESS ACTIVITY, PAGE 6, "KY. 18 AND US 42 SHOULD NOT DEVELOP AS UNINTERRUPTED COMMERCIAL DEVELOPMENT, BUT SHOULD INCLUDE A MIX OF LAND USES.

DILCREST SUBDIVISION IS SURROUNDED ON THREE SIDES ALWAY AND WE DONT NEED ANY MORE LAND TAKEN FOR COMMERCIAL.

HE ALSO SIGN INTO, PAGE 6, LAND USE "THERE IS IN FACT A SPECIAL NEED TO PROTECT OR MAINTAIN AS OPEN SPACE SOME LAND WITHIN THESE HIGHER DENSITY AREAS. HE GOES ON TO STATE; "AS THE MAPS AND ANALYSIS SHOW , THE COUNTY CONTAIN PLENTY OF READILY DEVELOPALE LAND.....WITHOUT REQUIRING SIGNIFICANT DEVELOPMENT OR DISTURBANCE OF RURAL OR DEVELOPMENTALLY SENSITIVE AREA.

WE NOW HAVE VACANT COMMERCIAL STORES AND BUILDINGS ALONG MALL ROAD AND US 42, PLUS YOU HAVE THE VACANT LAND KNOWN AS THE BERKSHIRE FARM. SOMEWHERE AROUND 40 ACRES ON MALL ROAD, PLUS ALL OF THE LAND NOW BEEN DEVELOP FROM WEAVER ROAD TO UNION AND PASS.

THIS WAS COVER UNDER "AREA OF FUTURE COMMERCIAL ACTIVITY" PP 70 2000 BOONE COUNTY COMPREHENSIVE PLAN.

SO PLEASE DONT ASK US TO TAKE MONEY OUT OF OUR POCKETS TO BAIL THE APPLICANT BAD INVESTION.

THEY ARE ASKING US TO LOSE MONEY ON OUR INVESTMENTS ON THE HOMES WE HAVE BUILD UNDER THE PROTECTION OF R1-F ZONING.

THIS IS VERIFY BY THE FOLLOWING;

12

POTENTIAL PROXIMITY DAMAGE DUE TO COMMERCIAL EXPOSURE LOCATED AT THE DILCREST SUBDIVISION AT US 42 AND DILCREST DRIVE.

DILCREST SUBDIVISION ATTORNEY AQUIRED THE SERVICE OF MR. LARRY MCMILLAN, AN EXPERT ESTATE APPRAISER, FOR THE PURPOSE OF REPORTING THE POTENTIAL PROPERTY DEVALUATION OF DILCREST SUBDIVISION HOMES IF THE FRONT LOTS WERE TO BE REZONE TO COMMERCIAL ZONING.

IT IS THE OPINION OF MR. MCMILLAN, I WILL QUOTE "THAT ADDITIONAL ANALYSIS WOULD CONCLUDE THAT SIMILAR PROPERTIES WITHIN THE SAME MARKET SEGMENT AS DILCREST'S LOCATION HAVE DIMININISHER IN OVER-ALL MARKET VALUE AS RESIDENTIAL PROPERTIES.

THIS ANALYSIS WOULD PROVIDE COMPARABLE TRANSACTIONS THAT SHOW THE TYPICAL BUYERS PAY LESS FOR PROPERTIES EXPOSURE TO COMMERCIAL SERVICES AND THEIR ADVERSE AFFECTS."

THIS VERY CLEARLY SHOWS THAT THE DILCREST RESIDENTIES WILL LOSE MOMEY, WHEN THEY SELL THEIR HOMES.

A MERE 4% LOSS ON AN AVERAGE HOME VALUED AT \$150,000.00 WILL MEAN A \$6,000.00 DOLLARS LOSS TO THE LAND OWENER.

KRS-100.213; NOTES TO DECISIONS HEADING ANALYSIS

NO. 1) IN GENERAL...PURPOSE OF THIS SECTION IS TO REQUIRE THAT ZONING CONFORM TO THE BASIC SCHEME OF PRIOR COMMUNITY PLANNING AND TO PROHIBIT INDISCRIMINATE CHANGES WHICH DO NOT CONFORM TO THE ORIGINAL COMPREHENSIVE PLAN.

THE ORIGINAL PLAN WAS STRATED IN 1957/1959, WHEN FRANK AND DELLA DILS DEVELOPED A TRACT OF LAND APPROXIMATE 70 ACRES IN FLORENCE, KENTUCKY, CALLED DILCREST SUBDIVISION. SUBDIVISION PLATS AND MAPS WERE RECORDED IN THE BOONE COUNTY CLERK'S OFFICE AFTER APPROVED BY THE PLANNING AND ZONING BORAD. THIS ZONE WAS "R1-F".

THIS ZONING WAS IN THE BASIC SCHEME OF PRIOR COMMUNITY PLANNING IN THE ORIGINAL COMPREHENSIVE PLAN, AND SHOWING ON THE FUTURE LAND US MAP THAN AS IT IS SHOWM TODAY AS SUBURBAN RESIDENTIAL, NOT COMMERCIAL.

AS STATED BEFORE IN PROIR RECORDS, LAND ALONG US 42 SOUTH TO WEAVER ROAD, MALL ROAD AND DILCREST MANOR SUBDIVISION WAS DEVELOPED FROM THE LATE FIFTY, THRU THE EARLY EIGHTY. EXCEPT FOR A GAS STATION AND EALGREEN ON CORNER OF US 42 AND MALL ROAD.

THE APPLICANTS HAVE NOT SHOW A COMPELLING NEED FOR MORE COMMERCIAL ESTABLISHMENTS OR HAVE ESTABLISHMENTS THAT THERE HAVE BEEN MAJOR CHANGES OF AN ECONOMIC, PHYSICAL, OR SOCIAL CHANGES IN THIS AREA ALLEGED THE NEED TO CHANGE ZONING SOME TWENTY YEARS LATER.

THE BOONE COUNTY PLANNING AND ZONING COMMISSION MUST RECOGNIZES THAT CHANGES IF THEY HAPPEN, OUTSIDE THE DILCREST SUBDIVISION ARE BEYOND THE CONTROL OF THE RESIDENTS. BUT ONCE THE ZONING LINE OF DEMARCATION AGAINST NONRESIDENTIAL INTRUSION, ONCE IT IS DRAWN, MUST REMAIN IN EFFECT UNLESS THE OWNERS THEMSELVES AGREE TO CHANGE THE NATURE OF THEIR SUBDIVISION.

THE BOONE COUNTY PLANNING AND ZONING COMMISSION MUST RECOGNIZES THAT WE THE RESIDENTS OF DILCREST DID NOT CREATE THIS UNFAVORABLE EVENT, THE APPLICANTS DID SO WHEN PURCHASING THE PROPERTY AND BANKING ON THE PLANNING AND ZONING COMMISSION TO REZONE THE PROPERTY TO COMMERCIAL FOR A BIG PROIFT IN RESALE.

REF. TEXT; KRS213, THE APPLICANTS HAS NOT SHOWN THAT;

- (1) THIS ZONE REQUEST HAS CONFORM TO THE BASIC SCHEME OF PRIOR COMMUNITY PLANNING...HINES V. PINCHBACK-HALLAORAN INC. 513S.W.2D 492(KY. CT. APP. 1974).
- (2) THERE IS A COMPELLING NEED, WHERE GROWTH TRENDS IN AGRICULTURALLY ZONE AREA AND THERE IS A NEED FOR HOUSING BRYAN V. SALMON CORP. 554 S,W.2D 912(KY. CT. APP. 1977).

CONT. KRS-100.213; NOTE TO DECISIONS HEADING ANALYSIS

(3) THERE IS NEITHER THE ALLEGED FOR MORE RETAIL ESTABLISHMENT NOR THE LANDOWNER'S POTENTIAL FOR GREATER PROFITS CONSTITUTED A COMPELLING NEED FOR CHANGING A PROPERTY ZONING CLASSIFICATION FROM RESIDENTIAL TO COMMERCIAL FOR PURPOSES OF BUILDING A SHOPPING CENTER.

CASE; GRAMEX CORP. V. LEXINGTON-FAYETE URBAN GOV'T, 973 S,W 2D 75 (KY. CT. 1998)

(4) THE PROVIDING OF EMPLOYMENT OPPORTUNITIES IS MERELY ONE ELEMENT OF GENERAL WELFARE AS THAT TERM RELATES TO THE ZONING FIELD. SOCIOLOGICAL FACTORS, PROTECTION PROPERTY VALVES, TRAFFICC AND SAFETY CONSIDERATION, PRESERVATION OF HEALTH, AND PROVIDING ADEQUATE LIGHT AND AIR ALL ENTER INTO THE QUESTION OF GENERAL WELFARE.

CASE; FRITTS V. CITY OF ASHLAND, 348 S.W.2D (KY. CT. APP. 1961)

(5) APPROPRIATE CLASSIFICATION

UNDER THE STATUTE, IN ORDER TO GET A REQUESTED ZONE CHANGE, THE PROPONENT MUST SHOW, THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPAIATE.

CASE: FRITZ V. LEXINGTON-FAYETTE URBAN COUNTY GOV'T, 986 S.W.2d456 (KY. CT. APP. 1998)

LETS LOOK AT THE ZONING REGULATIONS

ARTICLE (1) PURPOSE AND AUTHORITY SECTION (110), PROVISIONS OF
OPRDER DECLARED TO BE A MINIMUM REQUIREMENTS:

QUOTE; " IN THEIR INTERPRETATION AND APPLICATION, THE PROVISIONS
OF THIS ORDER SHALL, SHALL BE HELD TO BE MINIMUM REQUIRE
MENTS, ADOPEF FOR THE PROMOTION OF THE PUBLIC HEALTY,
SAFETY, MORALS AND THE GENERAL WELFARE, AS PER KRS 100.201
-100.991. WHEN EVER THE REQUIREMENTS OF THESE REGULATIONS
CONFLICT WITH THE REQUIREMENT OF ANY OTHER LAWFULLY
ADOPTED RULES, REGULATIONS, ORDINANCE, ORDER OR
RESOLUTIONS, THE MOST RESTRICTIVE, OR THAT IMPOSING THE
HIGHER STANDARDS SHALL GOVERN."

SECTION 220,, DUTIES OF THE BOARD OF ADJUSTMENT AND ZONING APPEALS

PARAGRAPH (2),.TO AUTHORIZE SUCH VARIANCES FROM THE TERMS
TO THIS ORDER AS WILL NOT ADVERSELY AFFECT THE PUBLIC
HEALTH, SAFETY OR WELFARE, WILL NOT ALTER THE ESSENTIAL
CHARACTER OF THE GENERAL VICINITY, WILL NOT CAUSE A HAZARD
OR NUISANCE TO THE PUBLIC, AND WILL NOT ALLOW AN UNREASON-
ABLE CIRCUMVENTION OF REQUIREMENTS OF THE ZONING REGULATIONS

SECTION 251,.APPLICATION AND STANDARDS FOR VARIANCES

PARAGRAPH (1),. BEFORE ANY VARIANCE IS GRANTED, THE BOARD
MUST FIND THAT THE VARIANCE WILL NOT ADVERSELY AFFECT THE
PUBLIC HEALTH, SAFETY OR WELFARE, WILL NOT ALTER THE
ESSENTIAL CHARACTER OF THE GENERAL VICINITY, WILL NOT
CAUSE A HAZARD OR A NUISANCE TO THE PUBLIC, WILL NOT ALLOW
UNREASONABLE CIRCUMVENTION OF THE REQUIREMENTS OF THE ZON-
ING REGULATIONS.

COMMENT:

I WOULD LIKE FOR SOMEONE TO EXPLAIN TO ME, AND OTHERS, HOW
COULD THE BOONE COUNTY PLANNING COMMISSION IN 1994 COULD
APPROVE A ZONE CHANGE FROM A PIECE OF PROPERTY LESS THAN
ONE ACRE TO A CLASS "3" WHICH HAS A MINIMUM SIZE OF
THREE (3) ACRE???????

THE FOLLOWING CASES COVERED SPOT SPOT ZONING

CASE; 528 SD(2D) 726 (1975); MANLEY V. MAYSVILLE:

PURPOSE OF KRS.100.213 IS TO REQUIRE ZONING TO CONFORM TO CONFORM TO THE BASIC SCHEME OF PRIOR PLANNING AND TO PROHIBIT INDISCRINIMATE, PIECE-MEAL ATTEMPTS TO REZONE.

CASE; POLK V. AXTON, 306 KY. 498, 208 S.W.2D 497;

IN WHICH LANGUAGE IS USED SUGGESTING THAT THERE MUST BE A SHOWING OF SUBSTANTIAL CHANGE OF CONDITIONS IN ORDER TO JUSTIFY AN AMENDMENT CHANGING THE CLASSIFICATION OF PROPERTY. THE CASES CITED ARE ALL "SPOT ZONING" CASES, IN WHICH A SINGLE LOT OR GROUP OF LOTS, IN A DISTRICT OR AREA CONSISTING OF PROPERTIES OF THE SAME CLASS OR CHARACTER, WAS SINGLE AND ASSIGNED TO A DIFFERENT CLASSIFICATION.

CASE; PAGE 398 KY. SOUTH WESTERN REPORTER, 2D SERIES;

(4) WHERE THE SITUATION OF A PIECE OF PROPERTY APPEARS TO BE THE SAME AS THAT OF THE SURROUNDING OR ADJOINING PROPERTY, NO FACTS JUSTIFYING ITS SPECIAL TREATMENT, AN AMENDMENT TO A ZONING ORDINANCE, PLACING THE PIECE OF PROPERTY IN A CLASSIFICATION DIFFERENT THAN THAT OF THE SURROUNDING OR ADJOINING PROPERTY, WILL ON ITS FACE APPEAR ARBITRARY, CAPRICIOUS AND UNREASONABLE, AND THE BURDEN WILL FALL UPON THE ZONING AUTHORITY TO JUSTIFY ITS ACTION BY SHOWING A CHANGE OF CONDITION WARRANTING THE CHANGE OF CLASSIFICATION

UNDER "OAG 74-334" COUNTIES, CITIES AND OTHER LOCAL UNITS

THE REZONING OF PROPERTY FROM RESIDENTIAL "1" TO PART INDUSTRIAL "2" AND PART COMMERCIAL WOULD BE SPOT ZONING WHICH IS GENERALLY DISALLOWED BY THE COURTS.

To BOONE COUNTY PLANNING &
ZONING - PUBLIC HEARING

Nov. 19-03

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY.,
ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: KEWMARS TRAYBI	ADDRESS: 8217 N. DILCREST	PH 371-9321
NAME: Barney Creevy	ADDRESS: 8213 N. Dilcrest	PH 525-7886
NAME: Nathan E Rogan	ADDRESS: 8207 N. Dilcrest	PH 371-8005
NAME: Jean Sullivan	ADDRESS: 8205 N. DILCREST	PH 371-6403
NAME: Kelly Moore	ADDRESS: 8197 N Dilcrest	PH 371-5392
NAME: Michelle Borch	ADDRESS: 8195 N Dilcrest	PH 647-0474
NAME: Don Brock	ADDRESS: 8187 N. Dilcrest	PH 746-2559
NAME: OSUALDO DAMONTE	ADDRESS: 8183 N DILCREST	PH 282-6043
NAME: LYNN CASE	ADDRESS: 8170 N. DILCREST	PH 525-1074
NAME: Kenneth D. Fulmer	ADDRESS: 8172 N. Dilcrest	PH 282-9233
NAME: MIKE DEMING	ADDRESS: 8174 N. Dilcrest	PH 311-1667
NAME: Dorothy Turner	ADDRESS: 8178 N. Dilcrest	PH 525-2901
NAME: Cindy Van Syckle	ADDRESS: 8107 HARMS HILL	PH 525-1102
NAME: Lee Spritz	ADDRESS: 158 W DILCREST	PH 746-2386
NAME: Gene A Smith	ADDRESS: 8215 N DILCREST	PH 525-0025
NAME: Phyllis Pruitt	ADDRESS: 8209 N. Dilcrest	PH 282-0247
NAME: Virginia Kitchel	ADDRESS: 8204 N. Dilcrest	PH 525-0959
NAME: Karen Vann	ADDRESS: 8201 N. Dilcrest	PH 282-1885

(89 HOMES) (178 PEOPLE)

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY., ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: <i>Rob R. Gorn</i>	ADDRESS: <i>212 W. Dilcrest</i>	PH <i>283-9044</i>
NAME: <i>Michelle Warren</i>	ADDRESS: <i>210 W Dilcrest</i>	PH <i>371-9302</i>
NAME: <i>Hayle A Hodge</i>	ADDRESS: <i>214 W. Dilcrest</i>	PH <i>371-8256</i>
NAME: <i>Stephen Baker</i>	ADDRESS: <i>218 W - Dilcrest</i>	PH <i>371-6906</i>
NAME: <i>James C. Brennan</i>	ADDRESS: <i>222 W. Dilcrest</i>	PH <i>746-9426</i>
NAME: <i>Jerry Hankel</i>	ADDRESS: <i>226 W. Dilcrest</i>	PH <i>525-0198</i>
NAME: <i>Marilyn Rolling</i>	ADDRESS: <i>234 W. Dilcrest</i>	PH <i>283-1201</i>
NAME: <i>Erna Shepard</i>	ADDRESS: <i>227 W. Dilcrest</i>	PH <i>283-2811</i>
NAME: <i>Paul Agadon</i>	ADDRESS: <i>217 W Dilcrest</i>	PH <i>525-1233</i>
NAME: <i>Walter Taylor</i>	ADDRESS: <i>230 W. Dilcrest</i>	PH <i>371-4952</i>
NAME: <i>Steven J. Orskas</i>	ADDRESS: <i>213 W. Dilcrest</i>	PH <i>647-7713</i>
NAME: <i>Paul & Sandra Ashley</i>	ADDRESS: <i>236 W. Dilcrest</i>	PH <i>371-3130</i>
NAME: <i>Maryanne S. Kuhn</i>	ADDRESS: <i>50 W. Dilcrest</i>	PH <i>371-5287</i>
NAME: <i>Martha Broves</i>	ADDRESS: <i>162 W. Dilcrest</i>	PH <i>282-8644</i>
NAME: <i>Dan Clark</i>	ADDRESS: <i>206 W. Dilcrest</i>	PH <i>647-2939</i>
NAME: <i>Richard Clark</i>	ADDRESS: <i>194 W. Dilcrest</i>	PH <i>647-2021</i>
NAME: <i>Paul Mann</i>	ADDRESS: <i>138 W. Dilcrest</i>	PH <i>525-1541</i>
NAME: <i>Mr. Bayman</i>	ADDRESS: <i>8176 N. Dilcrest</i>	PH <i>371-95</i>

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY., ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: Carolyn + Phil Conkle	ADDRESS: 8200 N. Dilcrest Circle	PH 371-0628
NAME: Anna Ramsey	ADDRESS: 8196 N. Dilcrest	PH 525-9370
NAME: Mary Hall	ADDRESS: 8194 N. Dilcrest	PH 525-0179
NAME: Stacey Spicer	ADDRESS: 8188 N. Dilcrest	PH 371-9057
NAME: Becky + Dave Williams	ADDRESS: 8186 N. Dilcrest	PH 525-8550
NAME: Don + Sharon Payton	ADDRESS: 8166 N. Dilcrest	PH 525-2189
NAME: Kathy + Bernie Lubbers	ADDRESS: 8104 Harm Hill	PH 371-1629
NAME: Dottie Krebs	ADDRESS: 8203 North Dilcrest	PH 371-9488
NAME: Jon Burdick	ADDRESS: 113 Dilcrest	PH 647-9172
NAME: Robert K. Lawrence	ADDRESS: 141 W. Dilcrest	PH 525-7304
NAME: Barb Lyons	ADDRESS: 8193 N. Dilcrest	PH 371-4013
NAME: Phil	ADDRESS: 8105 Harm Hill Dr	PH 282-8287
NAME: Tom Harnish	ADDRESS: 8203 Adella Dr	PH 283-0282
NAME: Keel Galt	ADDRESS: 8204 Adella Dr	PH 525 262
NAME: Carol	ADDRESS: 8206 Adella Dr	PH 371-8084
NAME: Caroline Wilder	ADDRESS: 8199 N. Dilcrest	PH 525-7647
NAME: Linda Schell	ADDRESS: 8205 Adella	PH 282-8736
NAME: Michelle Theaderman By her mother	ADDRESS: 16 N Dilcrest	PH

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY., ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: <i>Bill & Convin Grier</i>	ADDRESS: <i>146 W. Dilcrest</i>	PH: <i>283-1269</i>
NAME: <i>Columbus Rankin</i>	ADDRESS: <i>142 W. Dilcrest</i>	PH: <i>525-7677</i>
NAME: <i>Jammy Wilson</i>	ADDRESS: <i>130 W. Dilcrest</i>	PH: <i>371-8547</i>
NAME: <i>Richard Frank</i>	ADDRESS: <i>126 W. Dilcrest</i>	PH: <i>371-6005</i>
NAME: <i>William Smith</i>	ADDRESS: <i>8 Bentley Ct.</i>	PH: <i>371-7713</i>
NAME: <i>Brooks Beckwith</i>	ADDRESS: <i>7 Bentley Ct.</i>	PH: <i>525-7926</i>
NAME: <i>Terry Hummer</i>	ADDRESS: <i>9 Bentley CT</i>	PH: <i>283-2791</i>
NAME: <i>Elm Wright</i>	ADDRESS: <i>12 Bentley Ct</i>	PH: <i>371-7380</i>
NAME: <i>LB Payne</i>	ADDRESS: <i>15 N. Dilcrest</i>	PH: <i>371-1048</i>
NAME: <i>Cookie Brown</i>	ADDRESS: <i>134 W Dilcrest</i>	PH: <i>525-2776</i>
NAME: <i>Gilbert Wilson</i>	ADDRESS: <i>179 W. Dilcrest</i>	PH: <i>283-1046</i>
NAME: <i>Robert L. Shirley</i>	ADDRESS: <i>154 W. Dilcrest</i>	PH: <i>283-2854</i>
NAME: <i>Gregory N. Stoff</i>	ADDRESS: <i>166 W. Dilcrest</i>	PH: <i>525-6725</i>
NAME: <i>Terry Hancock</i>	ADDRESS: <i>170 W. Dilcrest</i>	PH: <i>647-6819</i>
NAME: <i>Kathleen Bolmer</i>	ADDRESS: <i>178 W. Dilcrest</i>	PH: <i>525-6676</i>
NAME: <i>Deborah Schaffer</i>	ADDRESS: <i>180 W. Dilcrest</i>	PH: <i>371-7609</i>
NAME: <i>Gene Schirentun</i>	ADDRESS: <i>186 W. Dilcrest</i>	PH: <i>283-1365</i>
NAME: <i>Ted Wassendog</i>	ADDRESS: <i>190 W. Dilcrest</i>	PH: <i>283-1336</i>

3A

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY., ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: HENRY ^{AT BANKMAN} Henry H. Bankman	ADDRESS: 137 W. DILCREST FLORENCE KY	PH 371-1448
NAME: Ed Diane Prindle	ADDRESS: 145 W. Dilcrest Florence, KY	PH 371-4825
NAME: J.C. Frass	ADDRESS: 149 W. Dilcrest Florence KY	PH 525-0311
NAME: Virginia Ratliff	ADDRESS: 157 W. Dilcrest	PH 371-0366
NAME: Ralph Cox -	ADDRESS: 161 W. Dilcrest	PH 371-0884
NAME: Patricia ^{Patricia Cox} Cox	ADDRESS: 161 W. Dilcrest	PH 371-0884
NAME: Bruce & Nancy Boone	ADDRESS: 173 W. Dilcrest	PH 525-7955
NAME: Cheryl Hopper	ADDRESS: 181 W. Dilcrest	PH 282-8032
NAME: D.W. Cole	ADDRESS: 189 W. DILCREST	PH 525-0662
NAME: Patricia W. H. H.	ADDRESS: 193 W. DILCREST	PH 647-6840
NAME: Christine Day	ADDRESS: 193 W. Dilcrest	PH 647-6846
NAME: Irene Masley	ADDRESS: 197 W. Dilcrest	PH 371-8105
NAME: James R. Masley Jr.	ADDRESS: 197 W. Dilcrest	PH 371-8105
NAME: Billy Green	ADDRESS: 201 W. DILCREST	PH 371-2191
NAME: Muelle Threat	ADDRESS: 8216 N. Dilcrest	PH 525-9031
NAME: Jim Threat	ADDRESS: 8212 N. Dilcrest	PH 371-2954
NAME: Susan Hutcherson	ADDRESS: 8202 N. Dilcrest	PH 371-7677
NAME: Marshall Hutcherson	ADDRESS: 8202 N. Dilcrest	PH 371-2087

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
January 7, 2004
7:00 P.M.**

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:07 PM.

