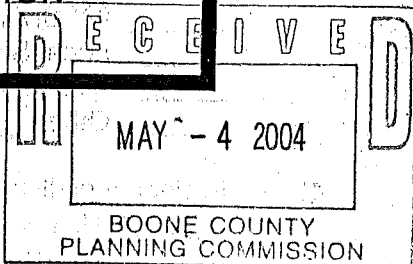


APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION



(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Name of Project Fryar Property
 2. Location of Project 3200 & 3290 Bullitsville Road, Burlington, KY
 3. Total Acreage of Site 18.77
 4. Current Zoning of Site RSE
 5. Proposed Zoning (Classification being requested) RS
 6. Proposed Uses (please specify each use) single Family dwellings
-
7. Names of Applicant(s) Durward & Pearl Jean Fryar, Tom & Teresa Fryar
Phone Number (859) 689-7961 Fax No. (859) 331-5337
 8. Address of Applicant(s) 3438 Bullitsville Road
Burlington KY 41005
City State Zip
 9. Name of Property Owner(s) Durward & Pearl Jean Fryar & Tom & Theresa Fryar
Phone Number (859) 689-7961 Fax No. (859) 331-5337
 10. Address of Property Owner(s) 3438 Bullitsville Road
Burlington, KY 41005
City State Zip
 11. Proposed Building Intensities (please specify) 1.73 DUA
 12. Are there any existing buildings on the site? yes
How many? 5
 13. Deed Book 229 Page No. 272 Group No. 2007
 14. Are you also applying for: 496 164
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

(over)

EXHIBIT

“A”

STAFF REPORT

Request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family residences.

June 16, 2004

REQUEST

The applicant is requesting a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road. Approximately 5.47 acres are currently zoned Rural Suburban (RS). The total build-out for this proposed development is 42 dwelling units on 24.24 acres for an intensity of 1.73 dwelling units/acre with a proposed minimum lot size of 20,000 square feet. The Rural Suburban (RS) zone permits a maximum of 3 dwelling units/acre with a minimum lot size of 12,000 square feet.

Public water is available across Bullittsville Road and the sewer for this project can be connected into the existing sanitary sewer located along Petersburg Road (KY 20). The applicant is currently proposing to modify the existing farm pond to be used as a retention basin for storm water control. The Boone County Public Works department will only accept for maintenance the overflow structure on retention ponds. A detention pond would need to be located on an individual lot if the applicant is proposing to turn it over to Boone County Public Works for maintenance.

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

The applicant is proposing that lots 1-7 and 40-42 will face Bullittsville Road and will access only from within the development. None of these lots will have driveways on Bullittsville Road. The only lot that will have access to Bullittsville Road is lot 8 which has an existing access point for the existing single family residence.

SITE HISTORY

This property was the subject of a similar Zoning Map Amendment request last year. More specifically, Public Hearings were held on July 23 and August 27, 2003, and the proposed concept development plan consisted of 60 lots (2.48 dwelling units/acre), with ten (10) lots backing up to Bullittsville Road.

Due to the size, shape and topography of the Fryar property, the 2003 Concept Development Plan and the 2004 Concept Development Plan have some basic similarities, however the reduction in the total number of lots from 60 to 42 and now proposing that the lots along Bullittsville Road will be facing Bullittsville Road with access from within the development are essentially the major changes to the development.

Attached to this Staff Report are copies labeled "2003 Concept Development Plan" and "2004 Concept Development Plan" for comparison.

ADJACENT LAND USES AND ZONING

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

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

RELATIONSHIP TO COMPREHENSIVE PLAN

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

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

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

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

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

- A. Proper future growth management for Boone County is implemented ("Overall," Goal).
- B. Boone County shall be viewed as an integral part of the Cincinnati Metropolitan Area ("Overall," Objective 1).
- C. Development issues shall be viewed in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, within appropriately planned and designed neighborhood developments ("Overall," Objective 2).
- D. Proper design principles shall be applied in development ("Overall," Objective 3).
- E. Future growth shall be accompanied by adequate infrastructure and services. Existing infrastructure and services shall be maintained or improved as needed ("Overall," Objective 4).
- F. **Boone County shall strive to achieve both a diversity and balance in land use. Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of the general public ("Overall," Objective 6).**
- G. The needs of Boone County's population are measured and fulfilled through the provision of orderly growth ("Population," Goal).
- H. Boone County's development policies shall provide equal opportunity for the establishment of a balanced population regardless of age, race, or socio-economic status ("Population," Objective).
- I. **New development or redevelopment within Boone County is designed, constructed and operated in such a way that the quality of the existing physical environment and social environment are maintained and enhanced. Development within Boone County preserves and promotes a better quality of life ("Environment," Goal).**

- J. ***New development or redevelopment shall attempt to design sites utilizing existing topography and vegetation, and encourage preservation of the existing character of the land. New development shall be designed in harmony with the physical environment in such a way that each site's existing physical assets are used. Residential development design in particular shall minimize grading work as opposed to clearing the entire site. Existing trees and pasture land shall be evaluated during the design and construction process as a visual and economic benefit to the community ("Environment," Physical Objective 2).***
- K. Safe, environmentally sound, and sanitary housing exists for all Boone County residents ("Housing," Goal).
- L. A broad range of housing opportunities shall be provided which meet the needs and desires for all household types ("Housing," Objective 1).
- M. No housing policy shall have the effect of causing discrimination against any person on the basis of age, race, color, religion, sex, familial status, disability, or national origin ("Housing," Objective 2).
- N. The maintenance of sound existing housing, as well as, the rehabilitation of deteriorating housing shall be encouraged ("Housing," Objective 3).
- O. ***Housing supply in Boone County shall be balanced against present and planned commercial, industrial and primary and secondary education bases ("Housing," Objective 4).***
- P. In order to offer the citizens of Boone County maximum choice in living environment, residential development shall be judged primarily on density, impact on infrastructure, and development design with only secondary consideration given to the type of dwelling unit ("Housing," Objective 5).
- Q. Residential development shall be regulated as to basic health and safety considerations, including: a) proper connections to appropriate public water and sanitary sewer service, sewage disposal units, and telephone and electric lines, and b) properly designed and constructed storm water drainage according to location and use ("Housing," Objective 6).
- R. The interior street system of new residential developments shall insure continuity with adjacent built or planned neighboring areas. Residential developments shall be encouraged to provide interconnections between sections of their developments and with adjacent developments to promote safe and easy transportation access and a sense of neighborhood interaction. Based on

certified traffic analysis, collector and sub-collector streets shall be evaluated to determine design without individual lot or driveway access. Lot and home buyers shall have access to approved plans regarding future connections. The interior street system shall also coordinate with and continue the evolving multi-modal transportation system (pedestrian and bicycle facilities, mass transit stops) ("Housing," Objective 8).

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

Table 2.5 in the Population Element (page 21) shows the population by traffic zone. In 1990, the population within this traffic zone (824) was 1,901 and in 2000 grew to 4,116. This geographic zone is bound by Petersburg Road (KY 20) to the north, Bullittsville Road to the west, Limaburg Road to the east and Burlington Pike (KY 18) to the south. The development has occurred primarily to the south near Burlington. Subdivisions such as Bradford Trace, Derby Farms, Deerfield, Burl Park, Regal Ridge, Darlington Farm and Dartmouth Woods have been the major source of this increase in population. The projected population for this traffic zone (824) as shown in Table 2.15 (page 28) is 5,789 by 2010. This growth will most likely occur to the north of the west runway flight path and south of Petersburg Road (KY 20).

STAFF COMMENTS

1. The main issues with the 2003 request were (a) the number and size of the lots, (b) orientation of the homes along Bullittsville Road, (c) screening and (d) the current lack of storm water control on the Fryar property.
 - a. The 2003 request was for 60 lots (a maximum intensity of 2.48 dwelling units per acre) with a minimum lot size of 12,000 square feet. The 2004 concept development plan requests 42 lots (a maximum intensity of 1.73 dwelling units per acre) with a minimum lot size of 20,000 square feet. This is a 30% reduction in the number of lots and a 40% increase in the minimum lot size. To compare neighboring communities, Millakin Place consists of 60 lots on 92 acres for a density of 0.65 units per acre and Brentwood consists of 111 lots on 67 acres for a density of 1.66 units per acre.

- b. The 2003 request proposed ten (10) homes backing up to Bullittsville Road. This 2004 concept development plan proposes ten (10) homes facing Bullittsville Road (lots 1-7 and 40-42) with access provided from within the development. The applicant has noted on the submitted concept development plan that "No lot shall have direct access to Bullittsville Road" and "All houses along Bullittsville Road shall face Bullittsville Road." Staff recommends a minimum front yard setback of approximately 100 feet from Bullittsville Road for lots 1-7 and 40-42 in order to maintain the character of Bullittsville Road established by the existing residences adjacent to this proposal.
 - c. In 2003, the proposal included a "15' Conservation Easement – Mature Trees To Remain" around most of the perimeter of the property and "Street Plantings – Evergreen or Deciduous Trees 30' to 40' On Center" along Bullittsville Road. The 2004 concept development plan is not proposing to save or add any vegetation.
 - d. Based on the existing conditions in this area, the storm water is a concern along Bullittsville Road as well as along Petersburg Road (KY 20) and Woolper Creek. This property currently has no storm water control, however if developed it must provide storm water detention facilities. These facilities would be reviewed with the Preliminary Plat and Improvement Plan applications for their compliance with the Boone County Subdivision Regulations. Staff recommends a preliminary storm sewer system design be prepared and made available at the Committee meeting.
2. Staff suggests that driveways be shared between lots 6, 7, 9 and 10, as well as lots 39, 40, 41 (and possibly 42) near the entrance to the proposed subdivision off Bullittsville Road. One possible solution would be the "Private Access Driveway" as defined in the Boone County Subdivision Regulations.
3. The Fryar property and the Lauren Meadows Subdivision located off Petersburg Road (KY 20) are only separated by the Elizabeth Conrad property (84.44 acres). The Elizabeth Conrad property also has frontage along Petersburg Road (KY 20) and Bullittsville Road across from the Brentwood Subdivision. Staff is concerned that if we do not look at these adjoining parcels and how they may develop and connect with each other, then the only planning opportunity may be applications for Zoning Map Amendments submitted for those properties (see Potential Road Network attachment). Also attached is the memo from Greg Sketch, Boone County Engineer and Planning Commission Engineer, from the 2003 request which references that this project "provides access to the adjoining tract, which could be developed at the same density in the future. Therefore, strong consideration should be given providing turn lanes on Bullittsville Road."