COMMISSION MEMBERS PRESENT:

Mr. Greg Breetz
Mr. Kim Bunger
Mr. Arnold Caddell, Chairman
Mrs. Janet Kegley
Mr. Don McMillian
Mr. Robert Newman
Mr. Randy Poe
Mrs. Susan Poston, Vice Chairwoman
Mr. Bob Schwenke
Mr. Earl White
Mrs. Lisa Wilson, Secretary/Treasurer

COMMISSION MEMBERS NOT PRESENT:

Mr. Randy Barlow
Mr. Mark Hicks
Mr. Richard Knock, Temporary Presiding Officer
Mr. Charlie Reynolds

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Mr. Kevin Wall, AICP, CDT – Director, Zoning Services
Ms. Jan Hancock, Secretary

Mr. McMillian moved that the salaries, benefits, and bills due be approved and paid as presented; and indicated approval of those items which have been paid. Mrs. Poston seconded the motion. A vote on the motion found all voting members in favor. Mr. Caddell abstained due to his relationship with Heritage Bank. The motion carried.

Mr. White left the meeting at this time.

ACTION ON PLAN REVIEWS:

1. **Zoning Map Amendment and Variance**

The request of Eighteen, Ltd. (applicant) for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners) for a Zoning Map amendment from Residential One Family (R1F) to Professional Office One (O-1A) and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet for a 0.8613-acre site on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a Zone Change and a Variance to allow an office development.

Staff Member Kevin Wall 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 owners have signed the letter agreeing to the conditions.

There being no discussion, Mrs. Kegley moved by resolution to the City of Florence that the request be approved based on the Committee Report. Mr. Bunger seconded the motion. A vote on the motion found all voting members in favor. Mr. White was not present and did not vote. The motion carried.

Mrs. Kegley commented that during the Public Hearing, the applicant's engineer stated that detention would be comparable to a development of three houses, but that is not the standard and they will be held to a pre-development standard.

Mr. White returned to the meeting at this time.

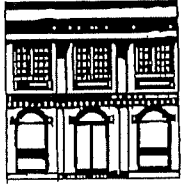
NEW BUSINESS: None

EXECUTIVE DIRECTOR'S REPORT:

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

EXHIBIT
"B"

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

December 18, 2003

Dennis C. Helmer, Gayle S. Helmer,
David L. Helmer, and Sandra G. Helmer
7415 Burlington Pike
Florence, KY 41042

FAX: 371-0745

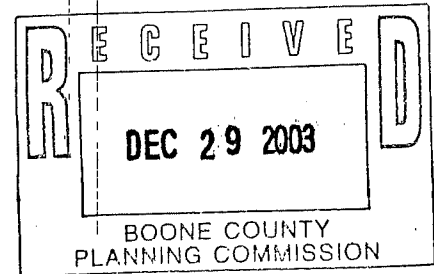
RE: Recommended Conditions of Approval for Helmer Zone Change and Variance
Application, Southeast Corner of U.S. 42/Dilcrest Intersection, Florence, Kentucky

Dear Messrs Helmer:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their December 17, 2003 meeting. If you, as the property owners, agree to these conditions, please so indicate by signing in the space provided at the end of this letter, and return the original letter to the Planning Commission's office by Friday, January 2, 2004.

CONDITIONS

1. The development shall follow the revised Concept Development Plan (received by the Planning Commission 12/12/03) and architectural elevations (received by the Planning Commission 12/16/03) which were submitted to the Zone Change Committee in response to the issues raised at the Public Hearing for this request. The materials for the structure shown on the architectural elevations shall be brick with dimensional shingle roofing.
2. Uses shall be limited to professional office and medical office uses which are Principally Permitted in the O-1A zone.
3. A paved, two-way driveway connection between this site and the driveway on the adjoining commercial property to the east shall be provided with the initial construction of the building.
4. Landscaping for the rear buffer yard shall follow the scheme provided with the revised Concept Development Plan. Additional screening along the walk at the rear of the building shall include a row of arborvitaes as shown on the revised Concept Development Plan, or comparable columnar evergreen trees, which are at least 4 feet wide and 15 feet high at maturity, and which have a 6 foot high minimum



Dennis C. Helmer, Gayle S. Helmer,
David L. Helmer, and Sandra G. Helmer
December 18, 2003
Page 2

installation size; this row of columnar evergreen trees, as shown on the revised Concept Development Plan, fulfills the applicable large shrub requirement. A 6 foot high solid screening fence may be opted in lieu of the row of columnar evergreen trees. Other than as specified in this condition for the rear buffer yard, the development must meet all applicable standards stated in Article 36 "Landscaping" of the zoning regulations.

5. As much storm water as practical shall be over-detained in accordance with the City Engineer's direction.
6. The turning radii and reverse curves from (and including) the curb cut to the parking area at the front of the building shall be softened to more readily accommodate traffic flow.
7. Building mounted signage may be located on the front facade facing U.S. 42 only. Any monument style sign and the dumpster enclosure shall use materials, colors, and design detailing which match the proposed office building. Any monument style sign may be externally illuminated only.
8. Site lighting which is located behind the front building line shall be limited to bollard style and low intensity wall mounted fixtures only.

Sincerely,

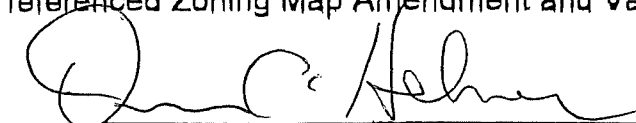


Kevin T. Wall, AICP CDT
Director, Zoning Services

KFW/vlm

AGREEMENT

We, the property owners of the real estate at the southeast corner of the US 42/Dilcrest intersection, Florence, Kentucky, agree to the conditions listed herein for the above referenced Zoning Map Amendment and Variance application.



Dennis C. Helmer

12/29/03

Date

Dennis C. Helmer, Gayle S. Helmer,
David L. Helmer, and Sandra G. Helmer
December 18, 2003
Page 3

Gayle S. Helmer 12/29/03

Gayle S. Helmer Date

David L. Helmer 12/26/03

David L. Helmer Date

Sandra G. Helmer 12/26/03

Sandra G. Helmer Date

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: January 7, 2004

RE: Request of **Eighteen, Ltd. (applicant)** for **Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners)** for a Zoning Map Amendment from Residential One Family (R1F) to Professional Office One (O-1A), and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet, for a 0.8613 acre site located on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a zone change and a variance to allow an office development.

REMARKS:

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

FINDINGS OF FACT

1. The Committee has concluded that the request is in agreement with the 2000 Boone County Comprehensive Plan for the following reasons.
 - A. The Future Land Use Map designates the site for "Suburban Residential" uses. However, the Land Use Element text states "vacant parcels and existing residences along the south side of US 42 near Dilcrest Drive and Bentley Court may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. An extremely well-designed, low-impact professional office use may be considered for this area, however, the potential developer must submit detailed buffering and building design plans, and demonstrate that the project would establish a positive focal point for the US 42 corridor in addition to minimizing visual, traffic, and stormwater impacts on adjacent residential uses. All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from US 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended" ("Gunpowder Area," pg. 165).

In short, the Comprehensive Plan allows for either Suburban Residential, Urban Residential, or office uses depending on the potential impacts that would be generated and the quality of the specific proposal. The revised Concept Development Plan and architectural elevations that were submitted to the Zone Change Committee in response to the comments presented at the Public Hearing, as well as the agreed conditions outlined below, demonstrate agreement with the Land Use Element text and its detailed objectives regarding the appropriate development of an extremely well designed, low-impact professional office. Specifically: the facility will be limited to professional and medical office uses only; lighting will be controlled as to not impact the adjoining residential properties; the proposal has been revised to include one single story brick structure with multiple roof forms and tangible design detailing so it will resemble a well constructed residence; a detailed landscape/buffering plan for the rear yard buffer area adjoining the adjacent residential lots illustrates that significant buffering and screening will be provided; a commitment to over-detain storm water has been made; the design of the dumpster enclosure and any monument sign will visually correlate to the brick office building; building mounted signage will be limited to the front facade only; and, a vehicular connection will be made from this site to the commercial property to the immediate east. The Committee has also determined that these conclusions are reinforced by the Land Use Element's statement that "development along US 42 from Mall Road to the Ewing Boulevard area should continue to be a mixture of professional and local, traffic-oriented commercial activity" ("Florence Commercial Area," pg. 163).

- B. The Business Activity Element ("Areas of Future Commercial Activity," pp. 70 - 72) notes that "many problems with the location and arrangement of commercial uses have emerged, especially along the KY 18 and U.S. 42 corridors. Commercial developments along KY 18 and U.S. 42 west of Mall Road should not be regionally oriented nor should they attract additional traffic, but rather be served by the existing or future population of the area" and "commercial developments that occur in the KY 18 and U.S. 42 corridors should be limited in scale (e.g. building, intensity, use, etc.) and clustered to serve growing residential neighborhoods." The proposal involves a modestly scaled office structure which will not have direct access to US 42, but will be served by a local street which has a signalized intersection with US 42, and through an existing access point on an adjoining commercial lot.
- C. Based on the conclusions outlined above, the Committee has determined that the request, with the agreed conditions outlined below, demonstrate agreement with the applicable Business Activity Goals and Objectives, which are outlined in the Staff Report for this application.

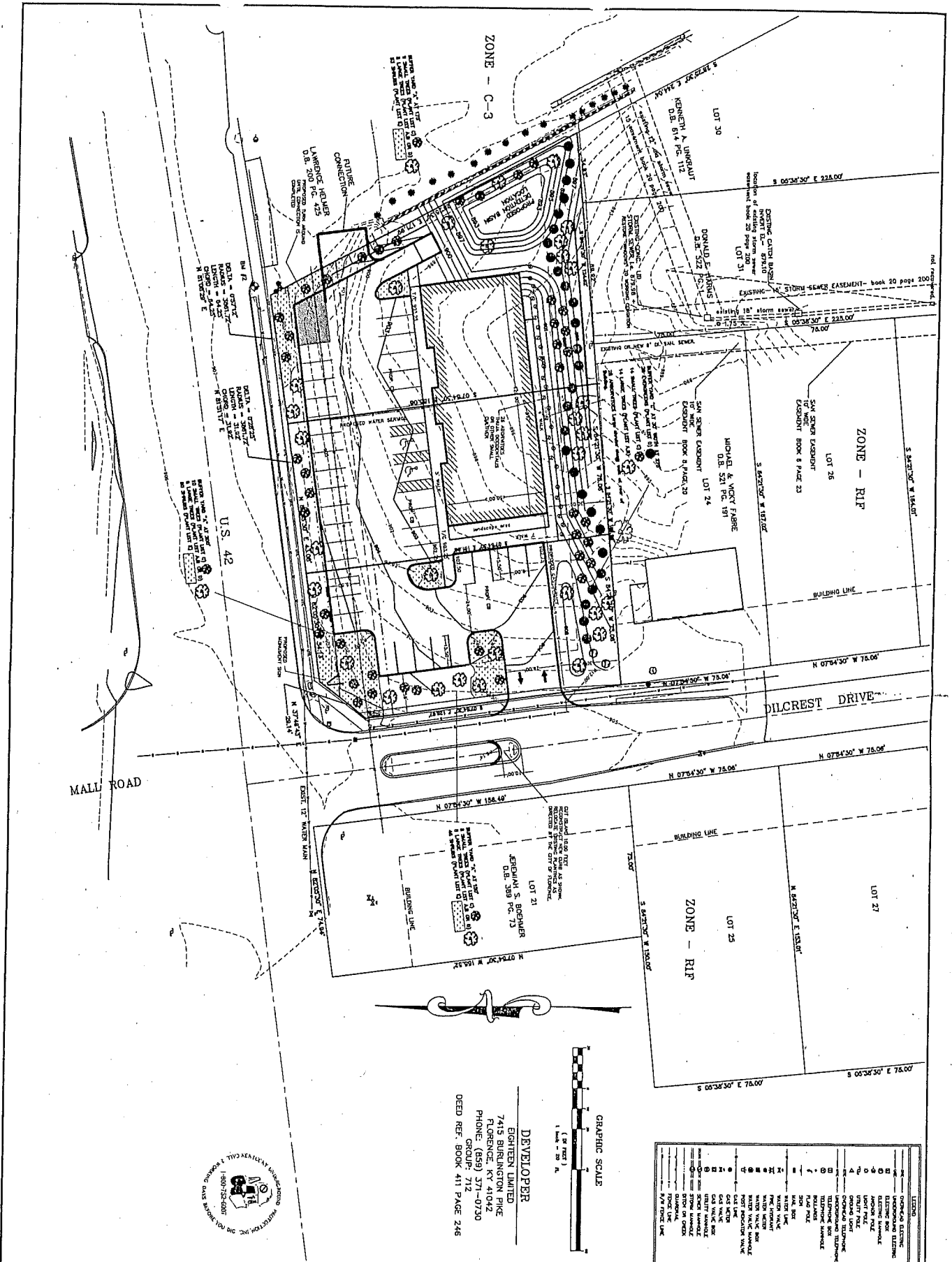
- D. The Committee has concluded that the proposal, with the agreed conditions outlined below, demonstrate agreement with the Land Use Element's Future Land Use Development Guidelines as well as the applicable Goals and Objectives.
2. When considering that the vast majority of the adjoining area along US 42 has a definitive commercial strip character and is comprised of commercial uses that are oriented toward automobile traffic, and that US 42 is a heavily traveled five lane highway which is contemplated by the Kentucky Transportation Cabinet to be widened to six lanes, the Committee has concluded that the existing zoning classification is inappropriate and that the proposed zoning classification is appropriate.
 3. The Committee has concluded that the requested variance fulfills the applicable findings, standards, and criteria outlined in KRS 100.241 to 100.247, which includes the findings outlined in Section 251 of the Boone County Zoning Regulations. Specifically, the strict enforcement of the buffer yard width normally required along the south/rear property line would deprive the applicant of reasonable use of the site, especially when considering the limited size and depth of the property. The width of the rear buffer yard was increased on the revised Concept Development Plan to indicate that both the building and paved vehicular area would be set back at least thirty feet (30') from the rear property line, with a four foot (4') wide sidewalk placed along the rear facade of the building.
 4. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2000 Boone County Comprehensive Plan. The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

CONDITIONS

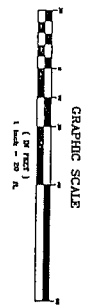
1. The development shall follow the revised Concept Development Plan (received by the Planning Commission 12/12/03) and architectural elevations (received by the Planning Commission 12/16/03) which were submitted to the Zone Change Committee in response to the issues raised at the Public Hearing for this request. The materials for the structure shown on the architectural elevations shall be brick with dimensional shingle roofing.
2. Uses shall be limited to professional office and medical office uses which are Principally Permitted in the O-1A zone.

3. A paved, two-way driveway connection between this site and the driveway on the adjoining commercial property to the east shall be provided with the initial construction of the building.
4. Landscaping for the rear buffer yard shall follow the scheme provided with the revised Concept Development Plan. Additional screening along the walk at the rear of the building shall include a row of arborvitae as shown on the revised Concept Development Plan, or comparable columnar evergreen trees, which are at least 4 feet wide and 15 feet high at maturity, and which have a 6 foot high minimum installation size; this row of columnar evergreen trees, as shown on the revised Concept Development Plan, fulfills the applicable large shrub requirement. A 6 foot high solid screening fence may be opted in lieu of the row of columnar evergreen trees. Other than as specified in this condition for the rear buffer yard, the development must meet all applicable standards stated in Article 36 "Landscaping" of the zoning regulations.
5. As much storm water as practical shall be over-detained in accordance with the City Engineer's direction.
6. The turning radii and reverse curves from (and including) the curb cut to the parking area at the front of the building shall be softened to more readily accommodate traffic flow.
7. Building mounted signage may be located on the front facade facing US 42 only. Any monument style sign and the dumpster enclosure shall use materials, colors, and design detailing which match the proposed office building. Any monument style sign may be externally illuminated only.
8. Site lighting which is located behind the front building line shall be limited to bollard style and low intensity wall mounted fixtures only.

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.



REVISIONS	DATE	BY	DESCRIPTION
1	12-10-03	JH	REVISED PER COMMENTS
2	12-10-03	JH	REVISED PER COMMENTS
3	12-10-03	JH	REVISED PER COMMENTS
4	12-10-03	JH	REVISED PER COMMENTS
5	12-10-03	JH	REVISED PER COMMENTS

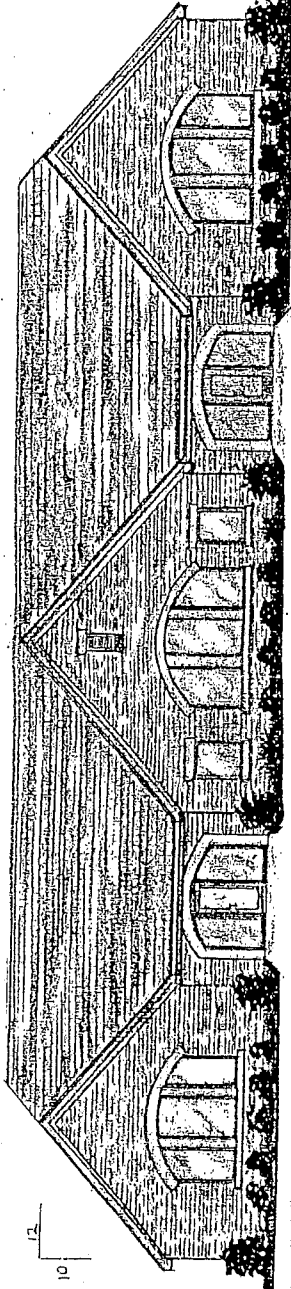


DEVELOPER
 EIGHTEEN LIMITED
 7415 BURLINGTON PIKE
 FLORENCE, KY 41042
 PHONE: (502) 371-0730
 GROUP: 712
 DEED REF. BOOK 411 PAGE 246

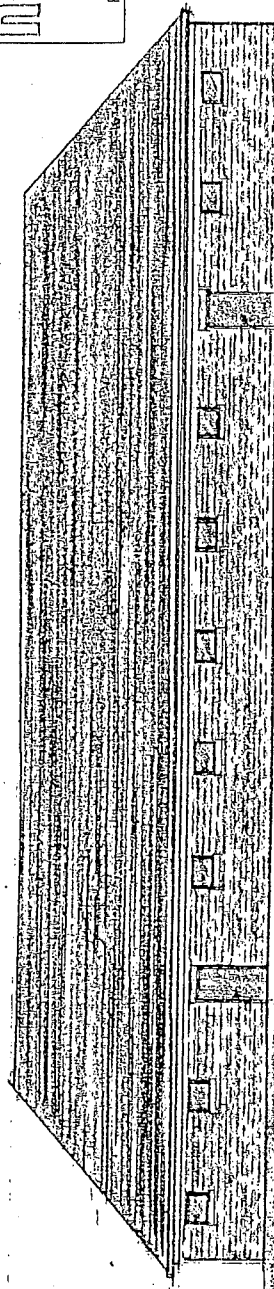


	LANDSCAPE PLAN U.S. 42 & DILCREST DRIVE FLORENCE, KY	
	EIGHTEEN LIMITED 7415 BURLINGTON PIKE FLORENCE, KY 41042 PHONE: (502) 371-0730 GROUP: 712 DEED REF. BOOK 411 PAGE 246	
PROJECT NO. 03-035 SCALE 1" = 20' DATE 6-5-03 LAST REV. 12-10-03	LANDSCAPE PLAN SHEET C-2	PROJECT NO. 03-035 SCALE 1" = 20' DATE 6-5-03 LAST REV. 12-10-03

NORTH ELEVATION



SOUTH ELEVATION



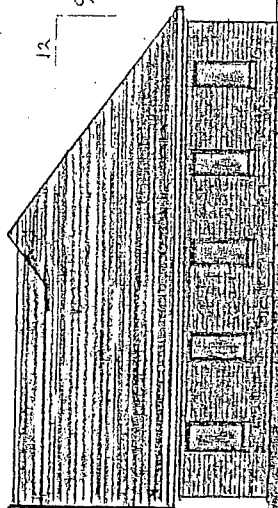
TOP OF PROPOSED WALL ELEV. 896.00

EXISTING ELEV. 897.50 & P.

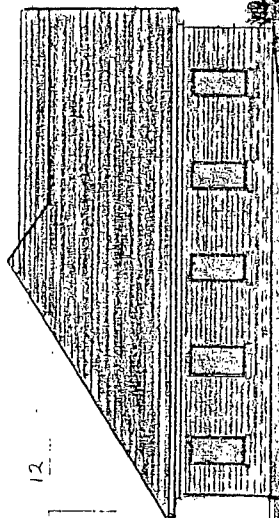
FIN. FL. ELEV. 903.50

RECEIVED
DEC 16 2003
BOONE COUNTY
PLANNING COMMISSION

WEST ELEVATION



EAST ELEVATION



EXISTING FENCE

30'

FIN. GRACE

PROPOSED WALL

30'

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
November 19, 2003
7:30 P.M.**

PUBLIC HEARINGS

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

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

Legal Counsel Present: Mr. Dale Wilson

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:30 PM. Following an explanation of the Public Hearing process, Mrs. Poston introduced the first item on the Agenda:

Applicant: Eighteen, Ltd. for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners)

Request: Zoning Map Amendment and Variance

The request of Eighteen, Ltd. (applicant) for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners) for a Zoning Map amendment from Residential One Family (R1F) to Professional Office One (O-1A) and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet for a 0.8613-acre site on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a Zone Change and a Variance to allow an office development.

Staff Member Kevin Wall presented the Staff Report which included a Power Point presentation (see Staff Report).

Mrs. Poston asked for the applicant's presentation.

Mr. Dennis Helmer, 65 Acades Drive, Florence, Kentucky, a shareholder in Eighteen, Ltd. stated that he and his brother and their wives own the lot, which is under contract to Eighteen, Ltd. He introduced his wife Gayle Helmer, David Hils who is a principal in Eighteen, Ltd., their engineer Joe Hoh; Dr. Tagher who will move his practice to this location, and Gary Fisher who will be involved in the construction. Mr. Helmer's presentation was accompanied by an exhibit board showing the two proposed medical office buildings. He stated that Dr. Tagher practices pediatrics in Florence and needs approximately 4,000 square feet and they designed one of the buildings based on that requirement. They believe that two buildings can fit on the site. He stated that they could get 30-feet in the back, and the regulations allow 30-feet with a berm – but the lot is not exactly a rectangle. The building setback is 24.92 feet on one end and 32 feet on the other end. He has been a resident of Florence for 46 years and remembers when the area was farmland. He noted existing apartments down the road and across the street. He noted C-2 and C-3 uses along US 42 from I-75 to Weaver Road, which make residential use of this property inappropriate. He stated that they considered rental housing – but renters want the same things as homeowners (privacy, low traffic streets, etc.) – or they will be transient renters which would not be the proper type of entrance into Dilcrest subdivision. They looked at urban housing/apartments but with .86 acres and the current economic environment, there is not much they could do with that use. He stated that four-families are not built any more and most rental housing is more dense than that. The site is not large enough for a pool and exercise rooms. There could be three rental houses, but that is not an economically feasible project. A professional use of a medical nature would have a low impact on the neighborhood because they work 8 AM to 5 PM and there are no evening hours. There is no need for excessive lighting, and there would just be security lighting. There would be no need for parking at night. There is no seasonal rush and no weekend traffic. Delivery trucks with supplies would be about the only truck traffic. This would be the most appropriate use of the site. The design is residential in character with large roof lines and exposed shingles. If they put the two buildings together, even at 6,000 square feet it will look like a strip center and change the character of what they want to do there. The two buildings are more expensive because they are building extra walls and roof, but they will give a better approach and better look to the area. Traffic from the development should not be significant and there would be minimal truck traffic. The use would not generate any significant noise – probably less than a typical residence. If they do the fill with the wall behind it and the banks, it will have a tendency to quiet the neighborhood behind it. The existing houses pick up noise from US 42, and this would stop the noise to some extent. The trees and buildings would also help to create a noise buffer. They have the necessary easements to provide for stormwater retention and there would not be any more water created than there is now. There is a retention pond to catch runoff from the parking lot and pipe it into the existing storm water easements. He stated that there is an e-mail from Bob Hill (attached to the Staff Report) and he has spoken with Mr. Hill. He stated that the e-mail explains that the state keeps several lists of projects and the U.S. 42 project in this area is on

the Unfilled Needs List. He stated that if a project is moved from the Unfilled Needs List to the Six-Year Plan, that does not mean it will be built in six years and projects go on and off the list. Right now there are too many projects on the Six-Year Plan – about \$100 million more than the state has money to build. This project is not on the Six-Year Plan. He is not sure when a six-lane highway would be built and, if it is built, it is not clear where it would be built. The fact that a six-lane highway is being considered speaks to the changed character of the neighborhood and he does not see how anyone could build a residence on a six-lane highway. He stated that the lot has been subject to litigation. The Circuit Court affirmed that there were no restrictions and the Supreme Court declined to hear it – so it stands that there are no residential restrictions. He stated that they believe they have provided a well-designed plan – but they could “tweak” the plan. They intend to do brick and shingles of a residential character. He stated that it is an improvement to the neighborhood and will improve the look of the area. This concluded the applicant’s presentation.

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

Mr. Larry Brown, 8202 Adella, Florence, Kentucky, a resident of Dilcrest, presented and submitted his written comments (*see Exhibit 1 – with attached pages from the Boone County Comprehensive Plan, the Zoning Regulations, and e-mail dated November 4, 2003 from Bob Hill to Kevin Wall*). He added that you can say an area has changed depending on how far back you want to go – but the Mall and the development have been there for twenty years and there has not been a change. He stated that a curb cut on a residential street needs to be residential.

Mrs. Lisa Hickey, 8108 Harms Hill Drive, submitted eight pictures of flooding in the area (*see Exhibit 2*) and a petition from neighbors of Harms Hill “We do not approve of the zoning change at the top of Dilcrest Subdivision” with 5 lines of signatures (*see Exhibit 3*). Mrs. Hickey stated that she was speaking on behalf of the residents of Harms Hill and Dilcrest and asked that the zone change not be approved. She stated that it is not fair to the people in Dilcrest to have more commercial property at the entrance of the subdivision and to endure more congestion and more cars. They want more green space and buffer. It is not fair to have increased water runoff in her backyard. She stated that the pictures she submitted (*see Exhibit 2*) show the water they receive every time it rains. They have lived in their home for nine years and have seen an increase in the runoff and watched their property erode. If more disruption takes place at U.S. 42, there will continue to be a problem with flash flooding, eroding and garbage. She asked that the zone change be denied.

Mr. John Grout, 8206 North Dilcrest, agreed with the others.

Mr. Jim Day stated that his name is on the sign across the street. He referred to a letter from Jeremy Boehmer (copy attached to the Staff Report) who owns the lot on the west side of Dilcrest. He stated that they lost the Boone National Bank on their lot because of these same complaints which they have heard over the years. Mr. Costello stated that there has been no application submitted to the Planning Commission for the property across the street.

Mr. John Grout stated that always around the holidays there is bad traffic at the intersection. He stated that cars come off Mall Road heading toward Dilcrest and, if someone was coming off Mall Road and went around the corner and wanted to turn into this property, someone would crash into them when they stop to immediately turn right into the lot. There is a safety issue there.

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

Mrs. Kegley asked where the pictures of flooding were taken. Mrs. Hickey responded that there is flooding in the back of the subdivision and most of the water is coming down to the back end of their property.

Mr. Bunger asked if the water currently leaves the property and how it flows. A resident responded that it flows south right down the hollow. Mr. David Hils stated that the person most qualified to respond is Mr. Hoh with Cardinal Engineering.

Mr. Hoh stated that Cardinal Engineering prepared the plan. He stated that the site slopes from U.S. 42 to the south. He indicated on the Power Point slide where they propose a detention basin. He stated that the parking lot would be in the front and the buildings would drain into the detention basin. He stated that the county has regulations that would restrict the release to the same runoff that would be created by three single-family homes. The detention basin would not release any more water into the creek than three-single family homes would create, which is per the Subdivision and Zoning Regulations. The detention basin has not been sized at this time. He stated that they are aware of the traffic on U.S. 42, Mall Road and Dilcrest – but someone put a barrier down the middle of Dilcrest limiting access to this property. He does not think the Highway Department would allow three driveway cuts onto U.S. 42, which hampers this property for any use at all and makes this property peculiar and needing special consideration. The property has been saddled with situations that cannot be met in a normal manner, which needs to be considered. Things have changed since the subdivision was developed – the mall was not there at that time. Over the years, things have changed.

Mr. Newman stated that he was on the Zone Change Committee the last time this property came up and they did not disallow curb cuts from Dilcrest – it was

Mr. Robert Lawrence, 141 West Dilcrest, a resident for 28 years, stated they only get five seconds to get out at the light and it is hard to get out with all the traffic. Three cars can get out and the fourth will be on the yellow light. This request will affect the traffic because they want to cut in for a driveway at the top end. If someone is coming up and someone is trying to turn, they will be waiting. He stated that a lot of housing is being built west on U.S. 42 and vehicles come around Bentley Court and up the hill and through the light going to the mall and other commercial buildings. He has seen cars backed up to the bottom of the hill and even to the curves during the holidays. He asked that the traffic be considered. He stated that the people on North Dilcrest and on West Dilcrest want this property to be residential. His lot is 250 feet deep and the runoff comes across his property. He agreed with the comments made by the other speakers. He stated that if there are more parking spaces, there will be more runoff since water soaks into the ground when it rains, but it will not soak in if there is blacktop and concrete. He has seen flooding like a creek and asked that the runoff be considered. He stated that there will be oil dripping from the cars there and in a hard rain it will run off onto his property. A hard rain will kill the buffer and the water will overflow and come onto their properties. He is opposed to the request.

Mr. Brinkman, 137 West Dilcrest, agreed with the others. He is against two buildings on the property and against the curb cuts on Dilcrest.

Mr. Bill Greene, 201 West Dilcrest, stated that his deed said that there would be no zone changes unless everyone there agreed and he does not agree. He questioned how restrictions can be wiped out. Counselor Wilson advised that deed restrictions are not zoning regulations and the Planning Commission cannot enforce private deed restrictions. If deed restrictions apply to the lots, then those who have the authority to enforce them would have to bring an action. He stated that it sounds like there has been some legal action where people have sought to enforce deed restrictions. Enforcement of private deed restrictions is not through the Planning Commission.

Mr. Gene Cunningham, 146 West Dilcrest, presented and submitted his written comments (see **Exhibit 4**). He added that the next house down has children playing and the applicant's argument about the property not being residential is not a good argument. He also submitted a petition "We the following as residence of Dilcrest Manor Subdivision, Boone County, Florence, KY are opposing any zoning changes within the subdivision from R1F to Commercial Zoning" (see **Exhibit 5**).

Jamie Warren, 210 West Dilcrest, agreed with the others. He is concerned about the impact any deviation from the code would have on the homeowners. He asked that the impact on the community be considered. He stated that the structures would be close to the residences at the beginning of the street.

discussed, but there was not a decision and the application went away. He questioned how the island on Dilcrest got there and who put it there. Mr. Costello responded that it is a city street and that portion of the street was rebuilt after the last application. Mr. Newman stated that there is no island shown there in the aerial photograph. Mr. Costello responded that it may have been taken out for the reconstruction. He stated that Staff can contact the city and find out. Mr. Newman stated that he wants to know when it was put there, why it was put there, and who applied for the change. Mr. Costello will find out this information. A resident stated that thirty-two years ago there was a sign there that said "Dilcrest" and when the highway came through, they took it down – and then the city put it back up. Mr. Newman stated that it limits access to this property. Mr. Newman would also like to know the number of residences in Dilcrest.


Mrs. Poston asked that the minutes from the previous Public Hearing in regard to this site be provided to the Committee. That request was withdrawn.

There being no further comments from the Commissioners, Mrs. Poston asked if there were any additional comments from the applicant.

Mr. David Hils stated that he has been a real estate broker for thirty years. He was selling homes in Dilcrest thirty years ago and there was an island there – but it was smaller and not the same. The island has been extended over a period of time. He suggested that the Planning Commission may want to look at the size of it when it was created versus the size of it today.

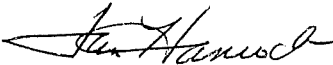
There being no further comments, the Mrs. Poston stated that the Committee Meeting for this item will be on December 3, 2003 at 5:00 PM in this room. The public is welcome to attend, but no further information will be taken. This item will be on the Agenda for the Business Meeting on December 17, 2003 at 6:30 P.M. Mrs. Poston closed this Public Hearing.

APPROVED:



Susan Poston, Vice Chairwoman

Attest:



Jan Hancock, Recording Secretary

Jan Hancock, Recording Secretary

Exhibits –

- 1 **Comments submitted by Larry Brown with attachments (9 pages total)**
- 2 **Eight pictures of flooding submitted by Lisa Hickey**
- 3 **Petition submitted by Lisa Hickey**
- 4 **Comments submitted by Gene Cunningham (16 pages)**
- 5 **Petition submitted by Gene Cunningham (6 pages)**

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: December 17, 2003

RE: Request of **Eighteen, Ltd. (applicant)** for **Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners)** for a Zoning Map Amendment from Residential One Family (R1F) to Professional Office One (O-1A), and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet, for a 0.8613 acre site located on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a zone change and a variance to allow an office development.

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 _____

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

Charlie Reynolds(Alternate)*
For Project _____ Absent _____
Against Project _____
Abstain _____ Deferred _____

TOTAL: _____ DEFERRED 4 FOR PROJECT _____ ABSENT
_____ AGAINST PROJECT _____ ABSTAIN

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: December 3, 2003

RE: Request of **Eighteen, Ltd. (applicant)** for **Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners)** for a Zoning Map Amendment from Residential One Family (R1F) to Professional Office One (O-1A), and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet, for a 0.8613 acre site located on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a zone change and a variance to allow an office development.

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

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

SUPPORTING INFORMATION

LEGAL DESCRIPTION

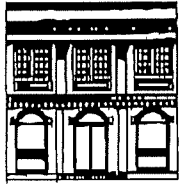
U.S. HIGHWAY 42, FLORENCE, KENTUCKY

GROUP NO. 712 – PLAT BOOK: 5, PAGE 29

Situated in Florence, Kentucky, and being all of Lot No. 18, 19 and 20, Section Two (2) of the Dilcrest Manor Subdivision, recorded in Plat Book 5, Page 29, Boone County Clerk's records at Burlington, Kentucky.

Being the same property conveyed to the Grantors by BRIAN LEE BOEHMER, et ux by deed dated the 13th day of July, 1989 and recorded in Deed Book 411, page 246, in the office of the Boone County Clerk, Burlington, Kentucky.

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

Phone: (859) 334-2196

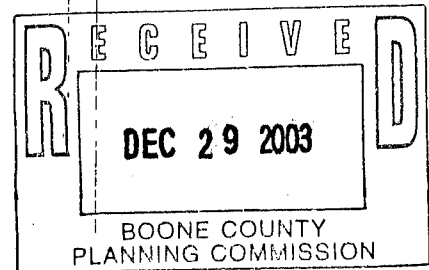
Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

December 18, 2003

Dennis C. Helmer, Gayle S. Helmer,
David L. Helmer, and Sandra G. Helmer
7415 Burlington Pike
Florence, KY 41042

FAX: 371-0745



RE: Recommended Conditions of Approval for Helmer Zone Change and Variance Application, Southeast Corner of U.S. 42/Dilcrest Intersection, Florence, Kentucky

Dear Messrs Helmer:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their December 17, 2003 meeting. If you, as the property owners, agree to these conditions, please so indicate by signing in the space provided at the end of this letter, and return the original letter to the Planning Commission's office by Friday, January 2, 2004.

CONDITIONS

1. The development shall follow the revised Concept Development Plan (received by the Planning Commission 12/12/03) and architectural elevations (received by the Planning Commission 12/16/03) which were submitted to the Zone Change Committee in response to the issues raised at the Public Hearing for this request. The materials for the structure shown on the architectural elevations shall be brick with dimensional shingle roofing.
2. Uses shall be limited to professional office and medical office uses which are Principally Permitted in the O-1A zone.
3. A paved, two-way driveway connection between this site and the driveway on the adjoining commercial property to the east shall be provided with the initial construction of the building.
4. Landscaping for the rear buffer yard shall follow the scheme provided with the revised Concept Development Plan. Additional screening along the walk at the rear of the building shall include a row of arborvitaes as shown on the revised Concept Development Plan, or comparable columnar evergreen trees, which are at least 4 feet wide and 15 feet high at maturity, and which have a 6 foot high minimum

Dennis C. Helmer, Gayle S. Helmer,
David L. Helmer, and Sandra G. Helmer
December 18, 2003
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installation size; this row of columnar evergreen trees, as shown on the revised Concept Development Plan, fulfills the applicable large shrub requirement. A 6 foot high solid screening fence may be opted in lieu of the row of columnar evergreen trees. Other than as specified in this condition for the rear buffer yard, the development must meet all applicable standards stated in Article 36 "Landscaping" of the zoning regulations.

- 5. As much storm water as practical shall be over-detained in accordance with the City Engineer's direction.
- 6. The turning radii and reverse curves from (and including) the curb cut to the parking area at the front of the building shall be softened to more readily accommodate traffic flow.
- 7. Building mounted signage may be located on the front facade facing U.S. 42 only. Any monument style sign and the dumpster enclosure shall use materials, colors, and design detailing which match the proposed office building. Any monument style sign may be externally illuminated only.
- 8. Site lighting which is located behind the front building line shall be limited to bollard style and low intensity wall mounted fixtures only.

Sincerely,

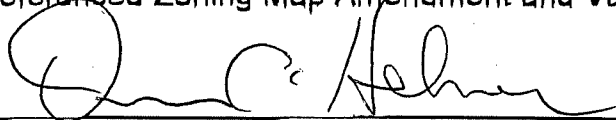


Kevin T. Wall, AICP CDT
Director, Zoning Services

KTW/vlm

AGREEMENT

We, the property owners of the real estate at the southeast corner of the US 42/Dilcrest intersection, Florence, Kentucky, agree to the conditions listed herein for the above referenced Zoning Map Amendment and Variance application.



12/29/03

Dennis C. Helmer

Date

Dennis C. Helmer, Gayle S. Helmer,
David L. Helmer, and Sandra G. Helmer
December 18, 2003
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Gayle S. Helmer 12/29/03
Gayle S. Helmer Date

David L. Helmer 12/26/03
David L. Helmer Date

Sandra G. Helmer 12/26/03
Sandra G. Helmer Date

ORDINANCE NO. 0-23-06

AN ORDINANCE ADOPTING AND APPROVING A ZONING MAP AMENDMENT FOR AN APPROXIMATE 0.8613 ACRE SITE GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE U.S. 42/DILCREST DRIVE INTERSECTION IN THE CITY OF FLORENCE, KENTUCKY, TO REZONE THE SITE FROM RESIDENTIAL ONE FAMILY (R1F) TO PROFESSIONAL OFFICE ONE (O-1A). (EIGHTEEN, LTD./HELMER PROPERTY)

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

WHEREAS, the Boone County Planning Commission recommended approval of the request described above, subject to additional conditions, based upon certain findings and conditions attached to its Resolution of Recommendation, and

WHEREAS, on March 16, 2004 the City Council acted to override that recommendation and denied the request based upon Findings of Fact which concluded that such request did not comply with the Boone County Comprehensive Plan because there was not adequate accommodation for the impact of vehicular traffic, and

WHEREAS, applicants for the zone change request initiated a legal proceeding in the Boone Circuit Court being Civil Action No. 04-CI-595, consisting of an appeal from the denial together with a complaint for declaratory judgment and money damages, and

WHEREAS, a negotiated resolution of that lawsuit resulted in the Settlement Agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein, and

WHEREAS, the City Council has determined that the terms and conditions contained in the Settlement Agreement adequately address the potential traffic impacts associated with the zone change request, with the result that such request, as recommended by the Boone County Planning Commission, is in compliance with the 2000 Boone County Comprehensive Plan.

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

SECTION I

That the City Council specifically finds that as a result of the terms and conditions of the Settlement Agreement, the zone change request is in compliance with the 2000 Boone County Comprehensive Plan.

SECTION II

That the request of Eighteen, Ltd.(applicant) for Dennis, Gayle, David and Sandra Helmer (owners) for a Zoning Map Amendment for an approximate 0.8613 acre site generally located on the southeast corner of the U.S. 42/Dilcrest Drive intersection with City of Florence, Kentucky, to rezone the site from Residential One Family (R1F) to Professional Office One (O-1A) shall be and is hereby approved to allow a professional office building, subject to the agreed conditions for this site. The real estate which is the subject of this Ordinance is more particularly described in Exhibit "B", attached hereto and incorporated herein by reference. The zoning map of Boone County, Kentucky as it applies to the City of Florence, Kentucky shall be designated to reflect the approval of this rezoning for this subject property.

SECTION III

The approval of this rezoning is granted subject to the conditions, terms and provisions of the Boone County Planning Commission recommendation, including the Committee Report made a part of that recommendation, a copy of that recommendation and Committee Report of the Boone County Planning Commission being attached, marked Exhibit "C", and incorporated

herein as if fully set out, this recommendation being in the form of Resolution No. R-04-001-A of the Boone County Planning Commission along with the referenced exhibits to that Resolution.

SECTION IV

In addition to those conditions set forth in the recommendations of the Boone County Planning Commission, this approval of the City of Florence, Kentucky through its City Council shall be and is hereby subject to the terms and conditions of the Settlement Agreement, which is Exhibit "A" hereto.

SECTION V

This approval is granted based on the findings of fact made by the Boone County Planning Commission and contained within its recommendation, including the Committee Report of that Commission, which is attached and part of the Commission's Resolution No. R-04-001-A, marked Exhibit "C" hereto.

SECTION VI

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

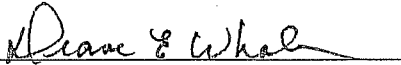
SECTION VII

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

PASSED AND APPROVED ON FIRST READING THIS 22nd DAY OF August, 2006.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 12th DAY OF September, 2006.

APPROVED:


MAYOR

ATTEST:


CITY CLERK

CITY OF FLORENCE, KENTUCKY
SUMMARY OF ORDINANCE NO. 0-23-06

The City of Florence, Kentucky, enacted on second reading Ordinance No. 0-23-06
on September 12th, 2006. The title of this Ordinance is as follows:

ORDINANCE NO. 0-23-06

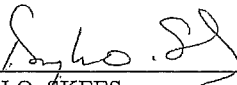
AN ORDINANCE ADOPTING AND APPROVING A ZONING MAP AMENDMENT FOR AN APPROXIMATE 0.8613 ACRE SITE GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE U.S. 42/DILCREST DRIVE INTERSECTION IN THE CITY OF FLORENCE, KENTUCKY, TO REZONE THE SITE FROM RESIDENTIAL ONE FAMILY (R1F) TO PROFESSIONAL OFFICE ONE (O-1A). (EIGHTEEN, LTD./HELMER PROPERTY)

The effect of this Ordinance is to allow a zoning map amendment for an approximate 0.8613 acre site generally located on the southeast corner of the U.S. 42/Dilcrest Drive intersection in the City of Florence, Kentucky, to rezone this site from Residential One Family (R1F) to Professional Office One (O-1A) to allow a professional office building, subject to a Settlement Agreement between the parties to Boone Circuit Civil Action No. 04-CI-595.

The full text of Ordinance No. 0-23-06, including its Exhibits, is available for examination in the office of the City Clerk of the City of Florence, Kentucky, in the Florence Government Center, 8100 Ewing Boulevard, Florence, Kentucky, during regular office hours.

CERTIFICATION

I hereby certify that the foregoing is a summary of the contents of Ordinance No. 0-23-06 and that it has been prepared by me on the 17th day of August, 2006, and I am an attorney licensed to practice law in the Commonwealth of Kentucky.



HUGH O. SKEES
SKEES, WILSON & DILLON, PLLC
7699 Ewing Boulevard, P.O. Box 756
Florence, Kentucky 41042-0756
Phone: (859) 371-7407
Fax: (859) 371-9872

COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT
CIVIL ACTION FILE NO. 04-CI-595

DENNIS C. HELMER ET UX ET AL

PLAINTIFFS/APPELLANTS

-v-

SETTLEMENT AGREEMENT

CITY OF FLORENCE, KENTUCKY ET AL

DEFENDANTS/APPELLEES

*

THIS SETTLEMENT AGREEMENT is made and entered into at Burlington, Kentucky as of this 22nd day of August, 2006, by and between Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, Sandra G. Helmer, Eighteen, Ltd., a Kentucky corporation, hereinafter collectively referred to as the "First Party", and City of Florence, Kentucky; Florence City Council; Diane Whalen, in Her Official Capacity as the Mayor of the City of Florence, Kentucky; Julie Metzger, Ted Bushelman, Mel Carroll, Betsy Conrad, David A. Osborne and Dale Stephens, in Their Official Capacities as Members of the Florence City Council, hereinafter collectively referred to as the "Second Party",

WITNESSETH:

WHEREAS, a dispute has arisen between the parties regarding the Second Party's denial of a certain zone change recommendation of the Boone County Planning Commission in favor of the First Party, and

WHEREAS, First Party has filed an appeal and complaint for damages in the Boone Circuit Court at Case No. 04-CI-00495, and

WHEREAS, the parties are desirous to resolve all outstanding issues between them,
NOW, THEREFORE, in consideration of the mutual promises and covenants herein made, the parties hereto agree as follows:

1. The Second Party, by these presents, does hereby agree to approve and adopt,

subject to any conditions contained in the within Agreement, the recommendation for zone change and variance approved by the Boone County Planning Commission on January 7, 2004, via Resolution R-04-001, accompanied by the Helmer concept development plan.

2. The Second Party shall, no later than its first meeting next subsequent to the execution of the within Agreement, initiate all necessary steps and pass all necessary resolutions to authorize the execution of this Agreement and to cause the zone change and variance identified in numerical paragraph 1 above, with the accompanying concept development plan, to become effective immediately thereafter.

3. The Second Party shall permit the First Party, at the First Party's sole expense, to remove the median island at the entrance into Dilcrest Subdivision and create a turn lane to handle traffic turning right onto U. S. Highway 42 from Dilcrest Subdivision. The Second Party shall thereafter re-stripe that portion of Dilcrest Drive to identify the turn lane and the other lanes serving the entrance of Dilcrest Subdivision.

Provided, however, that completion of the turn lane, including all necessary approvals from governmental agencies with jurisdiction, shall be the responsibility of the First Party. First Party shall not be permitted to utilize any improvements constructed on the Helmer property until the turn lane is completed and properly open for use by the traveling public.

4. The Second Party shall use its best efforts to assist First Party in obtaining assistance from the Kentucky Transportation Cabinet, Department of Highways in relocating the electric pole and traffic signal device, if necessary to accommodate the construction of the contemplated turn lane.

The Second Party shall also use its best efforts to assist the First Party in gaining the approvals, as necessary, for the creation of the turn lane on Dilcrest Drive as described above.

Provided, however, that Second Party shall have no obligation with respect to the matters discussed in this paragraph, except to render such assistance, and that Second Party makes no assurances to First Party that its efforts to lend assistance will be successful.

5. The Second Party agrees that permitted uses for the contemplated building on the Helmer property shall include medical offices, dental offices, and any other professional office use.

6. The zone change and variance which are the subject of this Agreement shall be enacted upon, and construction of the office space contemplated hereunder shall be commenced no later than two (2) years from the date on which the ordinance approving the zone change recommendation becomes fully effective.

7. It is explicitly understood and intended by the undersigned that the within is in full accord and satisfaction of a disputed claim and that the consideration herein constitutes a settlement in full and satisfaction of any and all claims, both known and unknown, past, present and future, contingent and otherwise.

8. Upon execution of this *Settlement Agreement*, the undersigned fully understands that it will thereafter be forever barred from reasserting this claim again in any Court or other forum.

9. The undersigned further declares that the terms of this *Settlement Agreement* have been completely read and are fully understood and are voluntarily accepted for the purposes of making a full and final settlement of any and all claims, disputed or otherwise, arising on account of the events above mentioned, and for the expressed purpose of precluding forever any further or additional claims arising from the aforesaid events.

Provided, however, nothing contained herein shall prevent the First Party or their successors or assigns from seeking or applying for other zone changes or variances for the subject property for uses not related to the zone change request which is the subject of this Agreement.

10. The undersigned declares and represents that the terms of this Agreement are contractual and not a mere recital.

11. This Agreement is binding upon, and inures to the benefit of, Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, Sandra G. Helmer, Eighteen, Ltd., a Kentucky corporation, City of Florence, Kentucky; Florence City Council; Diane Whalen, in Her Official Capacity as the Mayor of the City of Florence, Kentucky; Julie Metzger, Ted Bushelman, Mel Carroll, Betsy R. Conrad, David A. Osborne and Dale Stephens, in Their Official Capacities as Members of the Florence City Council, and their respective heirs, executors, successors and assigns.

12. The First Party shall be entitled to its court costs in this action.

13. This Agreement has been entered into by the parties after substantial negotiation and no presumption against the drafter, or the client of the drafter, shall arise by reason of draftsmanship of this final draft and memorialization of the parties' Agreement.

14. This Agreement constitutes the entire agreement of the parties. No amendment to this Agreement, and no waiver of any provisions hereof, shall be effective unless set forth in writing and signed by all parties.

15. This Agreement may be executed in multiple counterparts by the various parties and the failure to have the signatures of all parties on a single Agreement shall not affect the validity or enforceability of any part of this Agreement against any party who executes any counterpart of the Agreement.

16. Subsequent to the execution of this Agreement, the First Party shall prepare for signature by counsel for all parties an Entry of Dismissal, in substantially the same form as the exemplar attached hereto as Exhibit "A", by virtue of which the within action shall be dismissed with prejudice by the Boone Circuit Court.

LEGAL DESCRIPTION

U.S. HIGHWAY 42, FLORENCE, KENTUCKY

GROUP NO. 712 - PLAT BOOK: 5, PAGE 29

Situated in Florence, Kentucky, and being all of Lot No. 18, 19 and 20, Section Two (2) of the Dilcrest Manor Subdivision, recorded in Plat Book 5, Page 29, Boone County Clerk's records at Burlington, Kentucky.