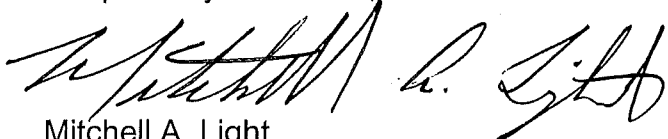
4. Staff spoke with Mr. Gary W. Aman, Project Manager, Sanitation District #1, regarding the access to sanitary sewer for this project. A copy of his memo is also attached from the 2003 request. The existing sanitary sewer main along Petersburg Road (KY 20) can handle the capacity generated by this proposed 42 lot development. In my discussion with Mr. Aman, he informed me that the existing force main located on the Elizabeth Conrad property was not an option for this development.
5. Staff reminds the Commission that although the adopted 2000 Boone County Comprehensive Plan's Future Land Use Map indicates this sites land use classification as "Suburban Residential," the map represents a 25 year growth projection. The Commission needs to consider if the current infrastructure will adequately support development of the area.

CONCLUSION

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

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

Respectfully submitted,

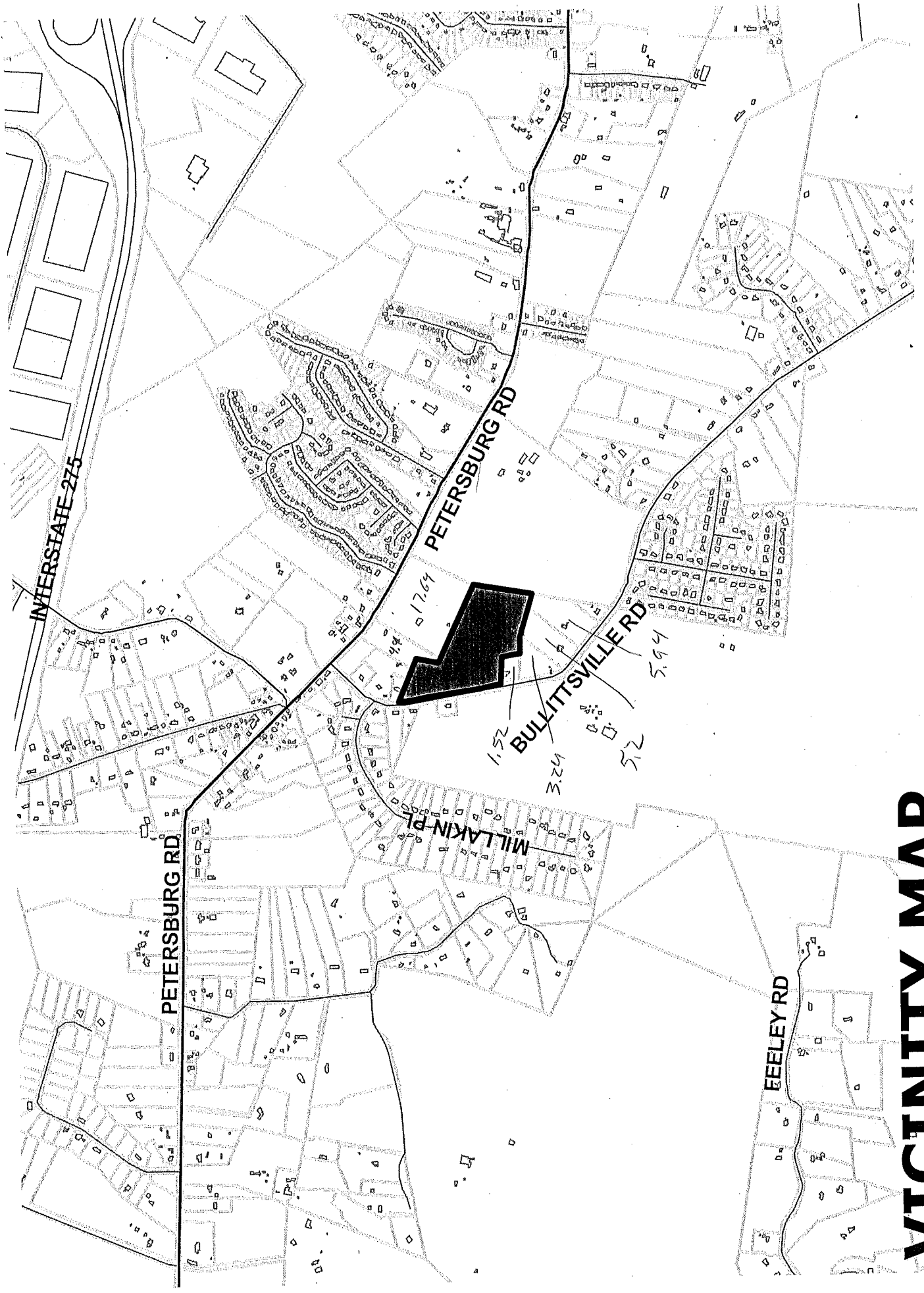


Mitchell A. Light
Asst. Zoning Administrator/Enforcement Officer

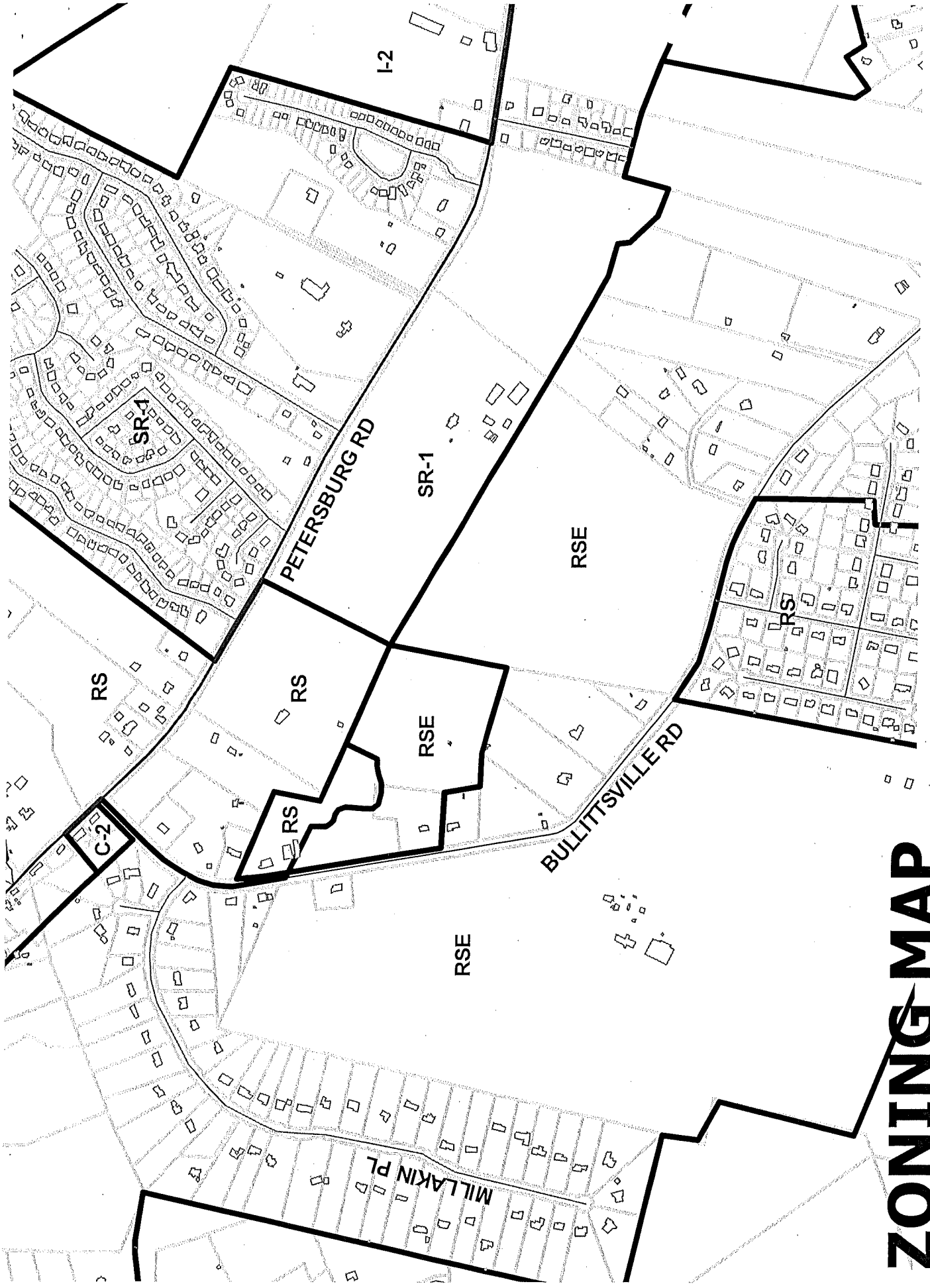
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Attachments:

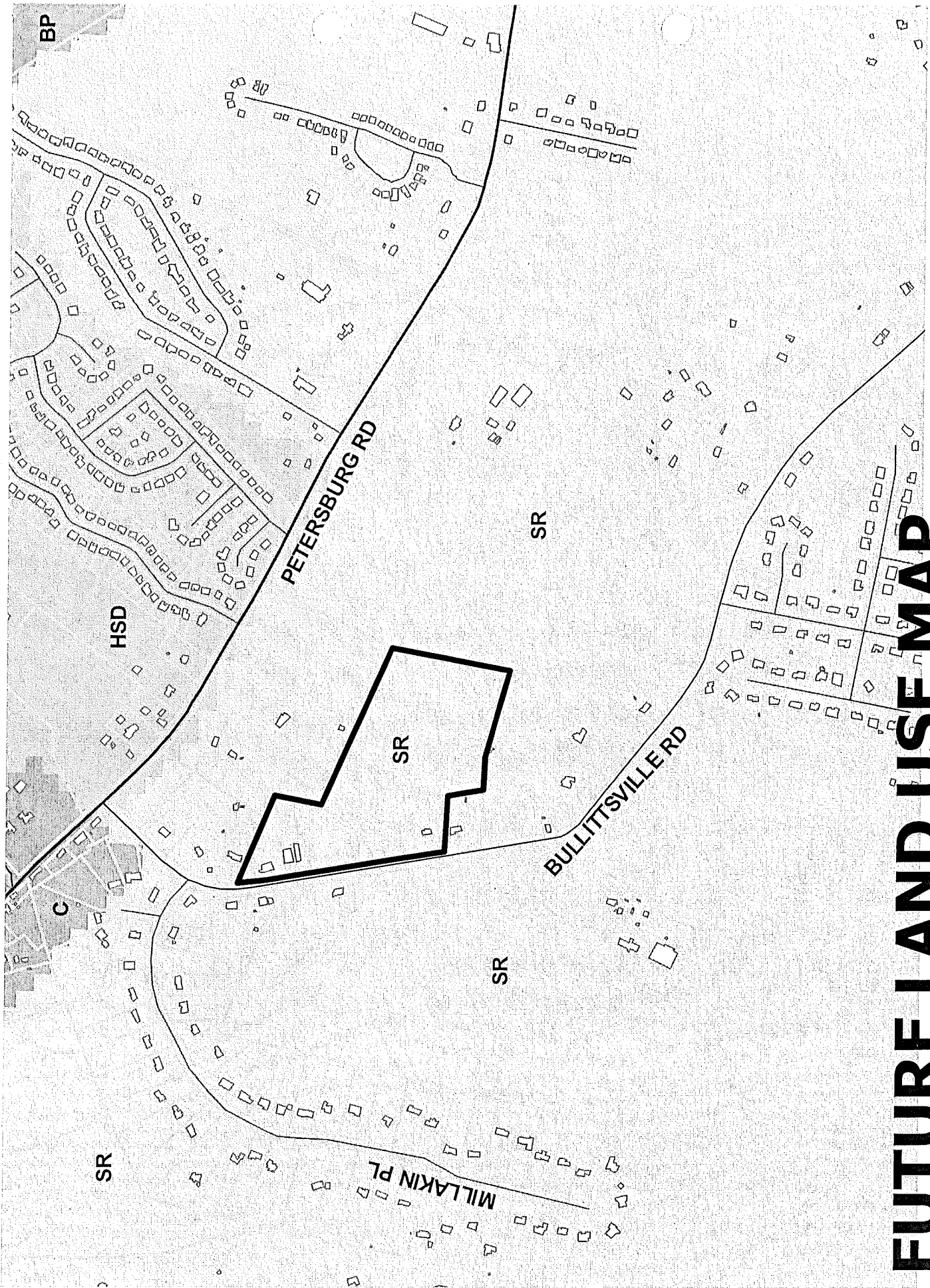
- Vicinity Map
- Zoning Map
- Future Land Use Map
- Existing Topography
- 2002 Aerial Photography
- 2003 Concept Development Plan
- 2004 Concept Development Plan
- Potential Road Network
- 2003 Memo from Greg Sketch, Boone County Engineer
- 2003 Letter from Gary Aman, SD #1
- Application