Being the same property conveyed to the Grantors by BRIAN LEE BOEHMER, et ux by deed dated the 13th day of July, 1989 and recorded in Deed Book 411, page 246, in the office of the Boone County Clerk, Burlington, Kentucky.

Exhibit "C"

RESOLUTION R-04-001-A

A RESOLUTION OF THE BOONE COUNTY PLANNING COMMISSION RECOMMENDING APPROVAL, WITH CONDITIONS, FOR A REQUEST OF EIGHTEEN, LTD. (APPLICANT) FOR DENNIS, GAYLE, DAVID AND SANDRA HELMER (OWNERS) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM RESIDENTIAL ONE FAMILY (R1F) TO PROFESSIONAL OFFICE ONE (O-1A) FOR AN APPROXIMATE 0.8613 ACRE SITE GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE U.S. 42 /DILCREST DRIVE INTERSECTION, FLORENCE, KENTUCKY, AND FOR A DIMENSIONAL VARIANCE TO ALLOW REDUCTION IN THE REQUIRED BUFFER YARD C IN THE REAR YARD AREA FROM 60 FEET TO 24.92 FEET, AND PROVIDING THE RECOMMENDATION BE FORWARDED TO THE CITY OF FLORENCE, FLORENCE KENTUCKY.

WHEREAS, the Boone County Planning Commission received a request for a Zoning Map Amendment to the Boone County Zoning Map, and such Zoning Map Amendment being a zone change from Residential One Family (R1F) to Professional Office One (O-1A) for an approximate 0.8613 acre site generally located on the southeast corner of the U.S. 42 / Dilcrest Drive intersection, Florence, Kentucky, and for a dimensional variance to allow reduction in the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet, which is more particularly described below; and,

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOONE COUNTY PLANNING COMMISSION AS FOLLOWS:

SECTION I

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and is hereby recommended for approval, with conditions, this Zoning Map Amendment being a zone change from Residential One Family (R1F) to Professional Office One (O-1A) for an approximate 0.8613 acre site generally located on the southeast corner of the U.S. 42 / Dilcrest Drive intersection,

Florence, Kentucky, and for a dimensional variance to allow reduction in the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet. The real estate which is the subject of this request for a Zoning Map Amendment in a Residential One Family (R1F) zone is more particularly described in DEED BOOK 411, PAGE NO. 246 (as supplied by the applicant) as recorded in the Boone County Clerk's office.

SECTION II

That as a basis for the recommendation of approval, with conditions, for a Zoning Map Amendment request and for a dimensional variance to allow reduction in the required Buffer Yard C from 60 feet to 24.92 feet, the findings of fact of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Resolution and marked as "Exhibit A."

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

SECTION III

That a copy of this Resolution recommending approval, with conditions, for a Zoning Map Amendment for a zone change from Residential One Family (R1F) to Professional Office One (O-1A) for an approximate 0.8613 acre site generally located on the southeast corner of the U.S. 42 / Dilcrest Drive intersection, Florence, Kentucky, and for a dimensional variance to allow reduction in the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet, shall be forwarded to the City of Florence, Florence, Kentucky, having jurisdiction over the property for its action on the recommendation of the Boone County Planning Commission.

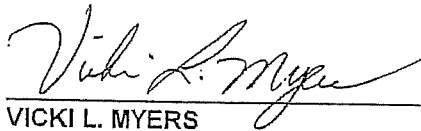
PASSED AND APPROVED ON THIS 21ST DAY OF JANUARY, 2004.

APPROVED:



ARNOLD CADDELL
CHAIRMAN

ATTEST:



VICKI L. MYERS
MANAGER, ADMINISTRATIVE SERVICES

AC:vlm

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
November 19, 2003
7:30 P.M.

PUBLIC HEARINGS

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

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

Legal Counsel Present: Mr. Dale Wilson

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:30 PM. Following an explanation of the Public Hearing process, Mrs. Poston introduced the first item on the Agenda:

Applicant: Eighteen, Ltd. for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners)

Request: Zoning Map Amendment and Variance

The request of Eighteen, Ltd. (applicant) for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners) for a Zoning Map amendment from Residential One Family (R1F) to Professional Office One (O-1A) and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet for a 0.8613-acre site on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a Zone Change and a Variance to allow an office development.

Staff Member Kevin Wall presented the Staff Report which included a Power Point presentation (see Staff Report).

Mrs. Poston asked for the applicant's presentation.

Mr. Dennis Helmer, 65 Acades Drive, Florence, Kentucky, a shareholder in Eighteen, Ltd. stated that he and his brother and their wives own the lot, which is under contract to Eighteen, Ltd. He introduced his wife Gayle Helmer, David Hils who is a principal in Eighteen, Ltd., their engineer Joe Hoh; Dr. Tagher who will move his practice to this location, and Gary Fisher who will be involved in the construction. Mr. Helmer's presentation was accompanied by an exhibit board showing the two proposed medical office buildings. He stated that Dr. Tagher practices pediatrics in Florence and needs approximately 4,000 square feet and they designed one of the buildings based on that requirement. They believe that two buildings can fit on the site. He stated that they could get 30-feet in the back, and the regulations allow 30-feet with a berm – but the lot is not exactly a rectangle. The building setback is 24.92 feet on one end and 32 feet on the other end. He has been a resident of Florence for 46 years and remembers when the area was farmland. He noted existing apartments down the road and across the street. He noted C-2 and C-3 uses along US 42 from I-75 to Weaver Road, which make residential use of this property inappropriate. He stated that they considered rental housing – but renters want the same things as homeowners (privacy, low traffic streets, etc.) – or they will be transient renters which would not be the proper type of entrance into Dilcrest subdivision. They looked at urban housing/apartments but with .86 acres and the current economic environment, there is not much they could do with that use. He stated that four-families are not built any more and most rental housing is more dense than that. The site is not large enough for a pool and exercise rooms. There could be three rental houses, but that is not an economically feasible project. A professional use of a medical nature would have a low impact on the neighborhood because they work 8 AM to 5 PM and there are no evening hours. There is no need for excessive lighting, and there would just be security lighting. There would be no need for parking at night. There is no seasonal rush and no weekend traffic. Delivery trucks with supplies would be about the only truck traffic. This would be the most appropriate use of the site. The design is residential in character with large roof lines and exposed shingles. If they put the two buildings together, even at 6,000 square feet it will look like a strip center and change the character of what they want to do there. The two buildings are more expensive because they are building extra walls and roof, but they will give a better approach and better look to the area. Traffic from the development should not be significant and there would be minimal truck traffic. The use would not generate any significant noise – probably less than a typical residence. If they do the fill with the wall behind it and the banks, it will have a tendency to quiet the neighborhood behind it. The existing houses pick up noise from US 42, and this would stop the noise to some extent. The trees and buildings would also help to create a noise buffer. They have the necessary easements to provide for stormwater retention and there would not be any more water created than there is now. There is a retention pond to catch runoff from the parking lot and pipe it into the existing storm water easements. He stated that there is an e-mail from Bob Hill (attached to the Staff Report) and he has spoken with Mr. Hill. He stated that the e-mail explains that the state keeps several lists of projects and the U.S. 42 project in this area is on

the Unfilled Needs List. He stated that if a project is moved from the Unfilled Needs List to the Six-Year Plan, that does not mean it will be built in six years and projects go on and off the list. Right now there are too many projects on the Six-Year Plan – about \$100 million more than the state has money to build. This project is not on the Six-Year Plan. He is not sure when a six-lane highway would be built and, if it is built, it is not clear where it would be built. The fact that a six-lane highway is being considered speaks to the changed character of the neighborhood and he does not see how anyone could build a residence on a six-lane highway. He stated that the lot has been subject to litigation. The Circuit Court affirmed that there were no restrictions and the Supreme Court declined to hear it – so it stands that there are no residential restrictions. He stated that they believe they have provided a well-designed plan – but they could “tweak” the plan. They intend to do brick and shingles of a residential character. He stated that it is an improvement to the neighborhood and will improve the look of the area. This concluded the applicant’s presentation.

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

Mr. Larry Brown, 8202 Adella, Florence, Kentucky, a resident of Dilcrest, presented and submitted his written comments (*see Exhibit 1 – with attached pages from the Boone County Comprehensive Plan, the Zoning Regulations, and e-mail dated November 4, 2003 from Bob Hill to Kevin Wall*). He added that you can say an area has changed depending on how far back you want to go – but the Mall and the development have been there for twenty years and there has not been a change. He stated that a curb cut on a residential street needs to be residential.

Mrs. Lisa Hickey, 8108 Harms Hill Drive, submitted eight pictures of flooding in the area (*see Exhibit 2*) and a petition from neighbors of Harms Hill “We do not approve of the zoning change at the top of Dilcrest Subdivision” with 5 lines of signatures (*see Exhibit 3*). Mrs. Hickey stated that she was speaking on behalf of the residents of Harms Hill and Dilcrest and asked that the zone change not be approved. She stated that it is not fair to the people in Dilcrest to have more commercial property at the entrance of the subdivision and to endure more congestion and more cars. They want more green space and buffer. It is not fair to have increased water runoff in her backyard. She stated that the pictures she submitted (*see Exhibit 2*) show the water they receive every time it rains. They have lived in their home for nine years and have seen an increase in the runoff and watched their property erode. If more disruption takes place at U.S. 42, there will continue to be a problem with flash flooding, eroding and garbage. She asked that the zone change be denied.

Mr. John Grout, 8206 North Dilcrest, agreed with the others.

Mr. Robert Lawrence, 141 West Dilcrest, a resident for 28 years, stated they only get five seconds to get out at the light and it is hard to get out with all the traffic. Three cars can get out and the fourth will be on the yellow light. This request will affect the traffic because they want to cut in for a driveway at the top end. If someone is coming up and someone is trying to turn, they will be waiting. He stated that a lot of housing is being built west on U.S. 42 and vehicles come around Bentley Court and up the hill and through the light going to the mall and other commercial buildings. He has seen cars backed up to the bottom of the hill and even to the curves during the holidays. He asked that the traffic be considered. He stated that the people on North Dilcrest and on West Dilcrest want this property to be residential. His lot is 250 feet deep and the runoff comes across his property. He agreed with the comments made by the other speakers. He stated that if there are more parking spaces, there will be more runoff since water soaks into the ground when it rains, but it will not soak in if there is blacktop and concrete. He has seen flooding like a creek and asked that the runoff be considered. He stated that there will be oil dripping from the cars there and in a hard rain it will run off onto his property. A hard rain will kill the buffer and the water will overflow and come onto their properties. He is opposed to the request.

Mr. Brinkman, 137 West Dilcrest, agreed with the others. He is against two buildings on the property and against the curb cuts on Dilcrest.

Mr. Bill Greene, 201 West Dilcrest, stated that his deed said that there would be no zone changes unless everyone there agreed and he does not agree. He questioned how restrictions can be wiped out. Counselor Wilson advised that deed restrictions are not zoning regulations and the Planning Commission cannot enforce private deed restrictions. If deed restrictions apply to the lots, then those who have the authority to enforce them would have to bring an action. He stated that it sounds like there has been some legal action where people have sought to enforce deed restrictions. Enforcement of private deed restrictions is not through the Planning Commission.

Mr. Gene Cunningham, 146 West Dilcrest, presented and submitted his written comments (see **Exhibit 4**). He added that the next house down has children playing and the applicant's argument about the property not being residential is not a good argument. He also submitted a petition "We the following as residence of Dilcrest Manor Subdivision, Boone County, Florence, KY are opposing any zoning changes within the subdivision from R1F to Commercial Zoning" (see **Exhibit 5**).

Jamie Warren, 210 West Dilcrest, agreed with the others. He is concerned about the impact any deviation from the code would have on the homeowners. He asked that the impact on the community be considered. He stated that the structures would be close to the residences at the beginning of the street.

Mr. Jim Day stated that his name is on the sign across the street. He referred to a letter from Jeremy Boehmer (copy attached to the Staff Report) who owns the lot on the west side of Dilcrest. He stated that they lost the Boone National Bank on their lot because of these same complaints which they have heard over the years. Mr. Costello stated that there has been no application submitted to the Planning Commission for the property across the street.

Mr. John Grout stated that always around the holidays there is bad traffic at the intersection. He stated that cars come off Mall Road heading toward Dilcrest and, if someone was coming off Mall Road and went around the corner and wanted to turn into this property, someone would crash into them when they stop to immediately turn right into the lot. There is a safety issue there.

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

Mrs. Kegley asked where the pictures of flooding were taken. Mrs. Hickey responded that there is flooding in the back of the subdivision and most of the water is coming down to the back end of their property.

Mr. Bunger asked if the water currently leaves the property and how it flows. A resident responded that it flows south right down the hollow. Mr. David Hills stated that the person most qualified to respond is Mr. Hoh with Cardinal Engineering.

Mr. Hoh stated that Cardinal Engineering prepared the plan. He stated that the site slopes from U.S. 42 to the south. He indicated on the Power Point slide where they propose a detention basin. He stated that the parking lot would be in the front and the buildings would drain into the detention basin. He stated that the county has regulations that would restrict the release to the same runoff that would be created by three single-family homes. The detention basin would not release any more water into the creek than three single family homes would create, which is per the Subdivision and Zoning Regulations. The detention basin has not been sized at this time. He stated that they are aware of the traffic on U.S. 42, Mall Road and Dilcrest – but someone put a barrier down the middle of Dilcrest limiting access to this property. He does not think the Highway Department would allow three driveway cuts onto U.S. 42, which hampers this property for any use at all and makes this property peculiar and needing special consideration. The property has been saddled with situations that cannot be met in a normal manner, which needs to be considered. Things have changed since the subdivision was developed – the mall was not there at that time. Over the years, things have changed.

Mr. Newman stated that he was on the Zone Change Committee the last time this property came up and they did not disallow curb cuts from Dilcrest – it was

discussed, but there was not a decision and the application went away. He questioned how the island on Dilcrest got there and who put it there. Mr. Costello responded that it is a city street and that portion of the street was rebuilt after the last application. Mr. Newman stated that there is no island shown there in the aerial photograph. Mr. Costello responded that it may have been taken out for the reconstruction. He stated that Staff can contact the city and find out. Mr. Newman stated that he wants to know when it was put there, why it was put there, and who applied for the change. Mr. Costello will find out this information. A resident stated that thirty-two years ago there was a sign there that said "Dilcrest" and when the highway came through, they took it down – and then the city put it back up. Mr. Newman stated that it limits access to this property. Mr. Newman would also like to know the number of residences in Dilcrest.

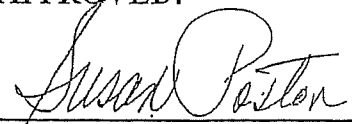
Mrs. Poston asked that the minutes from the previous Public Hearing in regard to this site be provided to the Committee. That request was withdrawn.

There being no further comments from the Commissioners, Mrs. Poston asked if there were any additional comments from the applicant.

Mr. David Hils stated that he has been a real estate broker for thirty years. He was selling homes in Dilcrest thirty years ago and there was an island there – but it was smaller and not the same. The island has been extended over a period of time. He suggested that the Planning Commission may want to look at the size of it when it was created versus the size of it today.

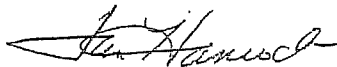
There being no further comments, the Mrs. Poston stated that the Committee Meeting for this item will be on December 3, 2003 at 5:00 PM in this room. The public is welcome to attend, but no further information will be taken. This item will be on the Agenda for the Business Meeting on December 17, 2003 at 6:30 P.M. Mrs. Poston closed this Public Hearing.

APPROVED:



Susan Poston, Vice Chairwoman

Attest:



Jan Hancock, Recording Secretary

Exhibits –

- 1 Comments submitted by Larry Brown with attachments (9 pages total)
- 2 Eight pictures of flooding submitted by Lisa Hickey
- 3 Petition submitted by Lisa Hickey
- 4 Comments submitted by Gene Cunningham (16 pages)
- 5 Petition submitted by Gene Cunningham (6 pages)

This is presented to the Boone Planning & Zoning Commission regarding the US42 Medical Center project at Dilcrest and US42 in Florence. The request is for O1A from RIF.

The project is currently part of the Dilcrest subdivision that is entirely made up of single-family homes. The average home size exceeds 2000 square foot, but few exceed 2500. Approximately ½ of the homes are located on 1 acre or better lots. The subdivision has been present for several decades and still has several residential lots for sale. Several new homes have been built in the past few years.

The first issue is the size of the two, not one, but two buildings. At 4000 square feet each (8000 total), the two story buildings will dwarf the adjacent homes. The project is located on .8613 of an acre making the footprint two or three times the average single home on 1 acre. We need total assurance that the building's architecture will compliment the adjoining homes and neighborhood. The slope of the property will make it difficult to blend into the neighborhood. We will have them looking down on the residential lots or the US42 view will be roof tops. A detailed elevation drawings need to be provided showing the views from the residential lots, Dilcrest drive from the west and from US 42.

The size of the project has required them to ask for a variance on the only protection that homeowners have from commercial development, an adequate landscape buffer. An adequate buffer (buffer C) should be required to assure privacy. Once again the severe slope of the property and height of the proposed buildings makes privacy a great concern.

The Storm water drainage from the project goes directly into the back yards of homes. The project should be required to provide a water study demonstrating their ability to retain 100% of the water runoff (roof & paved parking) from a 50 year storm or better. Again the slope of the property is great and currently is grass but will be replaced with largely roof and pavement.

Lights and signage need to be addressed as follows; the parking lighting should not be pole mounted and should low level and be entirely directed within the property. Any signage should be low level monument style and with minimum lighting. No building signage or lighted signage should be permitted. Professional office sites serving the local community need not attract interstate travelers.

Traffic is a major problem at this intersection. The residential street was not made to handle commercial traffic. The light is the shortest of the cycles and only handles 4 or maybe 5 cars (usually on a yellow). The City of Florence conducted a Mall Road/Connector Road Traffic study just of few years ago. The conclusions of that study were that Mall Road and US42 intersection will incur substantial delays and the new connector road would have no impact on this intersection. If memory serves me, time delays in excess of 90 seconds with traffic backing up past Weaver (to the west) and to the I75 (to the east) were going to be the norm.

Bob Hill, of the Department of Transportation, has stated that this intersection is the Number ONE priority for the local government, OKI and the local highway district to improve this intersection with at least two turn lanes from east bound US42 onto Mall Road. (see attached)

Most damning evidence regarding the traffic is the Boone County Comp Plan, under the Land Use section, on page 165, it states “all developments must provide for connecting parking lots or a frontage road. Development must accommodate plans for double left turn lanes from US42 to Mall Road.” In addition, the same section of the comp plan states “an extremely well-designed, low impact professional office use may be considered for this area.” It also states the developer must submit “detailed” plans and “demonstrate” the project’s impact on visual, traffic, and storm water to adjacent residential uses.

I content that:

- 1) An 4000 square foot print plus parking lot is not visually enhancing the residential neighbors. 2) Without a professional hydrologist's report demonstrating the method of **storm water retention, adjacent residential users are at risk.** 3) That traffic is not being accommodated by not tying this project into the existing adjacent commercial development. Traffic is not best served by inconveniencing the residential users by ignoring the current, successful U.S. 42 curb-cut which can accommodate both properties without any residential disturbance. The present business has been successfully located there for many years. Plus, the adjacent property owner is a sister of the two applicants/owners. 4) Traffic is not best served **by allowing the maximum build out** when the state, both local governments and OKI have stated this intersection needs two additional lanes. 6) The variance on the landscaping buffer should be denied. The project is obviously too big for the site. 7) Only the following principal uses should be allowed if this proceeds: use appropriate numbers as listed in Zoning regulations if not correct. # 4, insurance, #5 real estate, #14 bus/mgt consulting, #16 physicians/dental, #18 accounting/bookkeeping, #23 Vet without boarding. No drive through business should be permitted. No accessory uses other than walls or fencing should be allowed, and no conditional uses permitted. Please see attached listing of uses as the copy I used was a draft copy at the Union library 8) The building(s) need to be constructed of brick and have the **appearance of residential use,** especially the back(s). 9) Any garbage containers need to be hidden in an appropriate manner and as far away from residential structures as possible. 10) *email questions & comments from Peter Glen of City of*
- 11) *Noise will travel off hard surfaces further into subdivision area than before*
This project as proposed does not meet any of the criteria for a zone change. The applicant purchased the property zoned as residential and residences are still be built therefore the current zone can apply. The area has not substantially changed since his purchase. The Mall and substantially all the development nearby were present when the applicant purchased the property and have been so for twenty years. The proposed zone change does not better reflect a use than does the current use of residential home ownership or of other types of residential uses in general. I therefore ask you to deny this request.

Presented by: Larry Brown 8202 Adella Florence Ky 41042

downtown area that coincides with the final alignment of U.S. 42. It was recommended that this downtown area be characterized by reduced setbacks, shared parking areas located between and behind buildings, and a pedestrian-oriented streetscape that builds upon the existing small town fabric. The downtown uses were recommended to include a variety of resident-oriented services and retail, and may include residential uses on second or subsequent floors.

Neighborhood-oriented commercial uses may be provided along U.S. 42 between Farmview Subdivision and the Union city center in the form of small-scale nodes that are focused upon existing and future road intersections; regional retail uses are not appropriate in the U.S. 42 corridor. The physical development of these commercial nodes should be reflective of the existing rural environment and should include such elements as vernacular influenced architectural treatments, site planning arrangements reflective of the farmsteads in the area, parking areas situated at the sides and rear of buildings, tree lines along side property lines, and post and rail fencing. Residential subdivisions in this area should be cluster form so that the open space areas and pastures along U.S. 42 are maintained; density bonuses are encouraged for residential subdivisions in this area to accomplish this purpose. The new alignment of U.S. 42 offers a unique opportunity to prepare a model plan of a Transit Oriented Development (TOD) for the new corridor. This Comprehensive Plan recommends that such a specific area plan, that includes design review procedures, be explored for the U.S. 42 corridor between Farmview Subdivision and the south end of the Union city center within a few years of this Plan's adoption.

All major residential developments should provide recreational facilities, or other public facilities, through cooperative efforts between developers, legislative bodies, and other agencies/ organizations. These facilities should be designed not only to serve the residents of the specific subdivision but, where appropriate, to serve surrounding populations in order to mitigate the impacts upon existing facilities. This section of Boone County should develop as a major population area, and sites for recreation and other public facilities should be planned and obtained before prime sites are no longer available or become too costly.

Gunpowder Area

The area south of the Saddlebrook Farms Subdivision along Weaver Road, should develop in an Urban Density Residential manner consistent with this subdivision, with adequate buffering for adjacent to single-family residential uses. Commercial uses should not expand along the west side of the interstate beyond the recently approved addition for Security Self Storage, and the Lion's Park site should remain as a recreation area.

Vacant parcels and existing residences along the south side of US 42 near Dilcrest Drive and Bentley Court may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. An extremely well-designed, low-impact professional office use may be considered for this area, however, the potential developer must submit detailed buffering and building design plans, and demonstrate that the project would establish a positive focal point for the U.S. 42 corridor in addition to minimizing visual, traffic, and stormwater impacts on adjacent residential uses. All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended.

West of I-75 and along Weaver Road should develop residentially in a similar fashion to Saddlebrook Farms Subdivision. The vacant parcel between the Grammas strip center and the Weaver Road fire station should develop as a low traffic professional office use. This part of Weaver Road is not suitable for commercial driveway access. In addition, a connector road should be completed from Mt. Zion Road to Weaver Road along the west side of I-75. South of this area should remain Suburban Density Residential in nature. Existing tree stands should be preserved to establish the contrast of this area from the Northern Kentucky Industrial Park, and to decrease noise impacts of I-75 and the airport.

~~10. Landscaping and Buffering:~~

- ~~a. Open belt - The minimum landscaped area between any storage, service, parking, or loading area and the district boundary abutting a residential district shall be 25 feet. This area shall be designated an "open belt" and landscaped. This open belt shall not be used for storage, service, parking, loading, or other industrial use;~~
- ~~b. Screening fence - A solid masonry fence, at least six feet high but not more than eight feet high, shall be erected if deemed appropriate by the Boone County Planning Commission to screen the conflicting uses along all site property lines abutting the district zone boundary, if the abutting zone permits a residential use.~~

~~11. Building Design:~~

- ~~a. Buildings shall be constructed of masonry brick, stone, or block (excluding plain concrete block); architectural steel and glass, or precast concrete panels of a design compatible with surrounding buildings and adjoining zoning districts;~~
- ~~b. Design of all buildings shall be compatible in form, textures and colors, consistent with a campus-like setting;~~
- ~~c. Where a rear or side elevation of a structure is adjacent to or across the street from a residential district, the facade shall be articulated through architectural design, change in building materials, use of berms and/or landscaping in order to avoid the monotonous view of a flat, lineal and unbroken facade.~~

~~12. Placement of Dumpsters and Outdoor Storage Facilities:~~

- ~~All outdoor storage facilities and trash receptacles, shall be enclosed by a fence, wall, and/or landscaping not less than five feet high, and shall be screened from view of adjacent residential or institutional properties and public rights-of-way.~~

~~13. Roof Types and Shapes:~~

- ~~Roof types and shapes should be designed in accordance with the design of surrounding buildings. Every effort should be made to screen mechanical equipment or utility equipment located on building roofs in commercial office and industrial zones and visible from public view from a public street.~~

~~All principally permitted, accessory, and conditional uses, building and structures in this district are subject to the above standards, as well as other applicable Articles of this Zoning Order including Articles 30, 31, 33, and 34. In addition, uses in this district are subject to any local, state, or federal law regulating nuisances and the environment and any conditions as set forth by the local and state health boards.~~

*Draft Copy @ Library -
Number may have
changed.*

SECTION 1180

PROFESSIONAL OFFICE ONE (O-1A)

(THIS ZONING DISTRICT APPLIES TO THE CITY OF FLORENCE ONLY)

The purpose of the Professional Office One district is to create a low density, low rise office environment to provide professional and personal services and employment opportunities in close proximity to and compatible with residential districts. The Professional Office One district should

accommodate smaller scale and independent office uses which need not be located within a larger, consolidated Office Two district or which do not need be located within a larger, consolidated Office Two district or which do not need or desire to locate in a commercial district. Professional Office One districts will be located on suitable lands within established or planned urban entities where adequate infrastructure and services are available or proposed.

SECTION 1181

Principally Permitted Uses

The following uses are permitted:

- if acceptable to applicants - medical & dental only

- No 1. Bank related services (including drive-thru facilities);
- No 2. Business and personal credit services and title services;
- No 3. Security brokers, dealers and flotation services and finance companies;
- Yes 4. Insurance agents, brokers and services;
- Yes 5. Real estate agents, brokers and management services;
- Yes 6. Real estate services and builders offices excluding any outside storage equipment and the like;
- Yes 7. Holding and investment services;
- No 8. Photographic services;
- No 9. Eating and drinking establishments including alcoholic beverages and with drive-thru facilities; (Does not apply to property inside City of Florence limits.)
- No 10. Direct mail and advertising services;
- No 11. Stenographic services and other duplicating and mailing services;
- No 12. News syndicate services and employment services;
- No 13. Research, development and testing services of an office nature;
- Yes 14. Business and management consulting services and associations;
- No 15. Motion picture, audio-visual and similar media production and distribution services;
- Yes 16. Physician and dental services including medical, dental laboratories;
- Yes 17. Legal, engineering, architectural, education and scientific research services;
- Yes 18. Accounting, auditing and bookkeeping services;
- No 19. Welfare and charitable administration offices;
- No 20. Professional membership organizations and labor organizations and civic associations;

- No* 21. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
- No* 22. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;
- Yes* 23. Veterinary services not including the boarding of animals;
- No* 24. Business colleges or schools;
- No* 25. Recreation centers, gymnasiums and other related recreational facilities.

SECTION 1182

Accessory Uses

Accessory uses, buildings, and structures customarily incidental and subordinate to the purposes of the district including:

- No* 1. Recreation uses or spaces of integral relation to the developed portions of the district including:
 - a. Temporary exhibit spaces;
 - b. Aquariums, botanical gardens and other natural exhibitions;
 - c. Stages and similar assembly areas;
- 2. Accessory uses for an office facility:
 - No* a. Garages and parking;
 - OK* b. Structures such as fences and walls;
 - No* c. Buildings such as storage sheds;
- Yes* 3. Directional and incidental signage (See Article 34);
- Yes* 4. Parking (See Article 33);
- 5. Temporary buildings incidental to construction;

SECTION 1183

Conditional Uses

NONE should be allowed except # 4 medical outpatient service

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided; a) the activity is an integral and subordinate function of a permitted office use; or b) the arrangement of uses, buildings, or structures will be compatible with the organization of permitted and accessory uses to be protected in the district:

1. Single-family or multi-family dwelling units provided the structure was originally designed for residential use, including:
 - a. Private garage and parking;
 - b. Structures such as fences and walls;
 - c. Buildings such as storage sheds;
2. Nursery and day care centers;
3. Retail and sales of drugs and proprietary goods;
4. Medical clinics--out patient services.

SECTION 1184

Intensity

The maximum total intensity of all uses in a Professional Office One district shall not exceed 20,000 square feet of gross floor area per acre.

SECTION 1185

Minimum Size

There is no minimum size or extent required of a Professional Office One District.

SECTION 1186

Minimum Standards

See Article 31 for dimensional standards. (Site Plan Review is required for all permitted uses) (See Article 30).

SECTION 1187

INDUSTRIAL FOUR (I-4)

(THIS ZONING DISTRICT APPLIES TO UNINCORPORATED BOONE COUNTY ONLY)

Subsurface Mining District

The purpose of this district is to regulate subsurface mining, excavation, extraction, processing, storage, conveying, loading, and hauling of stone and similar natural resources, as well as industrial processes using these natural resources as raw materials. These regulations are designed to protect the public health, safety, and welfare by ensuring that the subsurface mining and associated activity does not adversely impact the environment or surrounding land uses.

SECTION 1188

Applicability

The I-4 zone regulates both the underground mining and the associated surface activity of a subsurface mine. All mined areas, including those owned or leased by the mining operation and those where mining rights have been obtained are subject to these regulations.

Kevin Wall

From: Bob.Hill@mail.state.ky.us
Sent: Tuesday, November 04, 2003 9:26 AM
To: kwall@boonecountyky.org
Cc: Mike.Bezold@mail.state.ky.us; Kevin.Rust@mail.state.ky.us; Ed.Thompson@mail.state.ky.us; dgeohegan@boonecountyky.org
Subject: US 42 between I-75 and KY 842

Kevin,

Dave Geohegan asked me to pass this information about a project that the Cabinet is currently carrying on our Unscheduled Needs List (UNL) in this area. The UNL is a list of needs that have been identified by various sources. Every two years projects are added to this list as we prepare for the upcoming Six Year Plan. Projects that are currently on the list and those that have been added are prioritized as either high, medium or low priorities. They are prioritized at four levels....local by county transportation committees, regional by the MPO which in this case is OKI, district by the local highway district office and central office by cabinet officials. Projects receiving a high priority at all four levels are eligible to move into the Six Year Plan. A recommended plan is prepared by the Cabinet and sent to the Governor. The Governor reviews the plan, makes changes as he feels appropriate and then sends the recommended plan to the General Assembly. They make the final decision as to which projects will be funded in the Six Year Plan.

The current UNL lists a project to widen US 42 from I-75 to KY 842. This project was prioritized as the number one need in District 6 by the local community, OKI and the District 6 Office. We do not know what priority it was given by central office or if it has been added to the recommended Six Year Plan. The Northern Kentucky community has positioned this project to move forward as soon as funding is available.

Unfortunately, our understanding is that there will be very little funding available for new projects to be added to the Six Year Plan. Your guess is as good as mine when it comes to speculating as to whether this project will be funded by the legislature when they meet in early 2004.

I hope this information is useful as Boone County reviews possible uses and access to the property in the southeast quadrant of the US 42 and Dilcrest intersection.

If you have any questions, please don't hesitate to contact me.

Bob

Exhibit #2

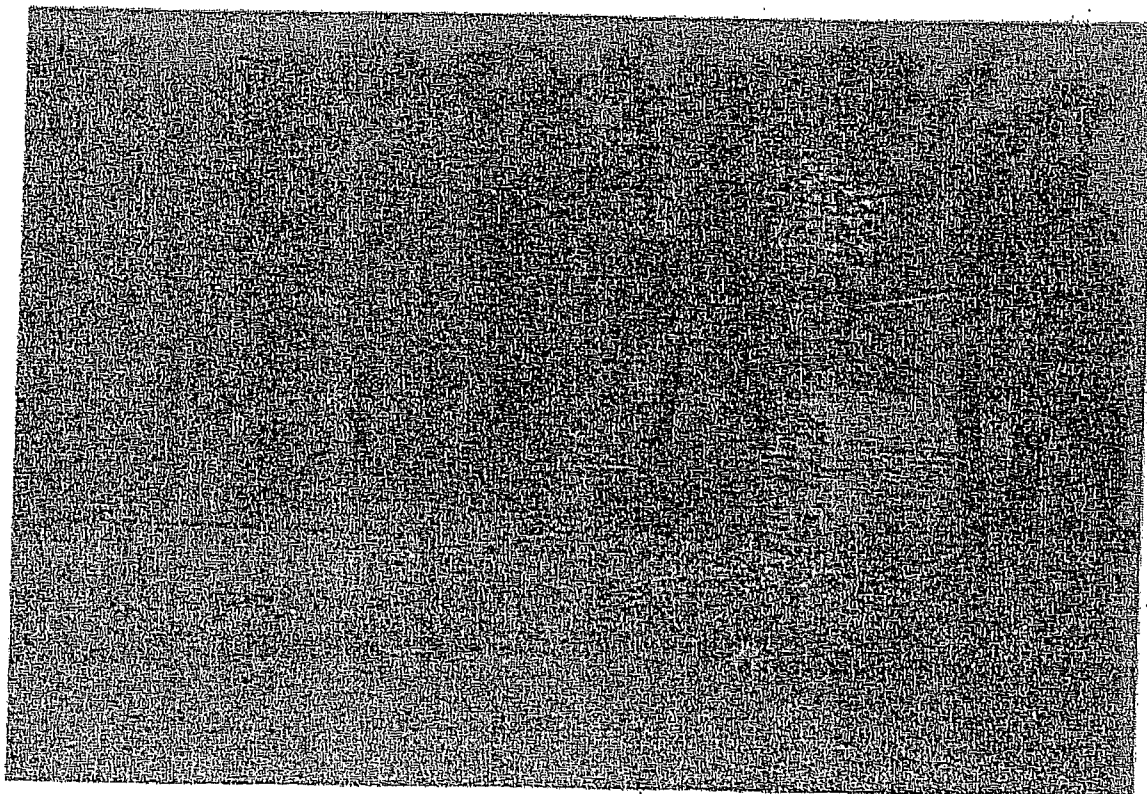
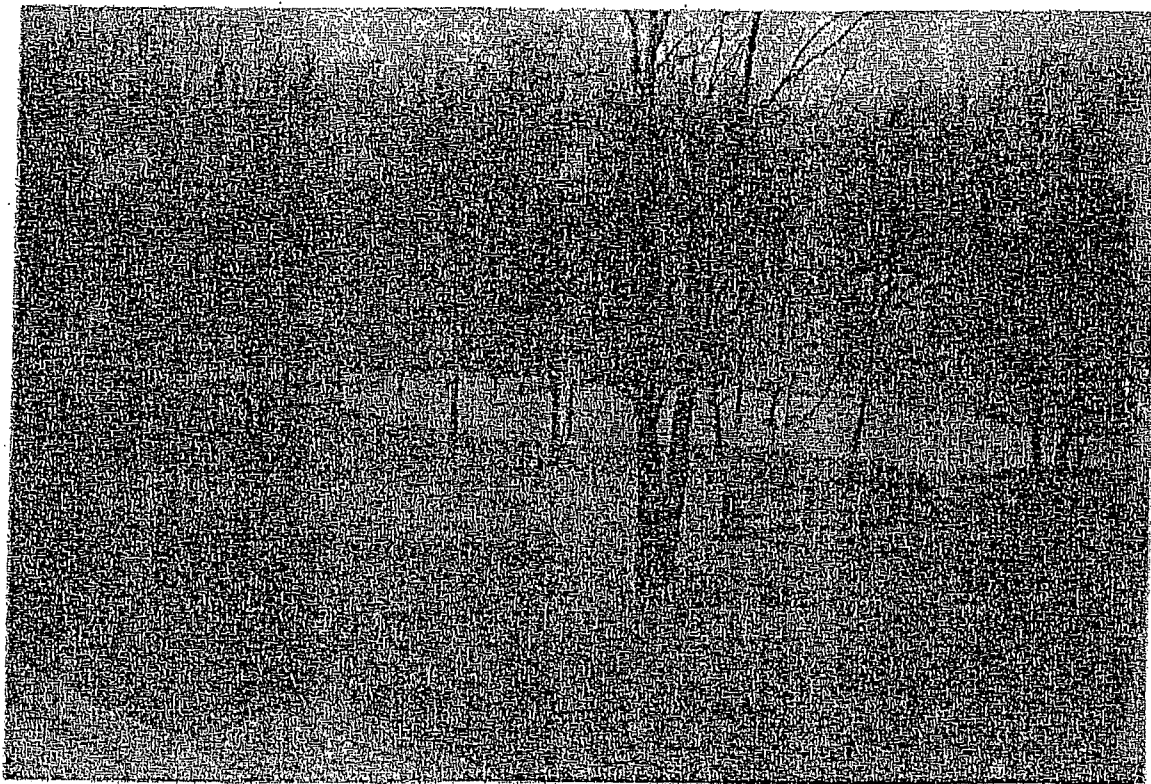


Exhibit #2

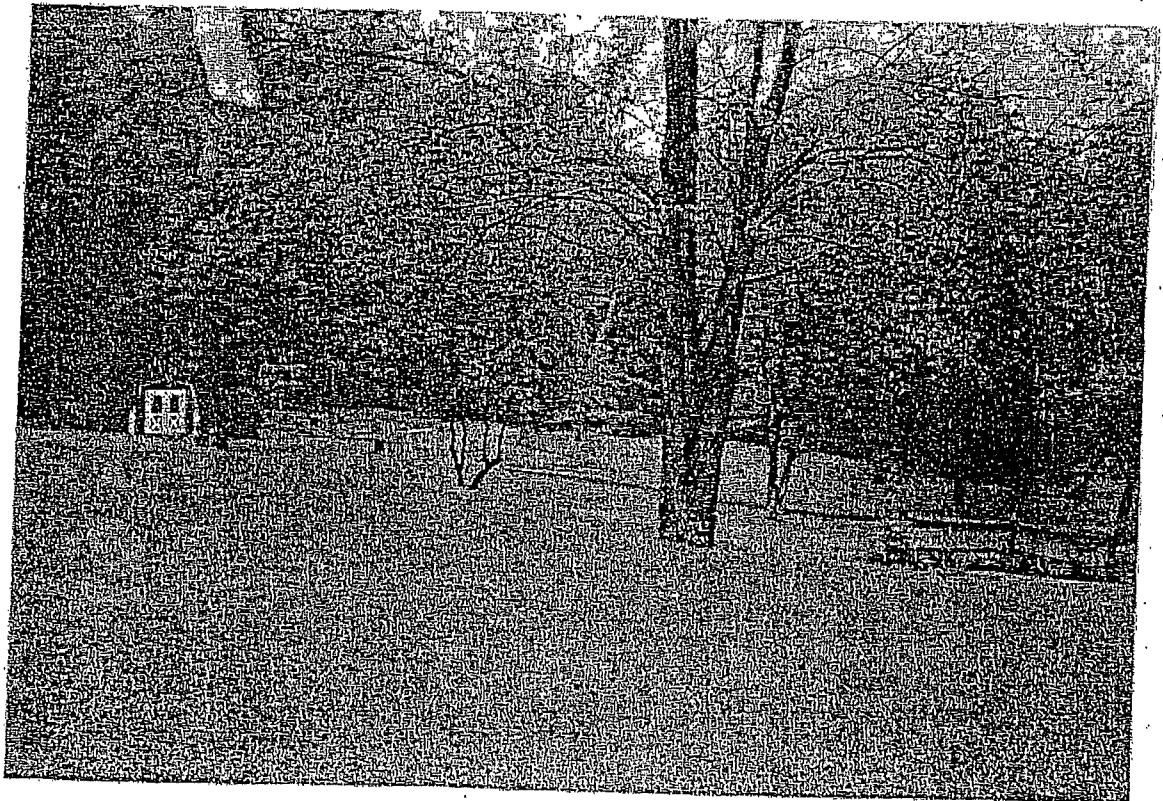
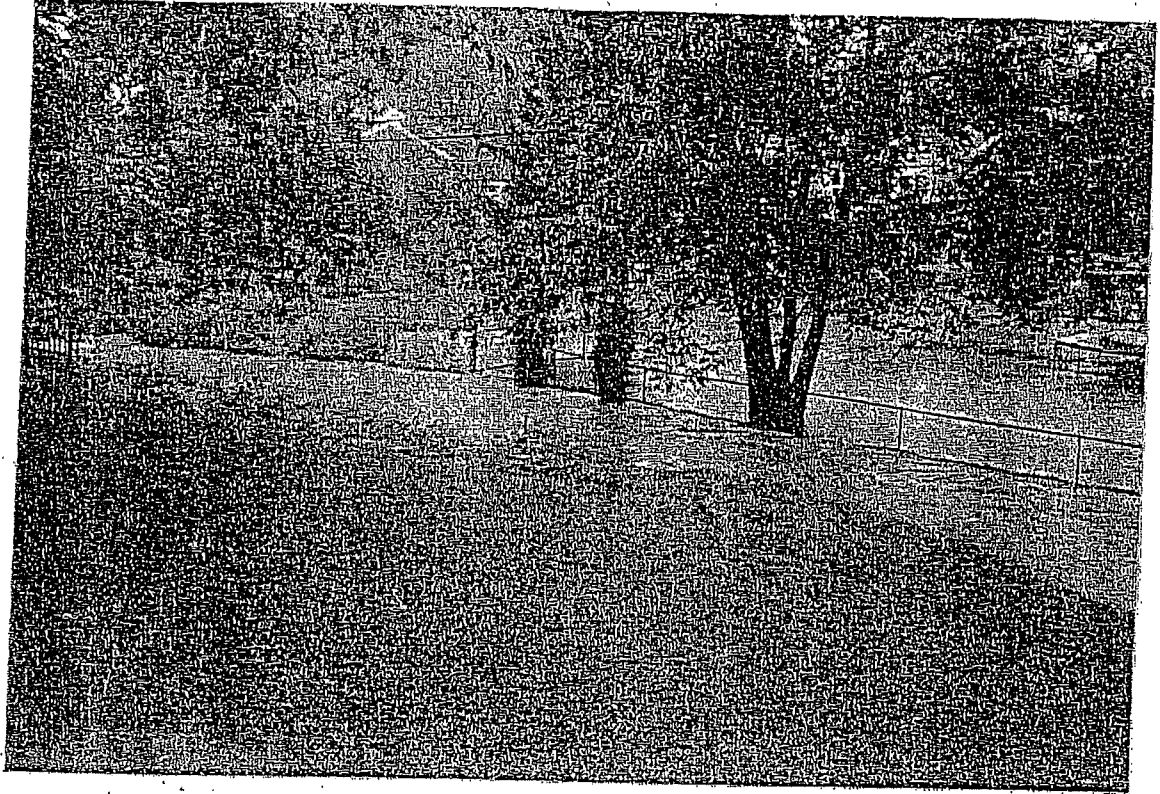


Exhibit # 2

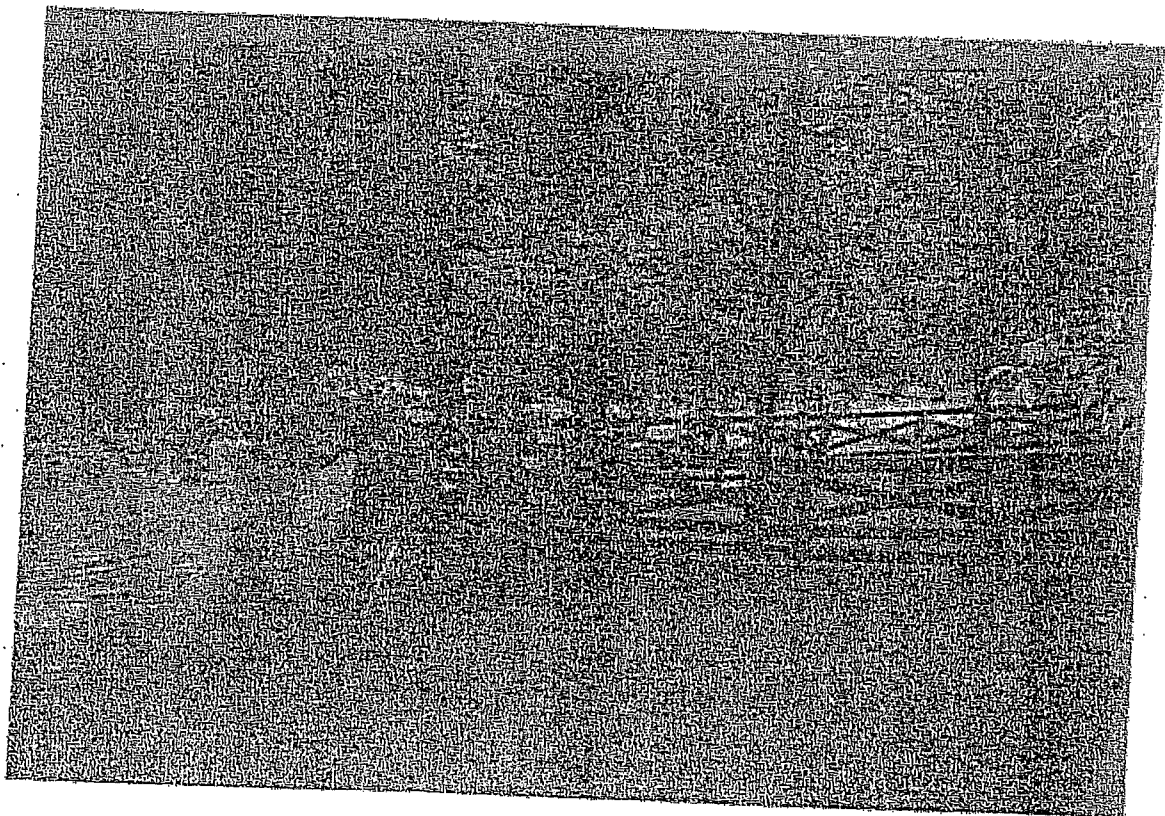
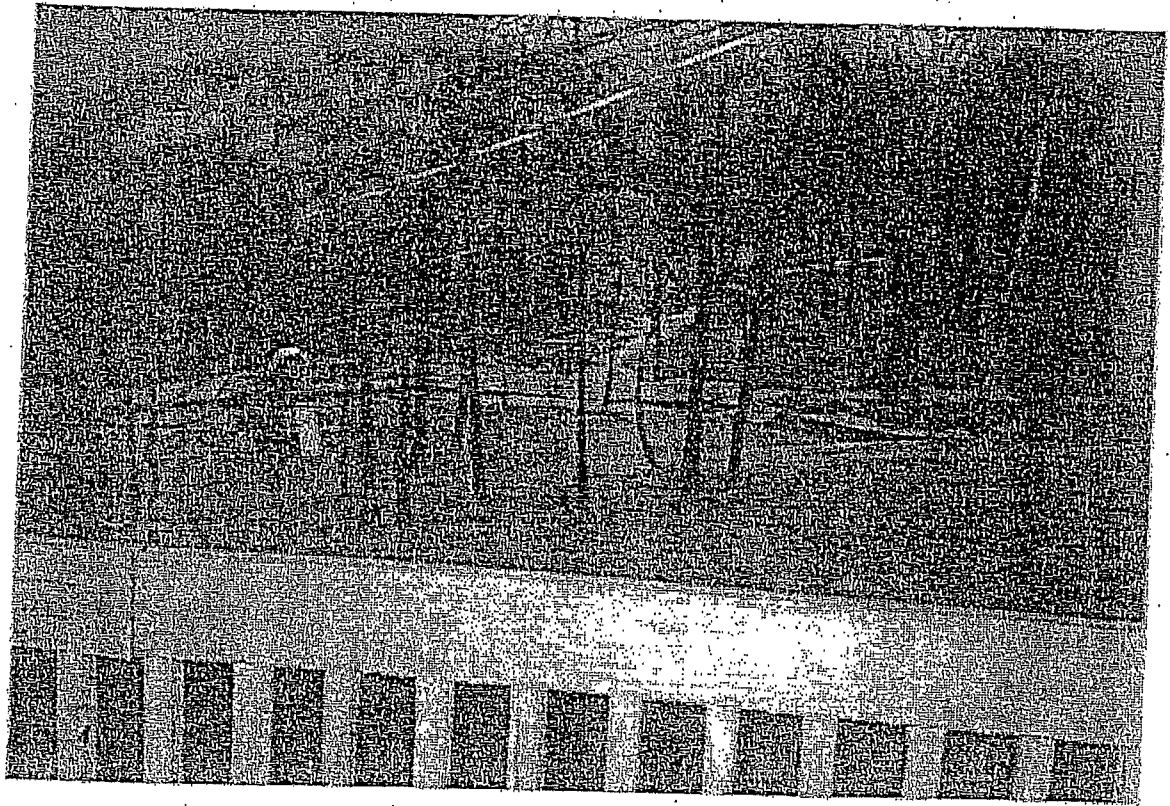
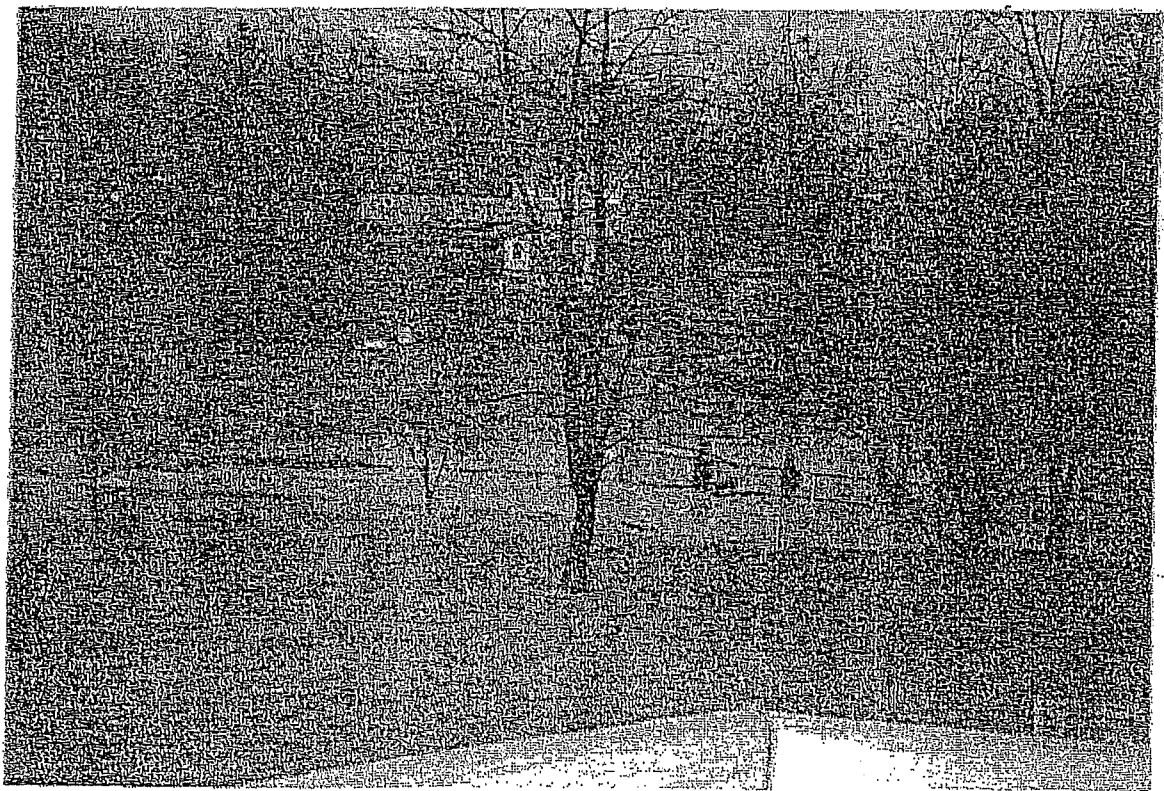


Exhibit # 2



Neighbors of Farms Hill

WE DO NOT APPROVE OF THE ZONING CHANGE AT THE TOP OF DILCREST SUBDIVISION:

- ~~Larry & Dan Soffen~~
 - ~~Randall & Missy Caserens~~
 - ~~Steve & Michelle Lambert~~
 - ~~Bernice & Kathy Fuller~~
 - ~~David & Lisa Hickey~~
- [The following lines are blank and appear to be part of a list of names that were not written or have been removed.]