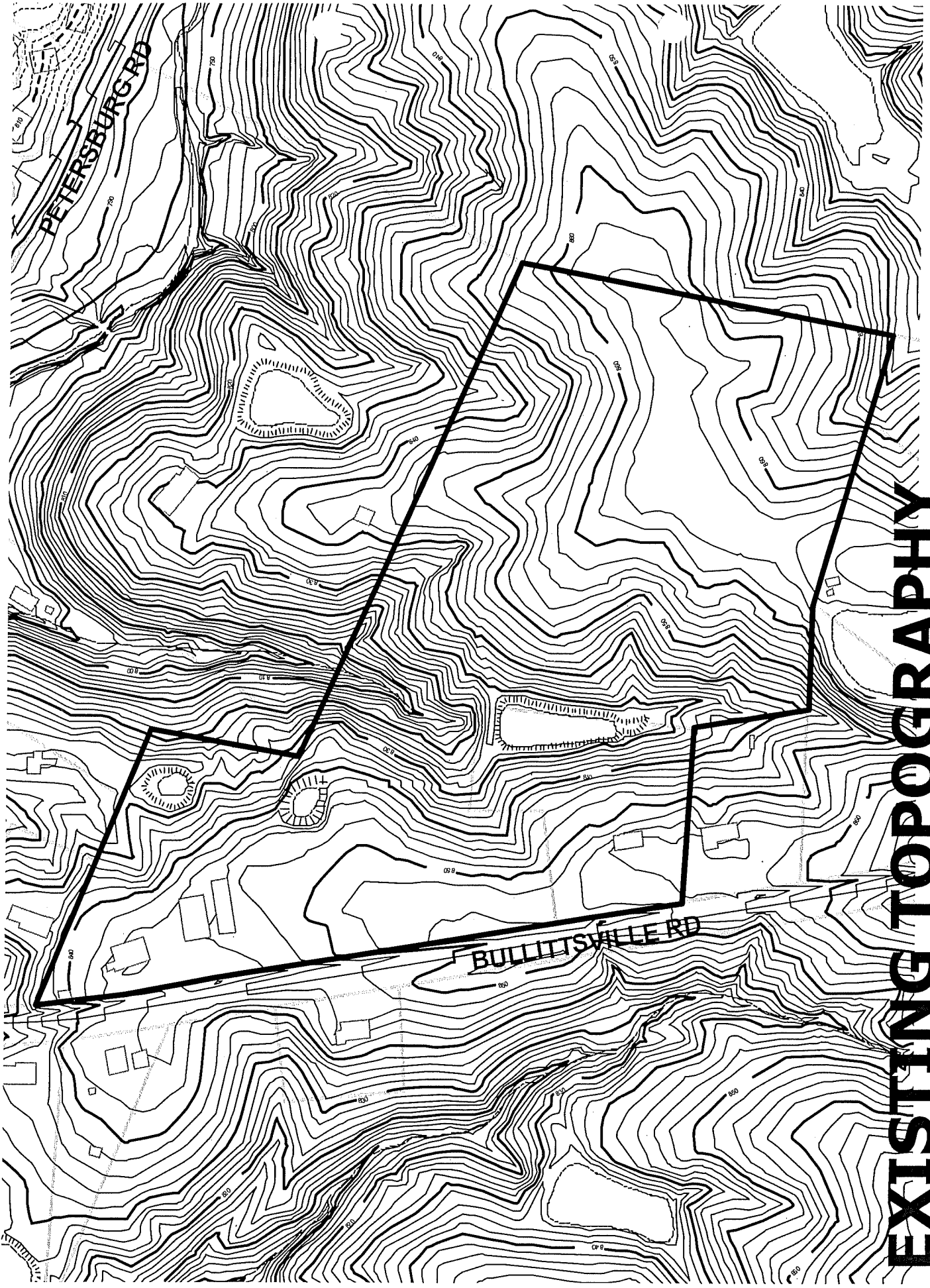
VICINITY MAP



ZONING MAP



FUTURE LAND USE MAP



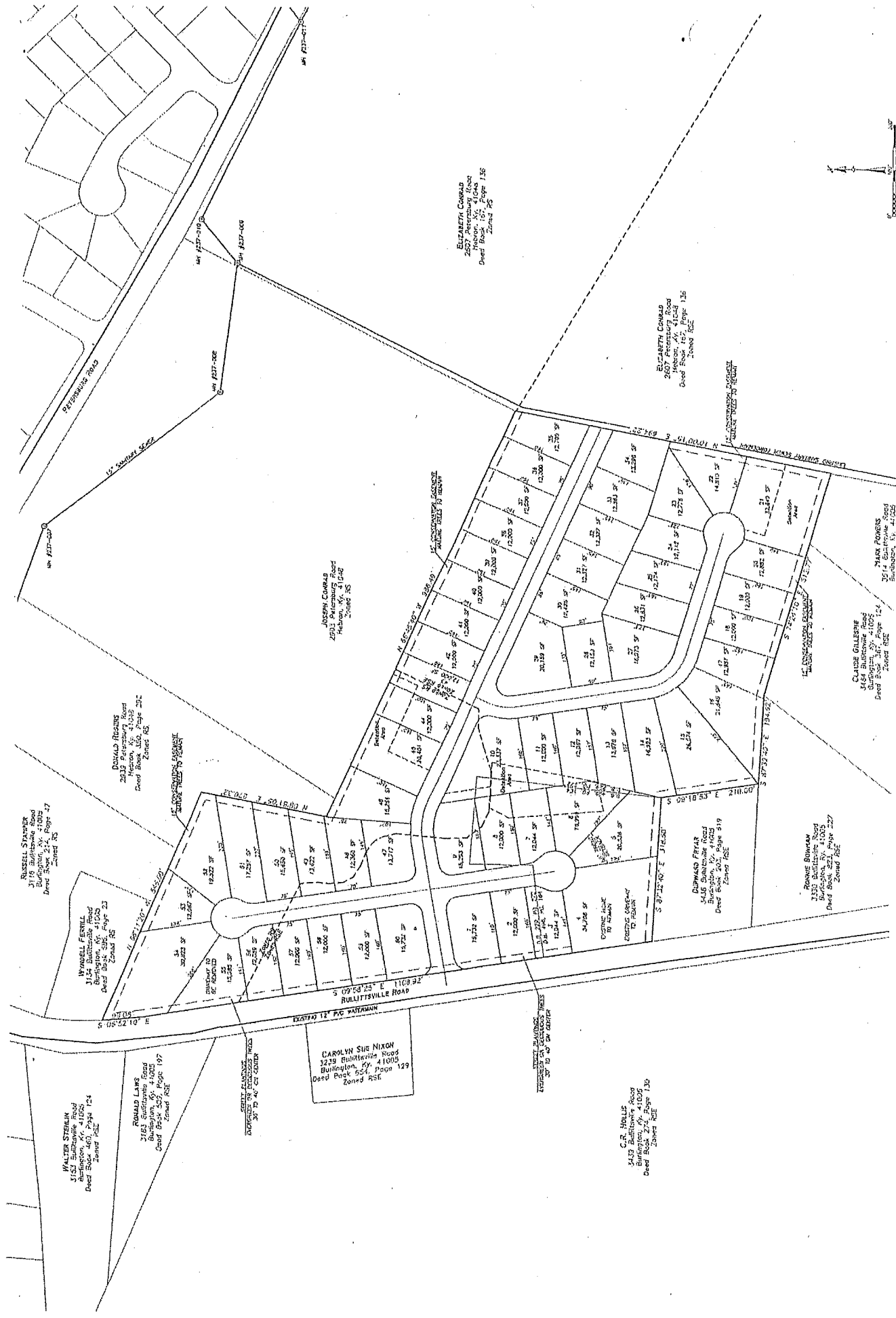
EXISTING TOPOGRAPHY



PETERSBURG RD

BULLITTSVILLE RD


2002 AERIAL PHOTOGRAPHY



RUSSELL STAMPER
3115 Bullittsville Road
Burlington, KY 41002
Deed Book 22, Page 47
Zoned RSE

WALTER STEHLIN
3153 Bullittsville Road
Deed Book 461, Page 124
Zoned RSE

BONNIE LANE
3183 Bullittsville Road
Burlington, KY 41002
Deed Book 357, Page 197
Zoned RSE

CAROLYN SUE NIXON
3248 Bullittsville Road
Burlington, KY 41006
Deed Book 52, Page 129
Zoned RSE

C. B. HUBBS
3433 Bullittsville Road
Burlington, KY 41005
Deed Book 277, Page 130
Zoned RSE

DONALD ROBERTS
2810 Harrison Road
Harrison, KY 41028
Deed Book 150, Page 292
Zoned RSE

JOSEPH CONRAD
2911 Rullittsville Road
Harrison, KY 41028
Zoned RSE

ELIZABETH CONRAD
2527 Rullittsville Road
Harrison, KY 41028
Deed Book 157, Page 136
Zoned RSE

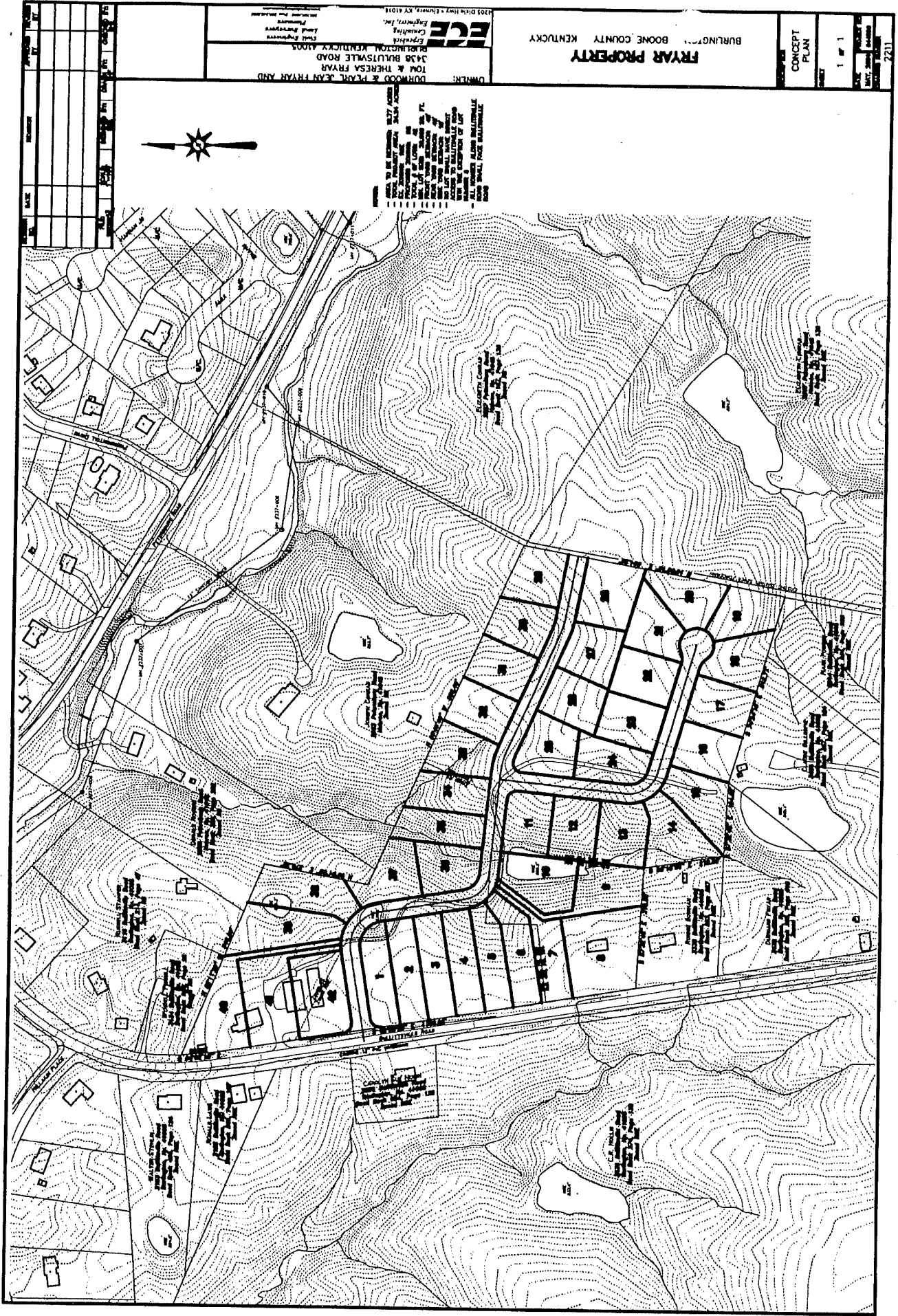
ELIZABETH CONRAD
2527 Rullittsville Road
Harrison, KY 41028
Deed Book 157, Page 136
Zoned RSE