HISTORY OF OF THE LOTS DAVE/DENNIS HELMER E E BEEN REQUESTING
A ZONE CHANGE.

BOONE COUNTY PLANNING COMMISSION

Date: 11/19/03 Public Hearing # / Exhibit # :

FEB. 1994

THE HELMERS ASKED FOR A ZONE CHANGE ON THESE LOTS ALONG US 42,
FOR R-1F TO C-3. FOR A 3000 SQ. FT. BUILDING.

MARCH 1994

BOONE COUNTY PLANNING COMMISSION APPROVE THE REQUEST.

JUNE 1994, SPECIAL MEETING BY THE FLORENCE CITY COUNCIL.

COUNCIL DENIED ZONE CHANGE REQUEST BY UNANIMOUS VOTE.

JUNE 2000

DENNIS/DAVE HELMER REQUEST ANOTHER ZONE CHANGE ON THE SAME LOTS.
ALONG US 42. FROM R-1F TO O1 FOR A 7688 SQ. FEET BUILDING.

JUNE 21- 2000 THEY AMEND THEIR REQUEST FROM O1 ZONE TO C-2,
RESTRICTING TO ONLY O1 USE.

JULY, 2000

PUBLIC MEETING (PLANNING 7 ZONING) DENNIS HELMER STATED THAT HE
MISTAKENLY THOUGHT THE PROPERTY COULD BE ZONE O-1 (OFFICE ONE)
BUT IT IS NOT AN ACRE IN SIZE, SO THERE FORE THEY AMEND THEIR
REQUEST C-2 WITH O-1 USE

THIS REQUEST C-2 TO USE O-1 USE WOULD HAVE A HARD TIME OF FLYING.

AUG. 2, 2000, AT THE BOONE COUNTY ZONING WORK SHOP ON THE
REQUEST.

THE CHAIRMAN OF THE MEETING ASKED DENNIS/DAVE HELMER TO DOWN SIZE
THE BUILDING, FROM 7688 SQ. FT. TO 5000 SQ. FT. AND REPORT BACK
AT THE NEXT MEETING, AUG. 16, 2000.

ALSO THERE WAS CONCERNS ABOUT THE COMMERCIAL BUILDING BEING TOO
CLOSE TO THE RESIDENTIAL LOT.

CONCERNS ABOUT LANDSCAPING.

CURB CUT OF US 42 TO THE LOTS TO CLOSE TO THE INTERSECTION, THE
OTHERS CURB CUT ON HEARTLAND LOT. THEY ASK DAVE HELMER TO SEE IF
HEARTLAND WOULD SHARE THIS CURB CUT AND REPORT BACK.

NO BODY WILL TURN LEFT GOING SOUTH ON US 42, TOO DANGEROUS. WILL
BE WORSE WHEN US 42 IS WIDING.

THE CURB CUT OF DILCREST DRIVE TOO DANGEROUS, THEY OMITTED THIS
CURB CUT.

.CONT. HISTORY OF THE LOTS.

AUG. 16, 2000, WORK SHOP MEETING

CHAIRMAN ASKED MR. HELMER IF THEY HAD CUT DOWN THE SIZE OF THE BUILDING. MR. HELMER REPLYED HE DID NOT REMEMBERED BEING ASKED TO DO SO.

THE CHAIRMAN AGAIN ASKED MR. HELMER TO DOWN SIZE THE AND REPORT BACK AT THE NEXT MEETING. ON SEPT. 05, 2000.

DAVE HELMER WAS ASKED IF THEY WOULD BE ALLOW TO USE HEARTLAND CURB CUT. HE ANSWER NO.

SEPT. 1, 2000

THE HELMER'S WITHDRAW THEIR APPLICATION FOR THE ZONE CHANGE.

JAN./FEB./FEB. 2001; IN THE LONG RANGE PLANNING/COMPREHENSIVE PLAN COMMITTEE PUBLIC MEETING. 2000/2025

SEE ATTACHED SHEETS.

Gunpowder Area

The area south of the Saddlebrook Farms Subdivision along Weaver Road should develop in an Urban Density Residential manner consistent with this subdivision, with adequate buffering for adjacent to single-family residential uses. Commercial uses should not expand along the west side of the interstate beyond the recently approved addition for Security Self Storage, and the Lion's Park site should remain as a recreation area.

Vacant parcels and existing residences along the south side of US 42 near Dilcrest Drive and Bentley Court should develop as professional office uses limited to the frontage lots on US 42. Access management is critical in this area and all developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended.

LAND USE ELEMENT (page 165)

Vacant parcels and existing residences along the south side of U.S. 42 near Dilcrest Drive and Bentley Court ~~should develop as professional office uses limited to the frontage lots on US 42~~ may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. Access management is critical in this area and All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal

LAND USE ELEMENT (page 165)

Vacant parcels and existing residences along the south side of U.S. 42 near Dilcrest Drive and Bentley Court ~~should develop as professional office uses limited to the frontage lots on US 42~~ may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. [An extremely well-designed, low impact professional office use may be considered for this area, however, the potential developer must submit detailed buffering and building design plans, and demonstrate that the project would establish a positive focal point for the U.S. 42 corridor in addition to minimizing visual, traffic, and stormwater impacts on adjacent residential uses.] Access management is critical in this area and All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from U.S. 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended.

AT THE PUBLIC HEARING ON JULY 26, 2000, THE STAFF DIRECTOR OF ZONING SERVICE STATED THEIR CONCERNS ON THE REQUEST TO REZONE THIS SITE BY DAVID HELMER AND DENNIS HELMER IN THEIR STAFF REPORT AS READ.

PAGE 3, ITEM "A", DEVELOPMENTS IN BOONE COUNTY MUST RECOGNIZE THE POTENTIAL IMPACTS UPON ADJOINING LAND USE---ETC,

ITEM "C", DEVELOPMENTS MUST RECOGNIZE THE POTENTIAL IMPACTS OF STORMWATER RUN OFF, ETC.

ITEM "D", DEVELOPMENTS IN BOONE COUNTY MUST RECOGNIZE THE POTENTIAL IMPACTS OF ASSOCIATED TRAFFIC ON ADJOINING PROPERTIES ETC. THE NEED EXISTS TO PROTECT THE CAPACITY OF EXISTING ROADWAY ETC. ACCESS MANAGEMENT PROVISIONS INCLUDE THE COORDINATION OF CURB CUTS, ADEQUATE CORNER CLEARANCE AND SITE DISTANCE FOR ACCESS POINTS, ETC.

ITEM "E" DEVELOPMENT ALONG EXISTING ARTERIALS (US 42) AND COLLECTOR ROADWAY (BILDCREST DRIVE) SHOULD NOT HAVE DIRECT DRIVEWAY ACCESS, BUT SERVED BY A LOCAL STREET.

PAGE 4, ITEM "A" THE BUSINESS ACTIVITY ELEMENT,, FOLLOWING COMMENT MANY PROBLEMS WITH THE LOCATION AND ARRANGEMENT OF COMMERCIAL USE HAVE EMERGED, ESPECIALLY ALONG KY. 18 AND US 42 CORRIDORS. COMMERCIAL DEVELOPMENT ALONG KY. 18 AND US 42 WEST OF MALL ROAD SHOULD NOT BE REGIONALLY ORIENTED NOR SHOULD THEY ATTRACT ADDITIONAL TRAFFIC, BUT RATHER BE SERVED BY THE EXISTING OR FUTURE POPULATION OF AREA.

NOTE. THIS SITE NOW IS SHOWING SUBURBAN RESIDENTIAL "SR" AND NOT COMMERCIAL "C" IN THE FUTURE LAND USE MAP 2000 COMPREHENSIVE PLAN. CITY OF FLORENCE REQUEST THIS TO BE SHOWN "SR".

THE SITE IS WITHIN THE UNION-WEST FLORENCE AREA, HOWEVER THIS PARTICULAR SITE AND AREA IS NOT SPECIFICALLY DISCUSSED IN THE THIS SECTION OF THE COMPREHENSIVE PLAN.

ALSO THE 2000 BOONE COUNTY COMPREHENSIVE PLAN GOALS AND OBJECTIVES PROVIDE THE FOLLOWING PERTINENT STATEMENTS ON PAGE 4, ITEM "A"

DEVELOPMENT ISSUES SHALL BE VIEWED IN TERMS OF PROMOTING OVERALL QUALITY OF LIFE. MIXING OF RESIDENTIAL AND OTHER LAND USES SHALL BE ENCOURAGED.

CONT. THE 2000 BOONE COMPREHENSIVE PLAN GOALS AND OBJECTIVES

PAGE 5, REF. "F"

NEW DEVELOPMENT OR REDEVELOPMENT WITHIN BOONE COUNTY IS DESIGNED, CONSTRUCTED AND OPERATED IN SUCH A WAY THAT THE QUALITY OF THE EXISTING PHYSICAL ENVIRONMENT AND SOCIAL ENVIRONMENT ARE PROTECTED AND ENHANCED. AND PRESERVES AND PROMOTES A BETTER QUALITY OF LIFE.

REF. "I"

...WELL MAINTAINED BUFFER SPACES BETWEEN BUSINESS USE AND OTHER LAND USAGE..

REF. "J"

COMMERCIAL USES SHALL BE LIMITED TO STRATEGIC LOCATIONS SERVING TRADE AREA AND NEIGHBORHOOD NEEDS AND SHALL HAVE SAFE AND EFFECTIVE ACCESS AND AMPLE PARKING SPACE.

REF. "M"

ESTABLISHED NEIGHORHOODS SHALL BE PROTECTED AND ENHANCED AND DETERIORATED NEIGHORHOODS SHALL BE REGENERATED.
(HOUSING, OBJECTIVE 9)

STAFF COMMENTS

PAGE 7, REF. "3"

STAFF IS CONCERNED WITH THE RANGE OF USES PROPOSED, ESPECIALLY THE MORE HIGH VOLUME, HIGH TURNOVER USES INCLUDING CONVENIENT STORES, BANK, GYMNASIUMS (I.E., HEALTH CLUBS), DAY CARE CENTERS AND FUNERAL HOMES. THESE HIGHER ACTIVITY USES ARE TROUBLESOME TO STAFF WHEN CONSIDERING THAT FOR A CORNER LOT AT AN INTERSECTION OF ARTERIAL AND LOCAL STREETS, IT IS GENERALLY MORE DESIRABLE FROM A TRAFFIC MANGEMENT PERSPECTIVE TO HAVE A CURB CUT ON THE LOWER VOLUME LOCAL STREET WITH THE TRAFFIC CONTROLLED BY A SIGNALIZED INTERSECTION, RESULTING IN A CHANGE OF THE ESSENTIAL (BASIC) CHARACTER OF THE VICINITY TO THE DETRIMENT (SOMETHING THAT CAUSES DAMGE, HARM, OR LOSS) OF THE ADJOINING RESIDENTIAL USES. THIS CURB CUT WAS OMITTED AT THE WORK SHOP ON AUGEST 2, 2000, REASON TOO DANGEROUS.

REF. "4"

STAFF IS ALSO CONCERNED WITH THE RIGHT-IN/RIGHT-OUT CURB CUT PROPOSED TO SERVE THIS LOT EXCLUSIVELY. THE CURB CUT DOES NOT MEET THE SPACING REQUIREMENTS FROM THE SIGNALIZED INTERSECTION (230 FEET MINIMUM) OR THE DRIVEWAY ON ADJOINING PROPERTY. HEARTLAND LOT, TO THE EAST (275) STAFF RECOMMENDS THAT THIS CURB CUT BE ELIMINATED, AND THAT THE APPLICANT SHARE A CURB CUT WITH THE ADJOINING DEVELOPMENT TO THE EAST (HEARTLAND/CAR X)

NOTE: HEARTLAND/CAR X WOULD NOT AGREE TO THIS, SHARING A CURB CUT AS REPORTED BY DAVE HELMER ON AUGEST 16, 2000, WORKSHOP MEETING.

PAGE 7. REF "4" CONT. NOTE

BY HEARTLAND NOT ALLOWING THIS SHARING OF THE CURB CUT, THIS DOES NOT FULFILL THE COMPREHENSIVE PLAN'S POLICIES REGARDING ACCESS MANAGEMENT.

PAGE 7, REF. "5"

STAFF IS CONCERNED WITH THE RELATIONSHIP OF THE PROPOSED FACILITY TO THE ADJOINING RESIDENTIAL USES, ESPECIALLY DUE TO THE CLOSE PROXIMITY OF THE ADJOINING RESIDENCE ON DILCREST AND THE OPEN VISTA BETWEEN THIS SITE AND THE ADJOINING RESIDENTIAL LOTS AT THE REAR. PARTICULAR ISSUES INCLUDE:

PAGE 8

REF "A" BUFFER YARD C IS REQUIRED ALONG THE REAR PROPERTY (60 FT. WIDE WITH SPECIFIED PLANTING OR 30 FT. WIDE WITH A BERM, WALL OR FENCE, , , , AND SPECIFIED PLANTINGS) THE CONCEPT DEVELOPMENT PLAN SHOW A 31 FT WIDE BUFFER YARD, HOWEVER, THE REQUIRED BERM, WALL, OR FENCE IS NOT SHOWN AND INSUFFICIENT PLANTING HAVE BEEN SHOWN ON THE CONCEPTUAL PLAN PROVIDE.

NOTE: REMEMBER THIS SITE IS ALREADY UNDER ONE AREA, WHEN YOU TAKE INTO ACCOUNT THE BUFFER REQUIRE ALONG US 42 THE SIDE WALK, AND THE SET BACK REQUIRE FROM THE OUT SIDE CURB TO THE BUILDING, AND THE CORRECT BUFFER AT THE REAR, I THINK YOU WILL WIND UP WITH VERY BUILDING SPACE.

PAGE 8, REF. "6"

SEVERAL SITE PLAN REQUIREMENTS THAT RELATE TO THE PROJECT AND THE ABILITY TO FIT THE PROPOSED BUILDING AND REQUIRED IMPROVEMENT ON THE LOT HAVE NOT BEEN MET, ASIDE FROM THE REQUESTED VARIANCE. THESE INCLUDE THE FOLLOWING;

- A) THE STREET FRONTAGE LANDAGE AREA ALONG US 42 DOES NOT ENTIRELY MEET THE MINIMUM 10 FOOT WIDTH AND THE SIDE YARD BUFFER REQUIREMENT ALONG THE EAST PROPERTY LINE IS NOT MET. (10 FEET MINIMUM UNLESS SHARE WITH THE ADJOINING PROPERTY, A 8 FT HIGH WALL)

PAGE 9, REF. "7" BASED ON THE REQUESTED VARIANCE AND THE COMMENTS NOTED ON #6, THE SIZE OF THE BUILDING MAY NEED TO BE DOWN-SIZED IN ORDER FOR THE USE TO APPROPRIATELY FIT ON LOT. THIS COMMENT IS NOT MEANT TO BE CONSTRUED THAT EITHER THE THE REQUESTED VARIANCE, OR PERHAPS A SMALLER VARIANCE, MAY NOT BE APPROPRIATE PURSANT TO THE STANDARDS IN SECTION 251 OF THE ZONING REGULATIONS, BUT RATHER IT IS APPARENT THAT NOT ALL OF THE APPLICABLE SITE PLAN ELEMENTS ARE BEING PROPIDED ON THE SUBMITTED CONCEPT DEVELOPMENT PLAN.

END OF STAFF REPORT

NOV. 19, 2003

BOONE COUNTY PLANNING & ZONING PUBLIC MEETING

THE COUNCIL NEEDS TO TAKE INTO ACCOUNT THAT THEY ARE NOT ASKING TO REZONE THESE LOTS FOR A ONE SIZE BUILDING, THIS IS MISLEADING AND IT IS A MISNOMER AND CONTRARY TO WHAT THEY WOULD LIKE THIS BODY TO BELIEVE. THEY WANT GET THESE LOTS REZON, THAN BUILD WHAT EVERY THEY WANT.

STARTING AT ELSMERE AND FLORENCE CITY LIMITS ON US 42 AND DRIVE SOUTH TO WEAVER ROAD YOU WILL PASS A LOT OF COMMERCIAL SITES, THERE WILL OFFICE SPACES FOR RENTAL, THERE WILL BE OTHER FOR SALE, AS WELL AS RETAIL STORES, FAST FOOD RESTAURANTS, APARTMENT BUILDINGS, AUTO REPAIR STATIONS, USES CAR LOTS, STRIP MALLS, GAS STATIONS BANKS, DOCTOR OFFICES, DENTIST OFFICES, OFFICE COMPLEXES, HOUSE RENTALS, LIQUOR STORES, DRUG STORES, OFFICE EQUIPMENT STORE, MOTELS, HOTELS, RENTAL BUSINESS, HARDWARE STORE, AND ONLY ONE RESIDENTIAL SUBDIVISION TOUCHING US 42, THIS IS DILCREST MANOR.

NOW SOME 15/20 YEARS LATER AFTER THIS STRIP ALONG US 42 WAS DEVELOPED, THERE IS NOW A COMPELLING NEED AND THERE HAVE BEEN A MAJOR CHANGES IN ECONOMIC, PHYSICAL AND SOCIAL CHANGES IN THIS AREA TO JUSTIFY A ZONE CHANGE. I THINK NOT.

ALSO THE BOARD MUST REMEMBER WE, THE PEOPLE OF BOONE COUNTY DID NOT WRITE THE FOLLOWING;

- (1) BOONE COUNTY ZONING REGULATIONS.
- (2) CHAPTER 100, PLANNING AND ZONING IN THE KENTUCKY REVISED STATUTES.
- (3) THE COMPREHENSIVE PLAN.

BUT MOST OF THE PEOPLE APPROVE THE PLANS, ZONING REGULATIONS AND THE COMPREHENSIVE PLAN, I FOR ONE DID.

BUT WE AS RESIDENTS OF BOONE COUNTY EXPECT THE BOARD TO COMPLY WITH THEM, BUT WITH SOME VARIANCES TO SUIT A CASE BY CASE. BUT NOT TOTALED IN FAVOR OF THE APPLICANT WHO IS APPLYING FOR THE ZONE CHANGE.

BUT WE MUST INSIST THAT THE BOARD TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WILL NOT CAUSE A HAZARD OR NUISANCE TO THE RESIDENTS OF DILCREST SUBDIVISION, WHEN DECIDING THIS ZONE REQUEST.

IN THE BOONE COUNTY ZONING REGULATIONS

UNDER ARTICLE (1), "PURPOSE AND AUTHORITY", SECTION 308, FINDINGS FOR MAP AMENDMENT, ITEM NUMBER TWO (2) WAS REWRITTEN FROM: " THAT THE ORIGINAL ZONING CLASSIFICATION GIVEN TO THE PROPERTY WAS INAPPROPRIATE OR IMPROPER". TO " THAT THE EXISTING ZONING CLASSIFICATION GIVEN TO THE PROPERTY IS INAPPROPRIATE AND THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPRIATE".

I AND OTHERS FIND THIS TO BE ARBITRARY, UNREASONABLE AND DISCRIMINATING AGAINST THE PRESENT PROPERTY OWNERS IN DILCREST SUBDIVISION ARE DEPRIVE OF OUR PROTECTION GRANTED TO US UNDER THE ORIGINAL ZONING BY THE BOONE COUNTY ZONING COMMISSION, WHEN WE PURCHASED LOTS IN OUR SUBDIVISION,

THIS PARAGRAPH WAS REWRITTEN TO FAVOR THE PERSON REQUESTING THE ZONE CHANGE AS ANY ONE CAN SAY, "THE EXISTING CLASSIFICATION IS INAPPROPRIATE AND THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPRIATE. WITHOUT HAVING TO PROVE ANYTHING.

THEY HAVE NOT SHOWN THAT THEIR PROPOSED REZONING CLASSIFICATION IS APPROPRIATE. THEY HAVE SHOWNED THAT THEY MADE A BAD INVESTMENT AND NOW WANTING THE ZONING BOARD TO PULL THEM OUT OF THE MESS. I GOT SOME "ENRON" STOCK I WOULD LIKE TO SELL.

BUT THE ZONING BORAD MUST USE THE FOLLOWING CASE IN BASING THEIR DECISION.

CASE RULING: 1998, FRITZ V. LEXINGTON-FAETTE URBAN COUNTY GOV'T, 986S.W.2D 456 (KY.CT. APP. 1998).

UNDER THE STATUTE, IN ORDER TO GET A REQUESTED ZONE CHANGE, THE PROPONENT MUST SHOW, INTER ALA, THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPRIATE.

CASE RULING: 1977, BRYAN V. SALMON CORP., 554 S.W.2D 912 (KY. CT. APP. 1977)

WHILE THE COMPREHENSIVE PLAN IS EXTREMELY IMPORTANT AND MUST NOT BE TREATED LIGHTLY IN CONSIDERING APPLICATIONS FOR ZONE CHANGES, IT IS A GUIDE RATHER THAN A STRAIGHTJACKET.

THE PAINTIFFS HAVE NOT SHOWN A COMPELLING NEED TO REZONE OR THAT THERE HAVE BEEN MAJOR CHANGES OF ECONOMIC, PHYSICAL, OR SOCIAL NATURE CHANGES IN THE AREA, OR THEY HAVE CONCERNS FOR THE PROTECTION OF THE HEALTH, MORALS, SAFETY, TRAFFIC AND THE GENERAL WELFARE OF DILCREST RESIDENTS.

THE BOONE COUNTY COUNTY PLANNING COMMISSION AND STAFF DID TAKE IN THE NEEDS OF THE MAJORITY OF PEOPLE CONCERNS WHEN THEY CONSTRUCTED THE 2000/2025 COMPREHENSIVE PLAN.

I WOULD LIKE TO READ SOME OF THEIR CONCERNS THEY HAVE FOR PROTECTION, HEALTH, AND SAFETY OF THE RESIDENTS OF BOONE COUNTY.

COMPREHENSIVE PLAN, 2000/2025 BOONE COUNTY

BUSINESS ACTIVITY, COMMERCIAL (RETAIL AND OFFICE)

- 1) COMMERCIAL USES SHALL BE LIMITED TO STRATEGIC LOCATIONS SERVING TRADE AREA AND NEIGHORHOOD NEEDS AND SHALL HAVE SAFE AND EFFECTIVE ACCESS AND AMPLE PARKING SPACE.