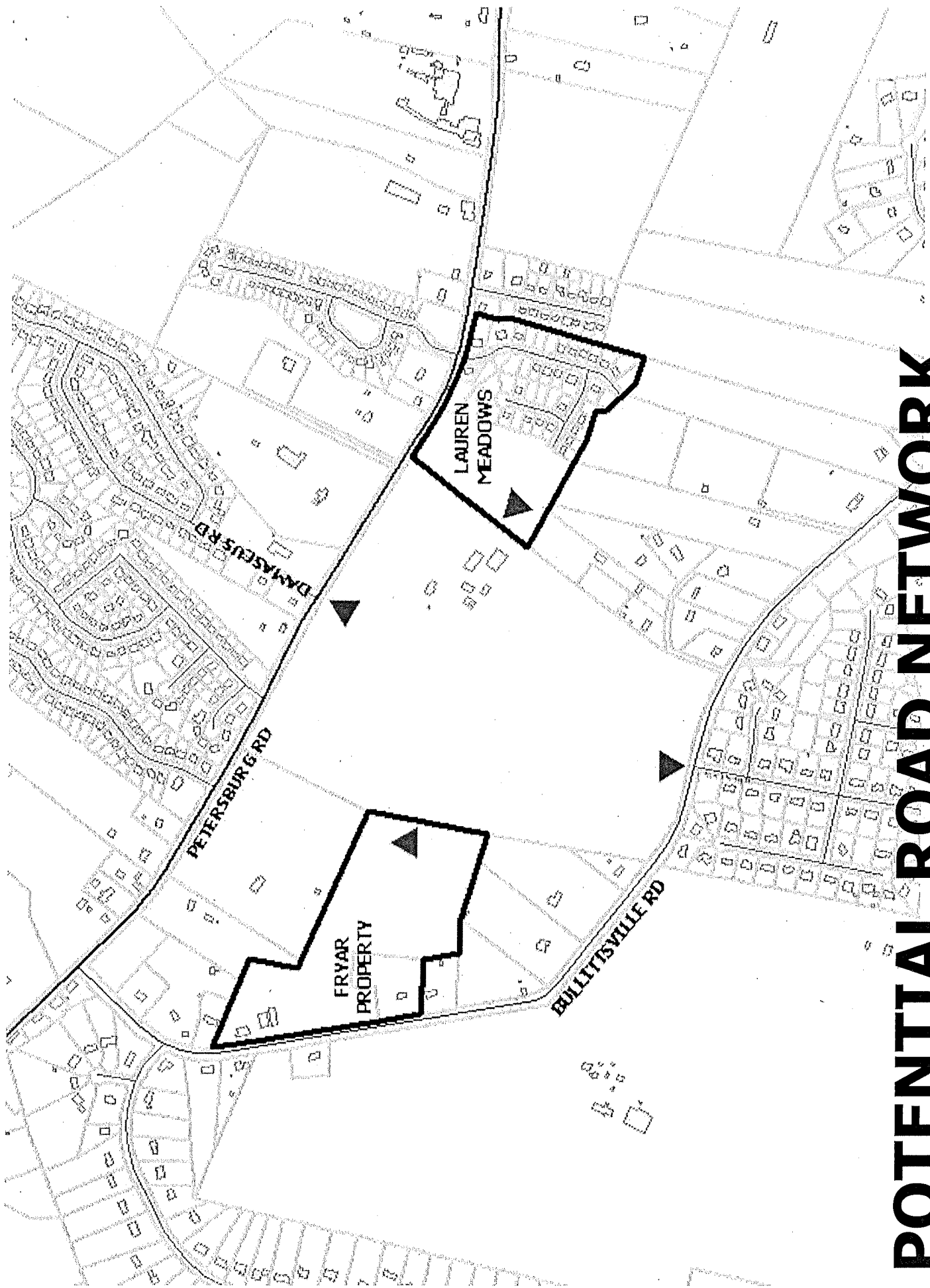
CLAUDE GILLESPIE
3124 Bullittsville Road
Burlington, KY 41002
Deed Book 317, Page 124
Zoned RSE

MARK POWERS
31 Bullittsville Road
Burlington, KY 41002
Zoned RSE

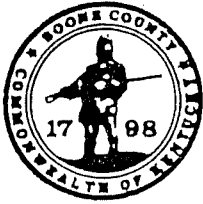
2003 CONCEPT DEVELOPMENT PLAN

2004 CONCEPT DEVELOPMENT PLAN





POTENTIAL ROAD NETWORK



Boone County Public Works Department

5645 Idlewild Rd.
Burlington, KY 41005

Gary W. Moore
County Judge-Executive

Gregory V. Sketch, PE, PLS
County Engineer

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

James E. Parsons
County Administrator

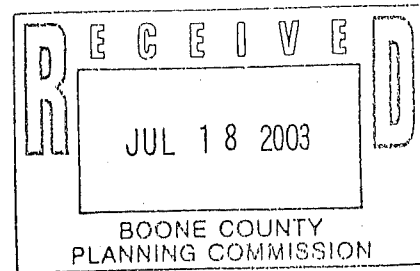
MEMORANDUM

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

FROM: Greg Sketch, PE, PLS
Boone County Engineer

RE: Durwood Fryar Zone Change

DATE: July 18, 2003



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

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

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

Thank you for the opportunity for input in this matter.

c: Jim Parsons, Boone County Administrator

SANITATION



DISTRICT No. 1

June 24, 2003

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

Re: Proposed RS Subdivision
Boone County

Dear Mr. Murphy:

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

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

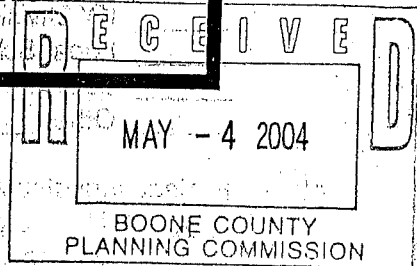
Sincerely,

Gary Aman

Gary W. Aman
Project Manager

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 Fryar Property
 2. Location of Project 3200 & 3290 Bullitsville Road, Burlington, KY
 3. Total Acreage of Site 18.77
 4. Current Zoning of Site RSE
 5. Proposed Zoning (Classification being requested) URS
 6. Proposed Uses (please specify each use) single Family dwellings
-
7. Names of Applicant(s) Durward & Pearl Jean Fryar, Tom & Teresa Fryar
Phone Number (859) 689-7961 Fax No. (859) 331-5337
 8. Address of Applicant(s) 3438 Bullitsville Road
Burlington KY 41005
City State Zip
 9. Name of Property Owner(s) Durward & Pearl Jean Fryar & Tom & Theresa Fryar
Phone Number (859) 689-7961 Fax No. (859) 331-5337
 10. Address of Property Owner(s) 3438 Bullitsville Road
Burlington, KY 41005
City State Zip
 11. Proposed Building Intensities (please specify) 1.73 DUA
 12. Are there any existing buildings on the site? yes
How many? 5
 13. Deed Book 229 Page No. 272 Group No. 2007
 14. Are you also applying for: 496 164
 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

MAP OF BOONE COUNTY

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

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

19. Applicant's Signature Thomas A Fryar & Durward Fryar

Property Owner's Signature Thomas A Fryar, Sheressa A Fryar, Durward Fryar & Pearl J Fryar

SECTION B (To be completed by BCPC Staff)

1. Date Received 3-4-04

2. Review Fee \$1442.24 RF 381675

3. Check what has been submitted:
 Application
 Fee
 Legal Description
 Concept Development Plan
 Address of Adjoining Property Owners
 Number of copies of plan received 5

4. Is application complete? Yes (Yes or No)

5. Staff Reviewer _____

6. Committee Chairman _____

7. Scheduled Public Hearing Date _____

8. Boone County Planning Commission Action:
 Approval
 Approval with Conditions
 Denial

9. Other: _____

**** Five (5) Copies Are Required**

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

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

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

June 16, 2004

7:30 P.M.

PUBLIC HEARING

Commission Members Present: Mr. Breetz, Mr. Bungler, Mr. Carmichael, Mrs. Kegley, Mr. Knock – Temporary Presiding Officer, Mr. McMillian, Mr. Schwenke, Mr. White, and Mrs. Wilson – Secretary/Treasurer.

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

Legal Counsel Present: Mr. Dale Wilson

Mrs. Lisa Wilson, Secretary/Treasurer, called the meeting to order at 7:40 PM and introduced the item on the Agenda:

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

Request: Zoning Map Amendment

The request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single-family residences.

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

Following an explanation of the Public Hearing process, the Mrs. Wilson asked for the applicant's presentation.

Mr. Ray Erpenbeck, 4205 Dixie Highway, Elsmere, Kentucky, representing the owner of the property, stated that they have submitted a booklet outlining the proposed project (see Exhibit 1). Mr. Erpenbeck introduced the property owner Mr. Durward Fryar, Mr. Greg Rudolf who is a partner in the development, and

Mr. Rob Adams who will be the primary builder. Mr. Erpenbeck stated that the Commissioners are familiar with the site and, as stated by Staff, there have been two previous Public Hearings on the site. He stated that approximately 25% of the property is currently zoned RS (the north end of the property). They are requesting a zone change for approximately 18 of the 24 acres of the property. They have reduced the lots significantly from the last application – they are now down to 42 lots, which is 30% less lots -- and the lots have been increased in size from 12,000 square feet to 20,000 square feet, which is the same as Brentwood Subdivision located about one-half mile to the south. There are now 42 lots. The lots along Bullittsville Road are facing Bullittsville Road and access will be from within the subdivision. Their proposal was for a minimum 50-foot setback along Bullittsville Road, which is ten feet larger than the minimum required in the RS zone, but they have no problem increasing the setback to 100 feet per the Staff Recommendation. The proposed development is compatible with Brentwood Subdivision, a nice successful subdivision to the south, and it has the same lot sizes. There is SR-1 zoning to the north, which permits 8,000 square foot lots. Some of the adjoining property is zoned RS, which permits 12,000 square foot lots. This development with the increased lot sizes to 20,000 square feet will buffer the existing one-acre lots in the RSE zone from the smaller SR-1 and 1,200 square foot zoning to the north and east. He stated that another concern at the last Public Hearing was the drainage along Bullittsville Road and, at that time, Mrs. Nixon submitted photographs showing heavy flows across her property. He stated that they will take into their detention pond 100% of the water currently coming from the Fryar property onto the Nixon property. Any water the Nixon property currently gets from the east side of Bullittsville Road will no longer go onto the Nixon property – it will go into the detention pond on the subject property and they will control it. Any water currently coming from the east side of the road -- water going under the road, into the culvert, and onto the Nixon property -- will be totally eliminated and taken into the detention pond. He stated that there is 2 – 2.5 acres that currently drains under Bullittsville road to the west and they will design the detention pond to handle and control that additional water. They will provide sewers within the development and connect into the 15” sanitary sewer along KY 20. The existing 12” water main along Bullittsville Road will more than adequately supply this development. They will use the existing lake as a retention facility and will enlarge and enhance it. They will increase the size of the water within the lake by at least 50% and use the lake as a retention facility. They will comply with all the county requirements for water retention/detention. They can accomplish this with the one lake, which will be enhanced and made larger, and it will be an asset to the community. He stated that this is a simple straightforward project and the requested zone change should be approved. The request is in compliance with the Comprehensive Plan. The development is physically and socially integrated to the surrounding land uses and will preserve the rural atmosphere of the neighborhood. The development will increase property values in the area. This development of 42 lots will not significantly affect traffic or schools or spur uncontrolled growth in the area. The development offers lot sizes and a community type compatible with the

surrounding areas and provides transition from SR-1 and RS zones to the north and east and the RSE zones to the west and south. They have tried to address all of the issues raised previously. Mr. Erpenbeck offered to answer any questions.

Mr. Robert Adams, SL Williams Homes, stated that he lives in Brentwood Subdivision. He submitted to each Commissioner an envelope containing information regarding S. L. Williams Homes, Inc. and examples of the houses they build (see Exhibit 2). He stated that the types of housing they will build are limited to the same styles of housing existing in Millakin Place and Brentwood Subdivision. They will not build lower-end style homes. The homes will average \$200,000 - \$250,000. There will be deed restrictions in regard to brick wraps and faces. He stated that they are building the same style houses in Triple Crown. The two-story houses are over 2,000 square feet and the ranches are over 1,800 square feet. There is not a house that will sell under \$200,000. He stated that he is present to support the project and offered to answer any questions. This completed the applicant's presentation.

Mr. Louis Morris, 1922 Conway Hills Drive, stated that with the way it will be laid out and with the lot sizes and the size of the homes, the development will be a plus for the community. He is a homeowner in the community and he would prefer a nice development like this to multi-family development. This development will attract people to the community. With all the industry, a nice community is needed for people to move into the area.

Jerry Stephens, 5758 Woolper Road, Petersburg, stated that he is in favor of the project based on the size of the lots and the size of the homes.

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

Mr. Mike Ruberg, attorney, 25 Crestview Hills Mall Road, was present representing Laura and Tony Gillespie of 3484 Bullittsville Road. He stated that Lots #16 thru #18 would border on the Gillespie property. They are not necessarily against the request, but they have some concerns. They have spoken with Mr. Erpenbeck about a berm and they believe Mr. Erpenbeck is agreeable to the berm. Mr. Erpenbeck responded that he is agreeable. Mr. Ruberg stated that they also talked about a sewer easement over the Gillespie property and he believes it was acceptable to Mr. Erpenbeck. Mr. Erpenbeck agreed.

Mr. Don Rogers, 2939 Petersburg Road, stated that he is not against progress but he does not want his property washed away. His concern is that the water Mr. Erpenbeck talked about taking care of along Bullittsville Road will shift over to his property. He questioned the proposed use of the existing frog pond that is close to his property and home to a lot of bullfrogs. Mr. Light indicated the frog pond between Lots #38 and #39. Mr. Rogers stated that at the last Public Hearing

he read a letter that was published in The Enquirer from a lady in Mason who had her basement door blown off by flooding. He does not want problems like that. He questioned who would oversee the water flow. Mr. Costello responded that stormwater is reviewed by the Planning Commission's engineer and they will have to meet the standards and requirements. Mr. Rogers stated that water from the front end of Woolper Creek Road floods his bridge. There is mud coming from upstream that impedes the flow of the water. He is concerned about the property line with the land going into different ownerships. There is a bad fence there now and he would like to see something better there before the property is developed. Mr. Rogers submitted pictures of the existing water situation (see Exhibit 3).

In response to a request from Mrs. Kegley, Mr. Light indicated the location of the Rogers' property. Mr. Knock asked if there is natural water drainage through the Rogers property from the Fryar property now. Mr. Rogers responded "yes". Mr. Knock determined that there is a natural stream that joins into Woolper Creek and asked if it is getting out of its banks. Mr. Rogers responded "no" and stated that he does not want it to get out of its banks – that is his concern. He is in favor of detention and retention to control the water so that it drains out slowly.

Mr. Russell Stamper, whose property adjoins the Fryar property to the north, stated that he is also representing the Ferrells whose property adjoins to the north next to Lots #30 and #49 of the proposed development. He stated that this proposal has many improvements over the last proposal, but they have eliminated the 15-foot buffer zone along the edge of the property. He stated that most of the property is surrounded by a fence because there used to be cattle there. He is concerned that without the buffer zone, they might excavate right up to the fence and any trees on the other side of the fence will die because the roots will be cut. He wants a buffer along the fence so that the existing trees are not destroyed. He wants to keep as much green space as possible. He stated that sewage from this development will run along Bullittsville Road to the existing sewer line. He questioned if it will be his responsibility to pay for the sewer line since his property is along the road there. He questioned who will install the sewer line and who will pay for it. Mr. Costello responded that Mr. Stamper would have to give permission for a sewer line to cross his property and either the developer or the Sanitation District will approach him to negotiate it. He stated that if there is enough room, the sewer line could be in the right-of-way. If it is not in the public right-of-way and has to be on private property, then they will have to negotiate an easement. They cannot build anything on the Stamper property without permission.

Mr. Stamper stated that he is also concerned about traffic. He stated that traffic has been added to the north end of Bullittsville Road from Millakin Place, which has 42 lots, and this development will just about double the traffic. Most of the traffic goes north because it is the easiest way out.

Mr. Stamper's wife Jeannine stated that his mother and father live next door to Lot #40 and they have some property in the back that adjoins Lot #39. She stated that this is a much improved plan. She asked for a better answer to her husband's question regarding who would be obligated to pay for the sewer. Mr. Costello stated that there would be negotiation between the Sanitation District and the developer and the Stampers would not be obligated to pay, but they will have to talk to the Sanitation District if they want to tap in. Mrs. Stamper emphasized that she wants to be sure that she is not responsible to pay for the sewer. Mr. Costello responded "that is correct". Mrs. Stamper stated that there is a dip and there is natural drainage to the creek next to the Rogers house. Mr. Light indicated its location on the map.

Ms. Carolyn Hollis-Nixon, 3239 Bullittsville Road, stated that she and her brother own a 430-acre farm across the road from the Fryar property. They have been there since the early 1950's and hope to stay there a long time. She indicated their property on the Power Point slide. She stated that her house is right across the road from the proposed Lots #1 - #7. Her engineer recommends that they reduce the quantity of lots facing Bullittsville Road from eleven to eight. She indicated Lots #1 - #7 on the Power Point slide and stated that they are 73 feet (lot width) along Bullittsville Road and they go back 300 feet, which is not consistent with what they will be putting on the back. She stated that Lot #8 is Mr. Fryar's and not part of the subdivision. She stated that Lots #40, #41, and #42 need to be renumbered as Lots #1, #2, and #3. The existing Lots #1 - #7 on the layout should be made into four lots, which would give them a decent width, and they should be renumbered Lot #4, #5, #6, and #7. They can have a 125-foot setback from Bullittsville Road and 134-foot frontage on Bullittsville Road, which is consistent with Brentwood and Millakin where there are a lot of two-acre lots. She stated that there is a thousand feet along the front that has not been designated in the description. She stated that last fall there was a street going in down the road approximately 200 feet, but now it is directly across from her house - so she will have to look at all the lots and the lights coming in and out. People will back out onto the street and back into her driveway, hitting her mailbox, and she will not be able to get out of her driveway with cars coming up and down the road at 100 MPH. She stated that there is a remedy for the situation and it is cheaper -- they should move the road 402 feet down the road towards Mr. Fryar's property and into one of the lots that adjoins the street. They can then put a cul-de-sac in where the first lots come in. This will balance out the subdivision and address the safety issue. Ms. Nixon showed a board with numerous pictures of Bullittsville Road and submitted the board as an exhibit (see Exhibit 4). She submitted the traffic numbers from the last Public Hearing (see Exhibit 5) and stated that traffic has increased since the last meeting. She stated that there is a difference between a retention pond and a detention pond. The county can go in and look at a retention pond - but it is just a pond that will overflow. Lauren Meadows is in trouble in Frankfort for that - 1,000 feet of Woolper Creek is destroyed and they are going into litigation. She stated that Kim's Subdivision, Liberty Hill, and Lauren Meadows are right there in the little swath but no one has mentioned

them. She stated that there should be a detention pond on Lots #20, #21, and #28 because water does not run up hill. She stated that when the street is redesigned, the water will go down the street and it has to be caught.

Mr. Costello stated that the original plan showed three areas of potential detention, but the new proposal indicates how the existing lake only will serve the site. He stated that Mrs. Nixon is asking that it be looked at to see that it is adequate in terms of storing all of the water at one site versus multiple sites, and if there are multiple sites they need to be properly located so as not to affect the adjoining properties. Mrs. Nixon stated that there are major water problems in the area. Mr. Costello responded "we recognize that". He stated that Mr. Erpenbeck has presented the concept and, as stated in the Staff Report, the Committee will take a close look at it.

Mrs. Nixon stated that a lot has gone on in their neighborhood. The detention pond was not there and they are getting water from Brentwood Subdivision – and it will happen again with this subdivision if the water is not addressed.