THEY HAVE NOT DEMONSTRATED A SAFE EFFECTIVE ECESS TO THE LOTS

HOUSING

- 9) ESTABLISHED NEIGHBORHOODS SHALL BE PROTECTED AND ENHANCED AND DETERIORATED NEIGHBORHOODS SHALL BE REGENERATED.

TRANSPORTATION

- 11) PRORITY SHALL BE GIVEN TOWARDS MAINTAINING, PROTECTING THE CAPACITY AND SAFETY OF THE EXISTING ROAD SYATEM.

HOUSING PAGE 85

OPEN SPACE SUBDIVISION DESIGN SHOULD BE ENCOURAGED BY CREATING INCENTIVE PROGRAMS.

THE ZONING COMMISSION SHOULD NOT ASK THE DILCREST RESIDENTS TO GIVE UP THEIR OPEN SUBDIVISION SPACE, CAUSE SOMEONE MADE A BAD INVESTMENT.

RECENT GROWTH PATTERNS, PP 152

THERE HAS ALSO BEEN INCREASED DEVELOPMENT OF LOCAL-ORIENTD COMMERCIAL DEVELOPMENT, IN FORM OF STRIP MALLS LOACTED ALONG MAJOR ARTERIAL SUCH AS US 42 AND KY. 18. THESE COMMERCIAL AND INDUSTRIAL EXPANSIONS HAVE RESULTED IN CHRONIC TRAFFIC CONGESTION PROBLEMS ON THE ATRERIAL AND COLLECTOR ROADS,

THE PLAN OF ALL THE LOTS OWENERS ALONG US 42 AND DILCREST SUBDIVISION IS MAKE THESE LOTS INTO ANOTHER STRIP MALL, IN WHICH WILL BRING MORE TRAFFIC, ULTIMATELY, INCREASED CONGESTION AND UNSAFE INTERCHANGE AT US 42, MALL ROAD AND DILCRST DRIVE.

TRANSPORTATION AND PEDESTRAIN NETWORK PP160

DEVELOPMENT ALONG EXISTING ARTERIALS AND COLLECTOR ROADWAYS SHOULD NOT HAVE DIRECT DRIVEWAY ACCESS, ETC. PARALLEL AND FRONTAGE ROADS SHOULD BE USED TO MINIMIZE IMPACTS OF INDIVIDUAL SITES ON COLLECTOR AND ARTERIAL ROADWAYS.

DILCREST DRIVE TRAFFIC IS CONTROLLED BY A SIGNALIZED INTERSECTION, AND SHOULD BE CONSIDERED^A COLLECTOR STREET. ALLOWING ABOUT THREE CARS THRU ON THE SECOND OR THRID TRIP.

10

COMPREHENSIVE PLAN, 2000/2025 BOONE COUNTY CONT.

AREAS OF FUTURE COMMERCIAL ACTIVITY, PP 70

MANY PROBLEMS WITH THE LOCATION AND ARRANGEMENT OF COMMERCIAL USES HAVE EMERGED, ESPECIALLY ALONG THE KY 18 AND U.S. 42 CORRIDORS. COMMERCIAL DEVELOPMENTS ALONG KY 18 AND U.S. 42 WEST OF MALL ROAD SHOULD NOT BE REGIONALLY ORIENTED NOR SHOULD THEY ATTRACT ADDITIONAL TRAFFIC.

HOUSING DEMAND PP 74

THE DEMAND FOR MORE AFFORDABLE SINGLE AND MULTI-FAMILY RESIDENCES GENERATED BY THE COMMERCIAL AND INDUSTRIAL EMPLOYMENT GROWTH CENTERS, HAS HELPED GENERATE THE DEVELOPMENT OF MANY NEW SUBDIVISIONS AND APARTMENT DEVELOPMENTS. HOWEVER, THE DEMAND FOR NEW AFFORDABLE HOUSING HAS NOT BEEN COMPLETELY MET BY THE HOUSING MARKET.

PLEASANT VALLEY WEST FLORENCE AREA PP 163

HOPEFUL CHURCH ROAD SHOULD CONTINUE TO SERVE AS A RESIDENTIAL CORRIDOR, AND NO COMMERCIAL USES SHOULD OCCUR PAST THE KY 18 OR U.S. 42 FRONTAGE PROPERTIES.

FLORENCE COMMERCIAL AREA

THE MALL ROAD AREA SHOULD CONTINUE TO DEVELOP AS A REGIONALLY ORIENTED COMMERCIAL DISTRICT. THIS REGIONALLY-ORIENTED GROWTH SHOULD BE CONFINED TO MALL ROAD AND HUSTON ROAD, AND SHOULD NOT EXPAND ON TO US 42,

END

ON JANUARY 31, 2001 A STAFF REPORT COVERING, 2000 COMPREHENSIVE PLAN ELEMENT WAS SUBMITTED AND SIGN BY DAVID A. GEOHEGAN, DIRECTOR OF PLANNING SERVICES, I WILL QUOTE THE FOLLOWING FROM THAT REPORT;

BUSINESS ACTIVITY, PAGE 6, "KY. 18 AND US 42 SHOULD NOT DEVELOP AS UNINTERRUPTED COMMERCIAL DEVELOPMENT, BUT SHOULD INCLUDE A MIX OF LAND USES.

DILCREST SUBDIVISION IS SURROUNDED ON THREE SIDES ALWAY AND WE DONT NEED ANY MORE LAND TAKEN FOR COMMERCIAL.

HE ALSO SIGN INTO, PAGE 6, LAND USE "THERE IS IN FACT A SPECIAL NEED TO PROTECT OR MAINTAIN AS OPEN SPACE SOME LAND WITHIN THESE HIGHER DENSITY AREAS. HE GOES ON TO STATE; "AS THE MAPS AND ANALYSIS SHOW , THE COUNTY CONTAIN PLENTY OF READILY DEVELOPALE LAND.....WITHOUT REQUIRING SIGNIFICANT DEVELOPMENT OR DISTURBANCE OF RURAL OR DEVELOPMENTALLY SENSITIVE AREA.

WE NOW HAVE VACANT COMMERCIAL STORES, AND BUILDINGS ALONG MALL ROAD AND US 42, PLUS YOU HAVE THE VACANT LAND KNOWN AS THE BERKSHIRE FARM. SOMEWHERE AROUND 40 ACRES ON MALL ROAD, PLUS ALL OF THE LAND NOW BEEN DEVELOP FROM WEAVER ROAD TO UNION AND PASS.

THIS WAS COVER UNDER "AREA OF FUTURE COMMERCIAL ACTIVITY" PP 70 2000 BOONE COUNTY COMPREHENSIVE PLAN.

SO PLEASE DONT ASK US TO TAKE MONEY OUT OF OUR POCKETS TO BAIL THE APPLICANT BAD INVESTION.

THEY ARE ASKING US TO LOSE MONEY ON OUR INVESTMENTS ON THE HOMES WE HAVE BUILD UNDER THE PROTECTION OF R1-F ZONING.

THIS IS VERIFY BY THE FOLLOWING;

POTENTIAL PROXIMITY DAMAGE DUE TO COMMERCIAL EXPOSURE LOCATED AT THE DILCREST SUBDIVISION AT US 42 AND DILCREST DRIVE.

DILCREST SUBDIVISION ATTORNEY AQUIRED THE SERVICE OF MR. LARRY MCMILLAN, AN EXPERT ESTATE APPRAISER, FOR THE PURPOSE OF REPORTING THE POTENTIAL PROPERTY DEVALUATION OF DILCREST SUBDIVISION HOMES IF THE FRONT LOTS WERE TO BE REZONE TO COMMERCIAL ZONING.

IT IS THE OPINION OF MR. MCMILLAN, I WILL QUOTE "THAT ADDITIONAL ANALYSIS WOULD CONCLUDE THAT SIMILAR PROPERTIES WITHIN THE SAME MARKET SEGMENT AS DILCREST'S LOCATION HAVE DIMININISHER IN OVER-ALL MARKET VALUE AS RESIDENTIAL PROPERTIES.

THIS ANALYSIS WOULD PROVIDE COMPARABLE TRANSACTIONS THAT SHOW THE TYPICAL BUYERS PAY LESS FOR PROPERTIES EXPOSURE TO COMMERCIAL SERVICES AND THEIR ADVERSE AFFECTS."

THIS VERY CLEARLY SHOWS THAT THE DILCREST RESIDENTIES WILL LOSE MOMEY, WHEN THEY SELL THEIR HOMES.

A MERE 4% LOSS ON AN AVERAGE HOME VALUED AT \$150,000.00 WILL MEAN A \$6,000.00 DOLLARS LOSS TO THE LAND OWENER.

KRS-100.213; NOTES TO DECISIONS HEADING ANALYSIS

NO. 1) IN GENERAL...PURPOSE OF THIS SECTION IS TO REQUIRE THAT ZONING CONFORM TO THE BASIC SCHEME OF PRIOR COMMUNITY PLANNING AND TO PROHIBIT INDISCRIMINATE CHANGES WHICH DO NOT CONFORM TO THE ORIGINAL COMPREHENSIVE PLAN.

THE ORIGINAL PLAN WAS STRATED IN 1957/1959, WHEN FRANK AND DELLA DILS DEVELOPED A TRACT OF LAND APPROXIMATE 70 ACRES IN FLORENCE, KENTUCKY, CALLED DILCREST SUBDIVISION. SUBDIVISION PLATS AND MAPS WERE RECORDED IN THE BOONE COUNTY CLERK'S OFFICE AFTER APPROVED BY THE PLANNING AND ZONING BORAD. THIS ZONE WAS "R1-F".

THIS ZONING WAS IN THE BASIC SCHEME OF PRIOR COMMUNITY PLANNING IN THE ORIGINAL COMPREHENSIVE PLAN, AND SHOWING ON THE FUTURE LAND US MAP THAN AS IT IS SHOWM TODAY AS SUBURBAN RESIDENTIAL, NOT COMMERCIAL.

AS STATED BEFORE IN PROIR RECORDS, LAND ALONG US 42 SOUTH TO WEAVER ROAD, MALL ROAD AND DILCREST MANOR SUBDIVISION WAS DEVELOPED FROM THE LATE FIFTY, THRU THE EARLY EIGHTY. EXCEPT FOR A GAS STATION AND EALGREEN ON CORNER OF US 42 AND MALL ROAD.

THE APPLICANTS HAVE NOT SHOW A COMPELLING NEED FOR MORE COMMERCIAL ESTABLISHMENTS OR HAVE ESTABLISHMENTS THAT THERE HAVE BEEN MAJOR CHANGES OF AN ECONOMIC, PHYSICAL, OR SOCIAL CHANGES IN THIS AREA ALLEGED THE NEED TO CHANGE ZONING SOME TWENTY YEARS LATER.

THE BOONE COUNTY PLANNING AND ZONING COMMISSION MUST RECOGNIZES THAT CHANGES IF THEY HAPPEN, OUTSIDE THE DILCREST SUBDIVISION ARE BEYOND THE CONTROL OF THE RESIDENTS. BUT ONCE THE ZONING LINE OF DEMARCATION AGAINST NONRESIDENTIAL INTRUSION, ONCE IT IS DRAWN, MUST REMAIN IN EFFECT UNLESS THE OWNERS THEMSELVES AGREE TO CHANGE THE NATURE OF THEIR SUBDIVISION.

THE BOONE COUNTY PLANNING AND ZONING COMMISSION MUST RECOGNIZES THAT WE THE RESIDENTS OF DILCREST DID NOT CREATE THIS UNFAVORABLE EVENT, THE APPLICANTS DID SO WHEN PURCHASING THE PROPERTY AND BANKING ON THE PLANNING AND ZONING COMMISSION TO REZONE THE PROPERTY TO COMMERCIAL FOR A BIG PROIFT IN RESALE.

REF. TEXT; KRS213, THE APPLICANTS HAS NOT SHOWN THAT;

- (1) THIS ZONE REQUEST HAS CONFORM TO THE BASIC SCHEME OF PRIOR COMMUNITY PLANNING...HINES V. PINCHBACK-HALLAORAN INC. 513S.W.2D 492(KY. CT. APP. 1974).
- (2) THERE IS A COMPELLING NEED, WHERE GROWTH TRENDS IN AGRICULTURALLY ZONE AREA AND THERE IS A NEED FOR HOUSING BRYAN V. SALMON CORP. 554 S,W.2D 912(KY. CT. APP. 1977).

CONT. KRS-100.213; NOTE TO DECISIONS HEADING ANALYSIS

(3) THERE IS NEITHER THE ALLEGED FOR MORE RETAIL ESTABLISHMENT NOR THE LANDOWNER'S POTENTIAL FOR GREATER PROFITS CONSTITUTED A COMPELLING NEED FOR CHANGING A PROPERTY ZONING CLASSIFICATION FROM RESIDENTIAL TO COMMERCIAL FOR PURPOSES OF BUILDING A SHOPPING CENTER.

CASE; GRAMEX CORP. V. LEXINGTON-FAYETE URBAN GOV'T, 973 S,W ZD 75 (KY. CT. 1998)

(4) THE PROVIDING OF EMPLOYMENT OPPORTUNITIES IS MERELY ONE ELEMENT OF GENERAL WELFARE AS THAT TERM RELATES TO THE ZONING FIELD. SOCIOLOGICAL FACTORS, PROTECTION PROPERTY VALVES, TRAFFICC AND SAFETY CONSIDERATION, PRESERVATION OF HEALTH, AND PROVIDING ADEQUATE LIGHT AND AIR ALL ENTER INTO THE QUESTION OF GENERAL WELFARE.

CASE; FRITTS V. CITY OF ASHLAND, 348 S.W.2D (KY. CT. APP. -1961)

(5) APPROPRIATE CLASSIFICATION

UNDER THE STATUTE, IN ORDER TO GET A REQUESTED ZONE CHANGE, THE PROPONENT MUST SHOW, THAT THE PROPOSED ZONING CLASSIFICATION IS APPROPAIATE.

CASE: FRITZ V. LEXINGTON-FAYETTE URBAN COUNTY GOV'T, 986 S.W.2d456 (KY. CT. APP. 1998)

LETS LOOK AT THE ZONING REGULATIONS

ARTICLE (1) PURPOSE AND AUTHORITY SECTION (110), PROVISIONS OF OPRDER DECLARED TO BE A MINIMUM REQUIREMENTS:

QUOTE; " IN THEIR INTERPRETATION AND APPLICATION, THE PROVISIONS OF THIS ORDER SHALL, SHALL BE HELD TO BE MINIMUM REQUIREMENTS, ADOPED FOR THE PROMOTION OF THE PUBLIC HEALTY, SAFETY, MORALS AND THE GENERAL WELFARE, AS PER KRS 100.201 -100.991. WHEN EVER THE REQUIREMENTS OF THESE REGULATIONS CONFLICT WITH THE REQUIREMENT OF ANY OTHER LAWFULLY ADOPTED RULES, REGULATIONS, ORDINANCE, ORDER OR RESOLUTIONS, THE MOST RESTRICTIVE, OR THAT IMPOSING THE HIGHER STANDARDS SHALL GOVERN."

SECTION 220,, DUTIES OF THE BOARD OF ADJUSTMENT AND ZONING APPEALS

PARAGRAPH (2),.TO AUTHORIZE SUCH VARIANCES FROM THE TERMS TO THIS ORDER AS WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY OR WELFARE, WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY, WILL NOT CAUSE A HAZARD OR NUISANCE TO THE PUBLIC, AND WILL NOT ALLOW AN UNREASONABLE CIRCUMVENTION OF REQUIREMENTS OF THE ZONING REGULATIONS

SECTION 251,.APPLICATION AND STANDARDS FOR VARIANCES

PARAGRAPH (1),. BEFORE ANY VARIANCE IS GRANTED, THE BOARD MUST FIND THAT THE VARIANCE WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY OR WELFARE, WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY, WILL NOT CAUSE A HAZARD OR A NUISANCE TO THE PUBLIC, WILL NOT ALLOW UNREASONABLE CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING REGULATIONS.

COMMENT:

I WOULD LIKE FOR SOMEONE TO EXPLAIN TO ME, AND OTHERS, HOW COULD THE BOONE COUNTY PLANNING COMMISSION IN 1994 COULD APPROVE A ZONE CHANGE FROM A PIECE OF PROPERTY LESS THAN ONE ACRE TO A CLASS "3" WHICH HAS A MINIMUM SIZE OF THREE (3) ACRE???????

THE FOLLOWING CASES COVERED SPOT SPOT ZONING

CASE; 528 SD(2D) 726 (1975); MANLEY V. MAYSVILLE:

PURPOSE OF KRS.100.213 IS TO REQUIRE ZONING TO CONFORM TO CONFORM TO THE BASIC SCHEME OF PRIOR PLANNING AND TO PROHIBIT INDISCRINIMATE, PIECE-MEAL ATTEMPTS TO REZONE.

CASE; POLK V. AXTON, 306 KY. 498, 208 S.W.2D 497;

IN WHICH LANGUAGE IS USED SUGGESTING THAT THERE MUST BE A SHOWING OF SUBSTANTIAL CHANGE OF CONDITIONS IN ORDER TO JUSTIFY AN AMEDEMMENT CHANGING THE CLASSIFICATION OF PROPERTY. THE CASES CITED ARE ALL "SPOT ZONING" CASES, IN WHICH A SINGLE LOT OR GROUP OF LOTS, IN A DISTRICT OR AREA CONSISTING OF PROPERTIES OF THE SAME CLASS OR CHARACTER, WAS SINGLE AND ASSIGNED TO A DIFFERENT CLASSIFICATION.

CASE; PAGE 398 KY. SOUTH WESTERN REPORTER, 2D SERIES;

(4) WHERE THE SITUATION OF A PIECE OF PROPERTY APPEARS TO BE THE SAME AS THAT OF THE SURROUNDING OR ADJOINING PROPERTY, NO FACTS JUSTIFYING ITS SPECIAL TREATMENT, AN AMENDMENT TO A ZONING ORDINANCE, PLACING THE PIECE OF PROPERTY IN A CLASSIFICATION DIFFERENT THAN THAT OF THE SURROUNDING OR ADJOINING PROPERTY, WILL ON ITS FACE APPEAR ARBITRARY, CAPRICIOUS AND UNREASONABLE, AND THE BURDEN WILL FALL UPON THE ZONING AUTHORITY TO JUSTIFY ITS ACTION BY SHOWING A CHANGE OF CONDITION WARRANTING THE CHANGE OF CLASSIFICATION.

UNDER "OAG 74-334" COUNTIES, CITIES AND OTHER LOCAL UNITS

THE REZONING OF PROPERTY FROM RESIDENTIAL "1" TO PART INDUSTRIAL "2" AND PART COMMERCIAL WOULD BE SPOT ZONING WHICH IS GENERALLY DISALLOWED BY THE COURTS.

To Boone County Planning & Zoning - Public Hearing

Nov. 19-03

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: KEWMARS TAYBI	ADDRESS: 8217 N. DILCREST	PH 371-932
NAME: Barney Creevy	ADDRESS: 8213 N. Dilcrest	PH 525-7886
NAME: Nathan E Ryan	ADDRESS: 8207 N. Dilcrest	PH 371-8005
NAME: Jean Sullivan	ADDRESS: 8205 N. DILCREST	PH 371-646
NAME: Kelly Moore -	ADDRESS: 8197 N Dilcrest	PH 371-539
NAME: Michelle Borch	ADDRESS: 8195 N Dilcrest	PH 647-0474
NAME: Don Brock	ADDRESS: 8187 N. Dilcrest	PH 746-255
NAME: OSUALDO DAMONTE	ADDRESS: 8183 N DILCREST	PH 282-600
NAME: LYNN CASE	ADDRESS: 8170 N. DILCREST	PH 525-10
NAME: Kenneth D. Fulmer	ADDRESS: 8172 N. Dilcrest	PH 282-92
NAME: MIKE DEMING	ADDRESS: 8174 N. Dilcrest	PH 371-166
NAME: Dorothy Turner	ADDRESS: 8178 N. Dilcrest	PH 525-290
NAME: Cindy Van Sumer	ADDRESS: 8107 HARMS HILL	PH 525-116
NAME: Lee Spivey	ADDRESS: 158 W DILCREST	PH 746-2386
NAME: Gene A Smith	ADDRESS: 8215 N DILCREST	PH 525-007
NAME: Phyllis Pruitt	ADDRESS: 8209 N. Dilcrest	PH 282-024
NAME: Virginia Kitchel	ADDRESS: 8204 N. Dilcrest	PH 525-095
NAME: Karen Vann	ADDRESS: 8201 N. Dilcrest	PH 282-188

(See Homes) (See Details)

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY.
 ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: <i>Rob R. Jovan</i>	ADDRESS: <i>212 W. Dilcrest</i>	PH <i>283-904</i>
NAME: <i>Michelle Warren</i>	ADDRESS: <i>210 W Dilcrest</i>	PH <i>371-9305</i>
NAME: <i>Hayle A Hodge</i>	ADDRESS: <i>214 W. Dilcrest</i>	PH <i>371-8256</i>
NAME: <i>Stephen Baker</i>	ADDRESS: <i>218 W - Dilcrest</i>	PH <i>371-6906</i>
NAME: <i>James G. Brena</i>	ADDRESS: <i>222 W. Dilcrest</i>	PH <i>746-7426</i>
NAME: <i>Tommy Harkley</i>	ADDRESS: <i>226 W. Dilcrest</i>	PH <i>525-0196</i>
NAME: <i>Marilyn Robling</i>	ADDRESS: <i>237 W. Dilcrest</i>	PH <i>283-1201</i>
NAME: <i>Erna Shepard</i>	ADDRESS: <i>227 W. Dilcrest</i>	PH <i>283-2811</i>
NAME: <i>Paul Johnson</i>	ADDRESS: <i>217 W Dilcrest</i>	PH <i>525-1233</i>
NAME: <i>W. G. Taylor</i>	ADDRESS: <i>230 W. Dilcrest</i>	PH <i>371-4952</i>
NAME: <i>Steven J. Storkas</i>	ADDRESS: <i>213 W. Dilcrest</i>	PH <i>647-7713</i>
NAME: <i>Paul & Sandra Robling</i>	ADDRESS: <i>236 W. Dilcrest</i>	PH <i>371-3138</i>
NAME: <i>Maryouie K. Kuhn</i>	ADDRESS: <i>150 W. Dilcrest</i>	PH <i>371-528</i>
NAME: <i>Martha Brown</i>	ADDRESS: <i>162 W. Dilcrest</i>	PH <i>282-8644</i>
NAME: <i>Dan Ellis</i>	ADDRESS: <i>206 W. Dilcrest</i>	PH <i>647-2937</i>
NAME: <i>[Signature]</i>	ADDRESS: <i>194 W. Dilcrest</i>	PH <i>647-2021</i>
NAME: <i>Paul Mann</i>	ADDRESS: <i>138 W. Dilcrest</i>	PH <i>525-1541</i>
NAME: <i>Paul Rayman</i>	ADDRESS: <i>8176 N. Dilcrest</i>	PH <i>371-95</i>

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING

NAME: Carolyn + Phil Conkle	ADDRESS: 8200 N. Dilcrest Circle	PH 371-062
NAME: Rena Ramsey	ADDRESS: 8196 N. Dilcrest	PH 525-90
NAME: Mary Hall	ADDRESS: 8194 N. Dilcrest	PH 525-01
NAME: Stacey Spicer	ADDRESS: 8188 N. Dilcrest	PH 371-90
NAME: Becky + Dave Williams	ADDRESS: 8186 N. Dilcrest	PH 525-8
NAME: Don + Sharon Payton	ADDRESS: 8166 N. Dilcrest	PH 525-2
NAME: Kathy + Bernie Lubbers	ADDRESS: 8104 Harm's Hill	PH 371-16
NAME: Dottie Krebs	ADDRESS: 8203 North Dilcrest	PH 371-948
NAME: Jon Burdick	ADDRESS: 113 Dilcrest	PH 647-91
NAME: Robert K. Lawrence	ADDRESS: 141 W. Dilcrest	PH 525-73
NAME: Barb Lyons	ADDRESS: 8193 N. Dilcrest	PH 371-40
NAME: Phil	ADDRESS: 8105 Harm Hill Dr	PH 282-828
NAME: Tom Blansky	ADDRESS: 8203 ADILLA DE	PH 283-028
NAME: Karl G. [unclear]	ADDRESS: 8204 ADILLA DR	PH 525 20
NAME: Carol [unclear]	ADDRESS: 8206 Adella	PH 371-808
NAME: Carolin Wilder	ADDRESS: 8199 N. Dilcrest	PH 525-76
NAME: Linda Scheld	ADDRESS: 8205 Adella	PH 282-873
NAME: Michelle Threaderman By her mother	ADDRESS: 10 N Dilcrest	PH

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY.
 ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING.

NAME: <i>Bill G. Cunningham</i>	ADDRESS: <i>146 W. Dilcrest</i>	PH <i>283-126</i>
NAME: <i>Columb Karkin</i>	ADDRESS: <i>142 W. Dilcrest</i>	PH <i>525-76</i>
NAME: <i>Jammy Wilson</i>	ADDRESS: <i>130 W. Dilcrest</i>	PH <i>371-854</i>
NAME: <i>Richard Stark</i>	ADDRESS: <i>126 W. Dilcrest</i>	PH <i>371-6005</i>
NAME: <i>William Smith</i>	ADDRESS: <i>8 Bentley Ct.</i>	PH <i>371-776</i>
NAME: <i>Brooks BECRAFT</i>	ADDRESS: <i>7 Bentley Ct.</i>	PH <i>525-7926</i>
NAME: <i>Terry Hummer</i>	ADDRESS: <i>9 Bentley CT</i>	PH <i>283-2791</i>
NAME: <i>Edna Wright</i>	ADDRESS: <i>12 Bentley Ct</i>	PH <i>371-7380</i>
NAME: <i>L.B. Payne</i>	ADDRESS: <i>5 N. Dilcrest</i>	PH <i>371-104</i>
NAME: <i>Cookie Brown</i>	ADDRESS: <i>134 W Dilcrest</i>	PH <i>525-2776</i>
NAME: <i>Gilbert Wilson</i>	ADDRESS: <i>129 W. Dilcrest</i>	PH <i>283-104</i>
NAME: <i>Robert L. Shirley</i>	ADDRESS: <i>154 W. Dilcrest</i>	PH <i>283-2854</i>
NAME: <i>Leggy N. Stoff</i>	ADDRESS: <i>166 W. Dilcrest</i>	PH <i>525-6925</i>
NAME: <i>Terry Hamrick</i>	ADDRESS: <i>170 W. Dilcrest</i>	PH <i>647-6819</i>
NAME: <i>Kathleen Bolmer</i>	ADDRESS: <i>178 W. Dilcrest</i>	PH <i>525-6670</i>
NAME: <i>Delores Schaffer</i>	ADDRESS: <i>180 W. Dilcrest</i>	PH <i>371-7609</i>
NAME: <i>Gene Schirer</i>	ADDRESS: <i>186 W. Dilcrest</i>	PH <i>283-1365</i>
NAME: <i>Ted Wassendog</i>	ADDRESS: <i>190 W. Dilcrest</i>	PH <i>283-1336</i>

3A

WE THE FOLLOWING AS RESIDENCE OF DILCREST MANOR SUBDIVISION, BOONE COUNTY, FLORENCE, KY ARE OPPOSING ANY ZONING CHANGES WITHIN THE SUBDIVISION FROM "R1F" TO COMMERCIAL ZONING

NAME: HENRY ^{of B BINKMAN} Henry A Binkman	ADDRESS: 137 W DILCREST FLORENCE KY	PH 371-14
NAME: Ed Diane Prindle	ADDRESS: 145 W. Dilcrest Florence, KY	PH 371-48
NAME: J.C. Frost	ADDRESS: 149 W. Dilcrest Florence KY	PH 525-031
NAME: Virginia Ratliff	ADDRESS: 157 W. Dilcrest	PH 371-030
NAME: Ralph Cox -	ADDRESS: 161 W. Dilcrest	PH 371-08
NAME: Patricia ^{Patricia Cox} Cox	ADDRESS: 161 W. Dilcrest	PH 371-08
NAME: Bruce & Nancy Boone	ADDRESS: 173 W. Dilcrest	PH 525-790
NAME: Reef Hopper	ADDRESS: 181 W. Dilcrest	PH 282-80
NAME: JKW Cole	ADDRESS: 189 W. DILCREST	PH 525-06
NAME: Patricia	ADDRESS: 193 W. DILCREST	PH 647-684
NAME: Christine Day	ADDRESS: 193 W. Dilcrest	PH 647-68
NAME: Irene Masley	ADDRESS: 197 W. Dilcrest	PH 371-81
NAME: James R. Masley Jr	ADDRESS: 197 W. Dilcrest	PH 371-810
NAME: Billy Green	ADDRESS: 201 W. DILCREST	PH 371-2
NAME: Muelde Wheat	ADDRESS: 8216 N. Dilcrest	PH 525-90
NAME: Jim McTurkin	ADDRESS: 8212 N. Dilcrest	PH 371-790
NAME: Susan Hutchinson	ADDRESS: 8202 N. Dilcrest	PH 371-70
NAME: Marshall Hutchinson	ADDRESS: 8202 N. Dilcrest	PH 371-2

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Janet Keglèy, Chairwoman

DATE: January 7, 2004

RE: Request of Eighteen, Ltd. (applicant) for Dennis C. Helmer, Gayle S. Helmer, David L. Helmer, and Sandra G. Helmer (owners) for a Zoning Map Amendment from Residential One Family (R1F) to Professional Office One (O-1A), and a Variance from Section 3645 "Buffer Yards" of the Boone County Zoning Regulations to reduce the required Buffer Yard C in the rear yard area from 60 feet to 24.92 feet, for a 0.8613 acre site located on the southeast corner of the US 42/Dilcrest Drive intersection, Florence, Kentucky. The request is for a zone change and a variance to allow an office development.

REMARKS:

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

FINDINGS OF FACT

1. The Committee has concluded that the request is in agreement with the 2000 Boone County Comprehensive Plan for the following reasons.
 - A. The Future Land Use Map designates the site for "Suburban Residential" uses. However, the Land Use Element text states "vacant parcels and existing residences along the south side of US 42 near Dilcrest Drive and Bentley Court may be appropriate for Urban Residential if the developer(s) can demonstrate that proper access management, architecture, and buffering can be provided. An extremely well-designed, low-impact professional office use may be considered for this area, however, the potential developer must submit detailed buffering and building design plans, and demonstrate that the project would establish a positive focal point for the US 42 corridor in addition to minimizing visual, traffic, and stormwater impacts on adjacent residential uses. All developments must provide for connecting parking lots or a frontage road. In addition, right-turn lanes may be required for each development. Development must accommodate plans for double left turn lanes from US 42 to Mall Road. Due to the high visibility of the lots and the need to minimize traffic distractions, minimal signage is recommended" ("Gunpowder Area," pg. 165).

In short, the Comprehensive Plan allows for either Suburban Residential, Urban Residential, or office uses depending on the potential impacts that would be generated and the quality of the specific proposal. The revised Concept Development Plan and architectural elevations that were submitted to the Zone Change Committee in response to the comments presented at the Public Hearing, as well as the agreed conditions outlined below, demonstrate agreement with the Land Use Element text and its detailed objectives regarding the appropriate development of an extremely well designed, low-impact professional office. Specifically: the facility will be limited to professional and medical office uses only; lighting will be controlled as to not impact the adjoining residential properties; the proposal has been revised to include one single story brick structure with multiple roof forms and tangible design detailing so it will resemble a well constructed residence; a detailed landscape/buffering plan for the rear yard buffer area adjoining the adjacent residential lots illustrates that significant buffering and screening will be provided; a commitment to over-detain storm water has been made; the design of the dumpster enclosure and any monument sign will visually correlate to the brick office building; building mounted signage will be limited to the front facade only; and, a vehicular connection will be made from this site to the commercial property to the immediate east. The Committee has also determined that these conclusions are reinforced by the Land Use Element's statement that "development along US 42 from Mall Road to the Ewing Boulevard area should continue to be a mixture of professional and local, traffic-oriented commercial activity" ("Florence Commercial Area," pg. 163).

- B. The Business Activity Element ("Areas of Future Commercial Activity," pp. 70 - 72) notes that "many problems with the location and arrangement of commercial uses have emerged, especially along the KY 18 and U.S. 42 corridors. Commercial developments along KY 18 and U.S. 42 west of Mall Road should not be regionally oriented nor should they attract additional traffic, but rather be served by the existing or future population of the area" and "commercial developments that occur in the KY 18 and U.S. 42 corridors should be limited in scale (e.g. building, intensity, use, etc.) and clustered to serve growing residential neighborhoods." The proposal involves a modestly scaled office structure which will not have direct access to US 42, but will be served by a local street which has a signalized intersection with US 42, and through an existing access point on an adjoining commercial lot.
- C. Based on the conclusions outlined above, the Committee has determined that the request, with the agreed conditions outlined below, demonstrate agreement with the applicable Business Activity Goals and Objectives, which are outlined in the Staff Report for this application.

January 7, 2004

Eighteen Ltd./Helmer

- D. The Committee has concluded that the proposal, with the agreed conditions outlined below, demonstrate agreement with the Land Use Element's Future Land Use Development Guidelines as well as the applicable Goals and Objectives.
2. When considering that the vast majority of the adjoining area along US 42 has a definitive commercial strip character and is comprised of commercial uses that are oriented toward automobile traffic, and that US 42 is a heavily traveled five lane highway which is contemplated by the Kentucky Transportation Cabinet to be widened to six lanes, the Committee has concluded that the existing zoning classification is inappropriate and that the proposed zoning classification is appropriate.
 3. The Committee has concluded that the requested variance fulfills the applicable findings, standards, and criteria outlined in KRS 100.241 to 100.247, which includes the findings outlined in Section 251 of the Boone County Zoning Regulations. Specifically, the strict enforcement of the buffer yard width normally required along the south/rear property line would deprive the applicant of reasonable use of the site, especially when considering the limited size and depth of the property. The width of the rear buffer yard was increased on the revised Concept Development Plan to indicate that both the building and paved vehicular area would be set back at least thirty feet (30') from the rear property line, with a four foot (4') wide sidewalk placed along the rear facade of the building.
 4. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2000 Boone County Comprehensive Plan. The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

CONDITIONS

1. The development shall follow the revised Concept Development Plan (received by the Planning Commission 12/12/03) and architectural elevations (received by the Planning Commission 12/16/03) which were submitted to the Zone Change Committee in response to the issues raised at the Public Hearing for this request. The materials for the structure shown on the architectural elevations shall be brick with dimensional shingle roofing.
2. Uses shall be limited to professional office and medical office uses which are Principally Permitted in the O-1A zone.

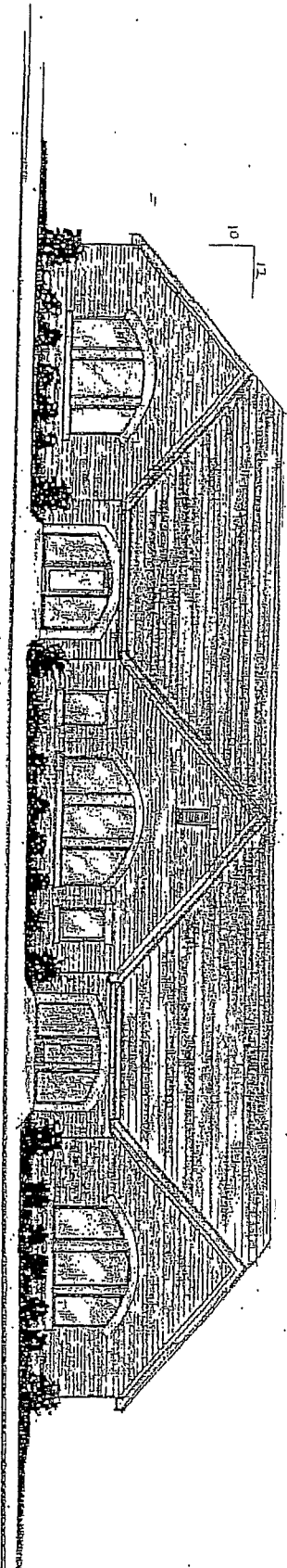
January 7, 2004

Eighteen Ltd./Helmer

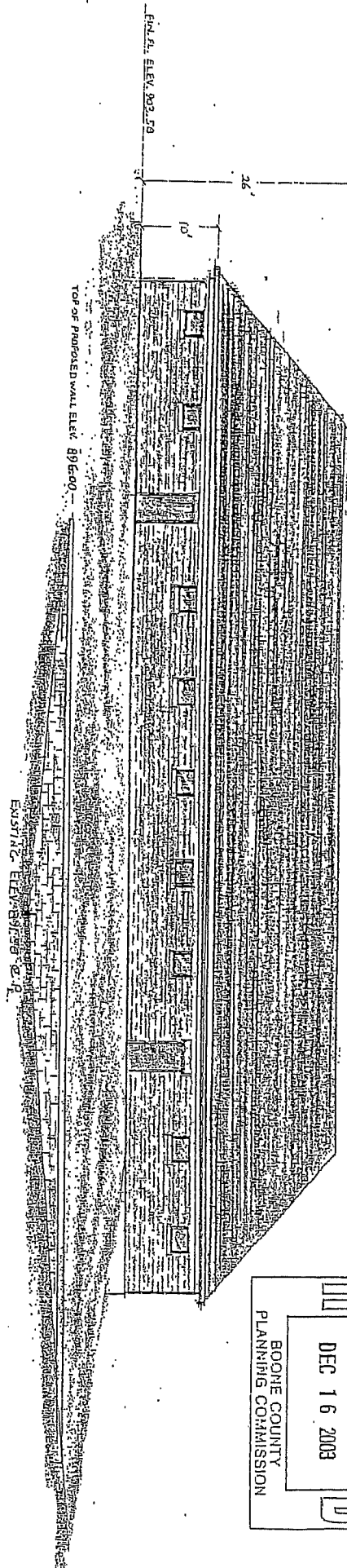
3. A paved, two-way driveway connection between this site and the driveway on the adjoining commercial property to the east shall be provided with the initial construction of the building.
4. Landscaping for the rear buffer yard shall follow the scheme provided with the revised Concept Development Plan. Additional screening along the walk at the rear of the building shall include a row of arborvitaes as shown on the revised Concept Development Plan, or comparable columnar evergreen trees, which are at least 4 feet wide and 15 feet high at maturity, and which have a 6 foot high minimum installation size; this row of columnar evergreen trees, as shown on the revised Concept Development Plan, fulfills the applicable large shrub requirement. A 6 foot high solid screening fence may be opted in lieu of the row of columnar evergreen trees. Other than as specified in this condition for the rear buffer yard, the development must meet all applicable standards stated in Article 36 "Landscaping" of the zoning regulations.
5. As much storm water as practical shall be over-detained in accordance with the City Engineer's direction.
6. The turning radii and reverse curves from (and including) the curb cut to the parking area at the front of the building shall be softened to more readily accommodate traffic flow.
7. Building mounted signage may be located on the front facade facing US 42 only. Any monument style sign and the dumpster enclosure shall use materials, colors, and design detailing which match the proposed office building. Any monument style sign may be externally illuminated only.
8. Site lighting which is located behind the front building line shall be limited to bollard style and low intensity wall mounted fixtures only.

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.

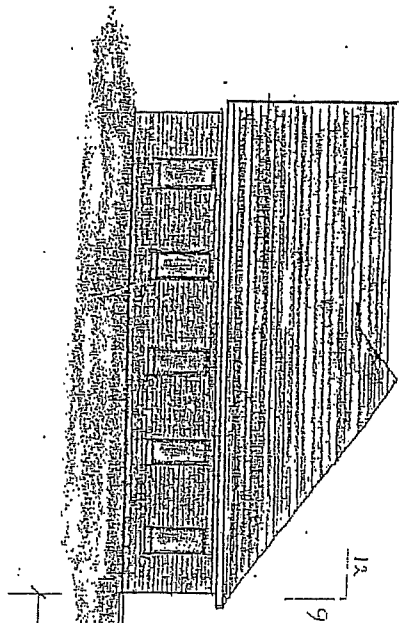
NORTH ELEVATION



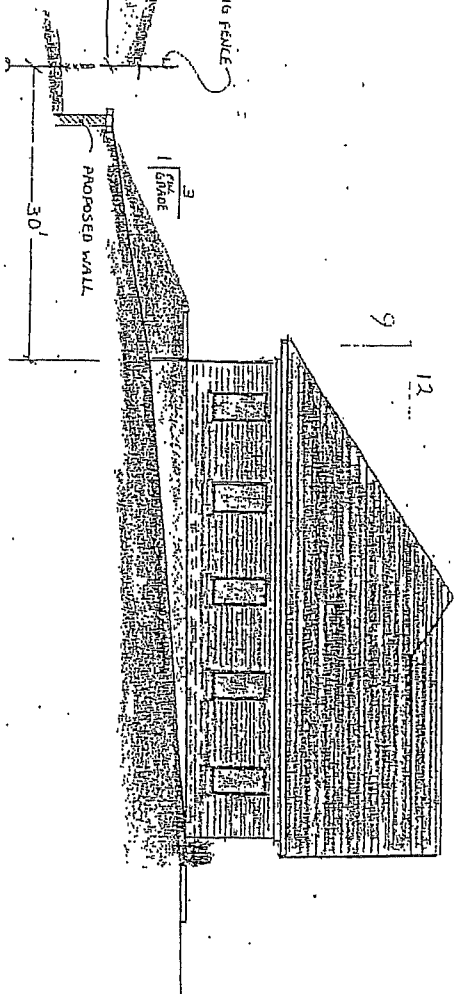
SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION



RECEIVED
BOONE COUNTY
PLANNING COMMISSION
DEC 16 2003

Janet A. Kegley
Janet Kegley, Chairwoman
For Project Absent
Against Project
Abstain Deferred

Randy Barlow
Randy Barlow
For Project Absent
Against Project
Abstain Deferred

Greg Breetz
Greg Breetz
For Project Absent
Against Project
Abstain Deferred

Kim Bungar
Kim Bungar
For Project Absent
Against Project
Abstain Deferred

Susan Poston
Susan Poston
For Project Absent
Against Project
Abstain Deferred

Charlie Reynolds(Alternate)*
Charlie Reynolds(Alternate)*
For Project Absent
Against Project
Abstain Deferred

TOTAL: DEFERRED 4 FOR PROJECT 1 ABSENT
 AGAINST PROJECT ABSTAIN

September 22, 2006

VIA IN-HOUSE:



SEP 25 2006

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

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

Chief Marc Muench
Florence Fire/EMS Department
Fire Station 3, 1152 Weaver Road
Florence, KY 41042

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

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

Chief Building Official Jim Key
Boone County Building Inspection Office
2950 Washington Street, Room 312
P.O. Box 960
Burlington, KY 41005

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

Manager, Administrative Services Vicki Myers
Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Director James Staverman Boone Co. PSCC
Florence Government Center
Florence, KY 41042

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

Eighteen Ltd.
7415 Burlington Pike
Florence, KY 41042

REVISIONS	
NO.	DESCRIPTION
1	REV. 01/15/03
2	REV. 02/10/03
3	REV. 03/10/03
4	REV. 04/10/03
5	REV. 05/10/03
6	REV. 06/10/03
7	REV. 07/10/03
8	REV. 08/10/03
9	REV. 09/10/03
10	REV. 10/10/03
11	REV. 11/10/03
12	REV. 12/10/03

LEGEND	
1	EXISTING BUILDING
2	EXISTING DRIVE
3	EXISTING SIDEWALK
4	EXISTING UTILITY
5	EXISTING LANDSCAPE
6	EXISTING CURB
7	EXISTING DRIVE
8	EXISTING SIDEWALK
9	EXISTING UTILITY
10	EXISTING LANDSCAPE
11	EXISTING CURB
12	EXISTING DRIVE
13	EXISTING SIDEWALK
14	EXISTING UTILITY
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18	EXISTING SIDEWALK
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91	EXISTING CURB
92	EXISTING DRIVE
93	EXISTING SIDEWALK
94	EXISTING UTILITY
95	EXISTING LANDSCAPE
96	EXISTING CURB
97	EXISTING DRIVE
98	EXISTING SIDEWALK
99	EXISTING UTILITY
100	EXISTING LANDSCAPE

DEVELOPER
 EIGHTEEN LIMITED
 7415 BURLINGTON PIKE
 FLORENCE, KY 41042
 PHONE: (859) 371-0750
 GROUP: 712
 DEED REF. BOOK 411 PAGE 246

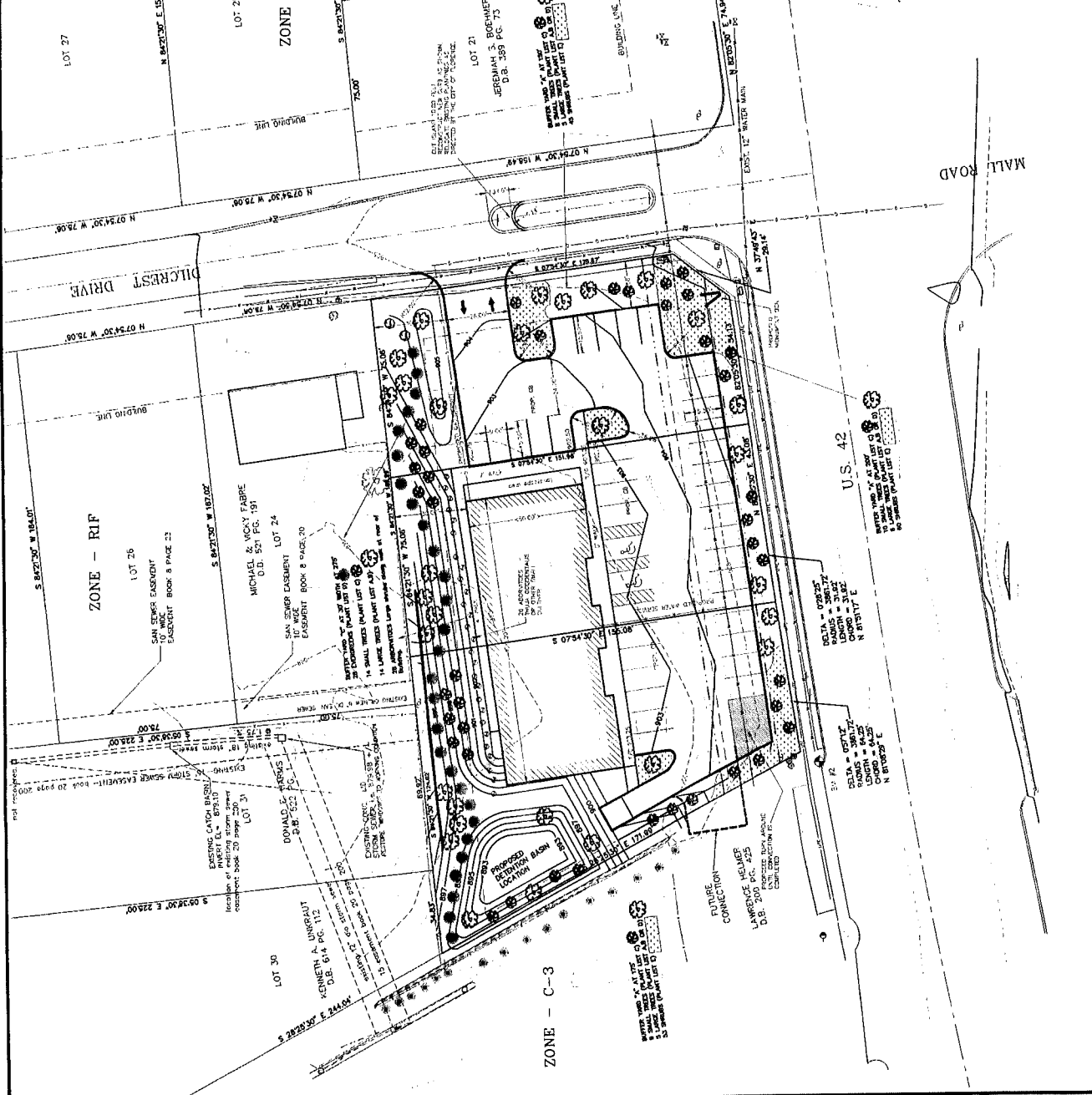


U.S. 42 & DILCREST DRIVE
 FLORENCE, KY
 LANDSCAPE PLAN

EIGHTEEN LIMITED
 7415 BURLINGTON PIKE
 FLORENCE, KY 41042
 PHONE: (859) 371-0750
 GROUP: 712
 DEED REF. BOOK 411 PAGE 246

PROJECT NO. 03-038
 SCALE 1" = 20'
 DATE 6-5-03
 LAST REV. 12-10-03

LANDSCAPE PLAN
 SHEET **C-2**



ZONE - R1F

LOT 25
 SAN SEWER CASMENT
 CASMENT BOOK 8 PAGE 23

LOT 24
 MICHAEL & MCKY FABRE
 O.D. 521 PG. 191

LOT 21
 JEREMIAH S. BOEHMER
 D.B. 389 PG. 73

LOT 27

LOT 30
 KENNETH A. UNICUT
 D.B. 614 PG. 112

LOT 31
 DONALD L. FORSE
 D.B. 522 PG. 107

LOT 32
 SAN SEWER CASMENT
 CASMENT BOOK 8 PAGE 20

LOT 33
 SAN SEWER CASMENT
 CASMENT BOOK 8 PAGE 20

LOT 34
 SAN SEWER CASMENT
 CASMENT BOOK 8 PAGE 20

LOT 35
 SAN SEWER CASMENT
 CASMENT BOOK 8 PAGE 20

LOT 36
 SAN SEWER CASMENT
 CASMENT BOOK 8 PAGE 20

LOT 37
 SAN SEWER CASMENT
 CASMENT BOOK 8 PAGE 20

LOT 38
 SAN SEWER CASMENT
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