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

Mr. Bunger asked the applicant to discuss the retention/detention system in more detail and address the quantity of water that would be discharged in relation to what currently occurs. Mr. Erpenbeck responded that they are planning to use the existing lake. When they build the road, the current dam height will be increased to make the pond larger with a larger surface area. The pool elevation will give additional storage. The low spot in the development will be at the dam for the streets. All of the surface water from the streets will funnel through a storm sewer system and into the retention pond that will be designed to take care of the water. Under the regulations, they are not permitted to discharge any more water than leaves the site before development starts. All of the additional water generated from the development must be retained in the detention pond. He stated that the county has extensive regulations and the Sanitation District reviews the calculations to ensure that there will not be any more runoff from the site than there is now.

Mr. Bunger asked if the sewer connection for this site and the sewer service for Conrad are two separate lines. He questioned if there will be adequate service for Conrad with this development. Mr. Erpenbeck responded that any expense of bringing sewers into the site will be a cost of the developer. They do not anticipate the Sanitation District participating in the cost and definitely none of the abutting property owners would be liable for any of the cost for construction of the sewers. If abutting property owners want to tap in, they would have to go through the permitting process with the Sanitation District after the project is completed and the Sanitation District has accepted it for maintenance. He

indicated on the Power Point slide the property for which they would provide an easement to enable them to tap the sewer line they construct along the street. The exact location of the sewer line would be determined at the design phase. They will provide the proper easement so that if they want to tap the house in or develop the property indicated, they will have the easement. He stated that they will not build the sewer line for them, but will provide them with an easement.

Mr. Bunger questioned the purpose and value of the information submitted by Mr. Adams (exhibit 2). Mr. Erpenbeck stated that they will not necessarily be limited to those designs. The information is submitted to give a feel of the type of housing they anticipate will go in the development. It shows the intent for the housing in this market.

Mr. Knock asked if moving the entrance to the south as suggested by Mrs. Nixon would impede the water retention. Mr. Erpenbeck responded that in the previous submittal the entrance was further to the south, but it would create some grade problems. There would be a shorter distance and, therefore, the street grades would be steeper and there would be a problem servicing the lots and keeping the driveways off Bullittsville Road. Mr. Knock asked if the applicant evaluated other potential locations for egress to Bullittsville Road. Mr. Erpenbeck responded "yes" and stated that they went over a number of different situations with Staff. They looked at sight distance and grades and this was the best access point with proper sight distance and good grades on the roads. They do not want roads with steep grades coming out on Bullittsville Road. Mr. Knock questioned the distance to the blind spot. Mr. Erpenbeck responded "more than 650 feet". Mr. Knock questioned the speed limit. Mr. Light responded "45 MPH". Mr. Erpenbeck stated that they looked at alternatives and worked with Staff. He stated that they made a point of not bringing the street out directly where the headlights would shine in Mrs. Nixon's front door – they moved the street more than 100 feet to the north to ensure that does not happen.

Mr. Carmichael questioned why the buffer was removed from the original plan. Mr. Erpenbeck responded that it was removed because they increased the lot sizes. He stated that all of the developable property can be developed with 12,000 square foot lots – but they are proposing 20,000 square foot lots. He indicated the parcel than can be developed with 8,000 square foot lots. They do not feel that buffer is any longer a concern due to the significant increase in the size of the lots. He stated that they should not have to buffer the larger lots from the smaller lots. He stated that they agreed that they would build the Gillespie's a berm and they can do that.

In response to questions from Mr. Schwenke, Mr. Erpenbeck stated that they do not intend to take out the trees along the fence line – they would have to trespass onto the neighboring property to do that as the trees have grown into the fence. They anticipate that ten feet from the property line will stay undisturbed in the area to the south. He stated that if the adjoining property owners want a new

fence, it would be a 50/50 split and they will work with the property owners that come to them with that issue.

Mr. Knock asked Mr. Ruberg if he was satisfied with what had been proposed. Mr. Ruberg responded "I believe so and their cooperation has been very helpful".

Mr. McMillian asked if enlarging the pond will eliminate Lots #9 and #10. Mr. Erpenbeck responded "no". He stated that the five lots on the lake will be the premium lots as the houses will be around a lake several acres in size. Mr. McMillian asked if it is a detention area or a pond. Mr. Erpenbeck responded that it is a retention area – it is a pond used to retain water. He stated that they will establish a water elevation on the pond and when the rains come the water elevation may raise two, three or four feet. He indicated where they will discharge the water so that it goes back into the natural ravine before it leaves the property. The purpose of the retention pond is to ensure that the abutting property owners do not get any more water than they were getting before the development started.

Mr. McMillian questioned the widths of Lots #1 thru #7. Mr. Erpenbeck responded that they are 75-foot lots and approximately 300 feet deep. Mr. McMillian asked if the builder builds house without the garage door in front. Mr. Adams responded "yes" and stated that there are designs with garage access from the rear and from the side. Mr. Erpenbeck stated that garage access will typically be from the rear. Mr. McMillian stated that there is not much room on the side with a 75-foot lot. Mr. Erpenbeck stated that they can have the house so that the garage will be in the rear. Mr. McMillian stated that he is not just concerned about the houses on Bullittsville Road, but also about the houses around the corner. Mr. Adams stated that they have a full time architect and they design houses to fit lots and applications. The submitted renderings are just an idea.

Mr. McMillian questioned green space. He asked if there are any playgrounds. Mr. Erpenbeck responded "no".

Mr. Bungler asked the developer to discuss the current requirements, which have been tightened over the last year, to control erosion and water runoff during construction. Mr. Erpenbeck responded that new regulations went into effect in August last year. He stated that they will have to go to the Sanitation District and obtain a Disturbance Permit and design all of the erosion control procedures and methods. There are inspections to ensure that erosion is controlled and silt leaving the site is minimized.

At this time, Mrs. Wilson recognized Mr. Joe Conrad who wished to speak. Mr. Conrad and his wife Lois live at 2903 Petersburg Road. Mr. Conrad stated that he spoke with Mr. Fryar and he was under the impression that Mr. Fryar would take care of the fencing -- but now Mr. Erpenbeck is saying he should talk to him. He has livestock, as do other people adjoining this property, and the fence should be

addressed. He questioned who is responsible for the fence. Mr. Erpenbeck responded that he represents Mr. Fryar and anything he agrees to would fall back to Mr. Fryar. He stated that he will sit down with any of the property owners who have fence issues and come to a solution. Mr. Conrad stated that there are a lot of big trees and woods on the Fryar property and he assumes they will be cleared out except along the fence line. Mr. Erpenbeck responded "that is correct". Mr. Conrad stated that he is concerned about his neighbors, all of whom have lived there for a long time. He stated that the water comes from Mr. Fryar's property through the Rogers' property and to Woolper Creek. The water is close to the Rogers' house. Mr. Roger stated that the creek is about 35 feet from his house. Mr. Conrad stated that sometimes a couple feet of water will come down the creek. Mr. Erpenbeck stated that the Planning Commission Staff and the Sanitation District will look closely at those things. He stated that they will do whatever is required to meet the regulations.

Mr. Carmichael questioned the setbacks for Lots #1 through #7. Mr. Erpenbeck responded that they are proposing a 50-foot setback from the edge of pavement, but Staff has recommended the setback be 100 feet and they are agreeable. He stated that they meet the zoning requirements of 10 feet on each side.

Mrs. Wilson asked if there was anyone else present who wished to speak.

Mr. Keith Nixon, 6247 Johnstone Court, stated that retention is the county's concern. Mr. Erpenbeck stated that the county will maintain the detention pond (a dry pond). A wet pond or lake used for retention is not maintained by the county, but the county does maintain the drainage structures and pipes that drain the lake so that it continues to function properly over time. Mr. Nixon asked if a retention pond towards the back of the property near the Rogers and Conrad properties would help alleviate the issues caused by moving the cul-de-sac. He stated that Mr. Erpenbeck only addressed the quantity of the water and did not address the rate of flow. He stated that when they put in concrete the water will come through at a higher velocity and the erosion will be higher. Mr. Erpenbeck stated that the rapid flow goes into the pond and it will increase in elevation. The discharge structure controls the flow out and it is reduced to the point where it does not exceed what is there now. Mr. Nixon stated that the runoff towards the south is addressed, but not towards the north and onto the other side of Bullittsville Road and onto the Hollis-Nixon property. Mr. Erpenbeck stated that they will control that water and the majority of it will go into the retention pond. He stated that it is a matter of a storm sewer taking the water and that is not a major issue to them. He stated that there will be a slight amount of water coming off the rear yards that will flow naturally and they will hold water back to compensate for it. Mr. Nixon stated that given the topography of the area, it would be quite a task to control the water.

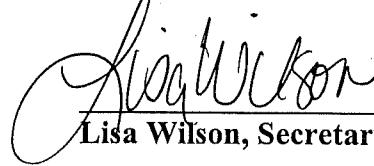
Mrs. Wilson asked that some of the existing vegetation remain. Mr. Erpenbeck responded that they will keep all the vegetation they can. They do not anticipate

taking anything out within ten feet of the property line. Mrs. Wilson asked that they try to save more vegetation.

Mrs. Wilson stated that she is concerned about the school bus going into the development and turning around. She questioned moving the entrance. Mr. Erpenbeck stated that he does not know that the development is any different than any other subdivision. He stated that ultimately the stub will connect over to Lauren Woods and there will be a through street that ties in. There will be another through street that comes to Bullittsville Road. Mrs. Wilson noted that Mr. Erpenbeck previously indicated that moving the street involved a grading issue. Mr. Erpenbeck indicated the low spot in the development. He stated that the distance to the road would be much shorter and the grade would be four times as steep as it is currently shown. He stated that they kept the street to the north so that headlights do not shine onto the Nixon front door. Mrs. Wilson asked if it is a matter of cost. Mr. Erpenbeck responded "no" and stated that the way it is shown is probably more expensive. He stated that there would be problems with the street grades that service the lots. He indicated other locations they looked at for the entrance, one of which was eliminated because of the sight distance. He stated that the frog pond is dry most of the year and both of the small frog ponds will be eliminated.

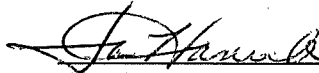
There being no further comments, the Mrs. Wilson stated that Mr. Breetz is the Committee Chairman for this request. The Committee Meeting for this item will be on June 23, 2004 at 5:00 PM in this room. This item will be on the Agenda for the Business Meeting on July 7, 2004 at 7:00 PM. Mrs. Wilson closed this Public Hearing at 9:12 PM.

APPROVED:



Lisa Wilson, Secretary/Treasurer

Attest:



Jan Hancock, Recording Secretary

Exhibits –

1. Spiral bound book "Fryar Property Zone Change" submitted by Ray Erpenbeck
2. Information regarding S. L. Williams Homes, Inc. and examples of the houses they build, submitted by Robert Adams
3. Pictures (20) of the existing water situation submitted by Mr. Rogers
4. Exhibit board of pictures submitted by Carolyn Hollis-Nixon
5. Date/Time/Volume/Average Speed/Temperature Report, 7/16/2003 – 7/22/2003 submitted by Carolyn Hollis-Nixon

EXHIBIT
"B"

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Greg Breetz, Chairman

DATE: July 7, 2004

RE: Request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family residences.

REMARKS:

We, the Committee, recommend approval of this request based upon the following findings of fact and with the following conditions:

Findings of Fact

1. The Committee has concluded that the applicant has adequately demonstrated that the existing zoning classification of Rural Suburban Estates (RSE) on 18.77 acres of the 24.24 acres is inappropriate and that the proposed zoning classification of Rural Suburban (RS) is appropriate in order to develop the property under one zone .
2. The Committee has also concluded that the map amendment request is in agreement with the adopted Comprehensive Plan and its Future Land Use Map. Specifically, the Future Land Use Map designates the site for "Suburban Residential" uses, and the Population Element forecasts a substantial population increase in the general area. The Suburban Residential classification is described as "single family housing of up to four units per acre. This classification also includes any low density or estate residential developed as a formal subdivision." The proposal is for a subdivision for detached, single family residences with an overall density of 1.73 units per acre, which is well within the four units per acre that the Future Land Use Map would potentially permit.

The Goals and Objectives state that "future growth shall be accompanied by adequate infrastructure and services. Existing infrastructure and services shall be maintained or improved as needed ("Overall," Objective 4)." All public utilities necessary for the development are either in place or will be extended by the developer.

3. The Committee has concluded that the following conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2000 Boone County Comprehensive Plan. The conditions listed below are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owners have signed a letter demonstrating agreement with these conditions.

Conditions

1. The property owners agree to a 100' minimum front yard setback for the lots fronting on Bullittsville Road.
2. The property owners agree to shared access for lots 6, 7, 9, and 10, as well as lots 39, 40, and 41 as they are shown on the Concept Development Plan.
3. The property owners agree to install sidewalks on both sides of all public streets.
4. The property owners agree that the homes to be built within this development will be consistent with the architectural elevations that were submitted at the June 16, 2004 Public Hearing by Mr. Rob Adams, SL Williams.
5. The property owners agree to a 15' undisturbed area along the perimeter of the property except in the area of the future road connection and at the location of the storm sewer outlet where grading is necessary.
6. The property owners agree to construct a 4' high berm with buffer yard "A" evergreens to begin in lot 15, continuing through lots 16 and 17 and ending in lot 18.
7. The property owners agree to provide a 20' Sanitary Sewer easement to the adjoining properties to the south.
8. The property owners agree to provide the necessary information at the Improvement Plan review to assure that the design and construction of the proposed storm sewer system for this development fulfills the commitment stated at the June 16, 2004 Public Hearing and that the specifics of the retention pond ownership and maintenance are properly identified. This will also be required on the final plat and deeds for recording with the Boone County Clerks Office.
9. The property owners agree that a determination will be made at the Improvement Plan review by the Boone County Engineer if additional right-of-way will be necessary for possible turn lanes on Bullittsville Road. If additional right-of-way is required by the Boone County Engineer, the property owners will dedicate the necessary land, at that time, for future improvement by others.

A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request. Attached is the signature page for the Zone Change/Concept Plan Committee Vote.

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

**June 16, 2004
7:30 P.M.**

PUBLIC HEARING

Commission Members Present: Mr. Breetz, Mr. Bungler, Mr. Carmichael, Mrs. Kegley, Mr. Knock – Temporary Presiding Officer, Mr. McMillian, Mr. Schwenke, Mr. White, and Mrs. Wilson – Secretary/Treasurer.

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

Legal Counsel Present: Mr. Dale Wilson

Mrs. Lisa Wilson, Secretary/Treasurer, called the meeting to order at 7:40 PM and introduced the item on the Agenda:

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

Request: Zoning Map Amendment

The request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single-family residences.

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

Following an explanation of the Public Hearing process, the Mrs. Wilson asked for the applicant's presentation.

Mr. Ray Erpenbeck, 4205 Dixie Highway, Elsmere, Kentucky, representing the owner of the property, stated that they have submitted a booklet outlining the proposed project (see Exhibit 1). Mr. Erpenbeck introduced the property owner Mr. Durward Fryar, Mr. Greg Rudolf who is a partner in the development, and

Mr. Rob Adams who will be the primary builder. Mr. Erpenbeck stated that the Commissioners are familiar with the site and, as stated by Staff, there have been two previous Public Hearings on the site. He stated that approximately 25% of the property is currently zoned RS (the north end of the property). They are requesting a zone change for approximately 18 of the 24 acres of the property. They have reduced the lots significantly from the last application – they are now down to 42 lots, which is 30% less lots -- and the lots have been increased in size from 12,000 square feet to 20,000 square feet, which is the same as Brentwood Subdivision located about one-half mile to the south. There are now 42 lots. The lots along Bullittsville Road are facing Bullittsville Road and access will be from within the subdivision. Their proposal was for a minimum 50-foot setback along Bullittsville Road, which is ten feet larger than the minimum required in the RS zone, but they have no problem increasing the setback to 100 feet per the Staff Recommendation. The proposed development is compatible with Brentwood Subdivision, a nice successful subdivision to the south, and it has the same lot sizes. There is SR-1 zoning to the north, which permits 8,000 square foot lots. Some of the adjoining property is zoned RS, which permits 12,000 square foot lots. This development with the increased lot sizes to 20,000 square feet will buffer the existing one-acre lots in the RSE zone from the smaller SR-1 and 1,200 square foot zoning to the north and east. He stated that another concern at the last Public Hearing was the drainage along Bullittsville Road and, at that time, Mrs. Nixon submitted photographs showing heavy flows across her property. He stated that they will take into their detention pond 100% of the water currently coming from the Fryar property onto the Nixon property. Any water the Nixon property currently gets from the east side of Bullittsville Road will no longer go onto the Nixon property – it will go into the detention pond on the subject property and they will control it. Any water currently coming from the east side of the road -- water going under the road, into the culvert, and onto the Nixon property -- will be totally eliminated and taken into the detention pond. He stated that there is 2 – 2.5 acres that currently drains under Bullittsville road to the west and they will design the detention pond to handle and control that additional water. They will provide sewers within the development and connect into the 15” sanitary sewer along KY 20. The existing 12” water main along Bullittsville Road will more than adequately supply this development. They will use the existing lake as a retention facility and will enlarge and enhance it. They will increase the size of the water within the lake by at least 50% and use the lake as a retention facility. They will comply with all the county requirements for water retention/detention. They can accomplish this with the one lake, which will be enhanced and made larger, and it will be an asset to the community. He stated that this is a simple straightforward project and the requested zone change should be approved. The request is in compliance with the Comprehensive Plan. The development is physically and socially integrated to the surrounding land uses and will preserve the rural atmosphere of the neighborhood. The development will increase property values in the area. This development of 42 lots will not significantly affect traffic or schools or spur uncontrolled growth in the area. The development offers lot sizes and a community type compatible with the

surrounding areas and provides transition from SR-1 and RS zones to the north and east and the RSE zones to the west and south. They have tried to address all of the issues raised previously. Mr. Erpenbeck offered to answer any questions.

Mr. Robert Adams, SL Williams Homes, stated that he lives in Brentwood Subdivision. He submitted to each Commissioner an envelope containing information regarding S. L. Williams Homes, Inc. and examples of the houses they build (see Exhibit 2). He stated that the types of housing they will build are limited to the same styles of housing existing in Millakin Place and Brentwood Subdivision. They will not build lower-end style homes. The homes will average \$200,000 - \$250,000. There will be deed restrictions in regard to brick wraps and faces. He stated that they are building the same style houses in Triple Crown. The two-story houses are over 2,000 square feet and the ranches are over 1,800 square feet. There is not a house that will sell under \$200,000. He stated that he is present to support the project and offered to answer any questions. This completed the applicant's presentation.

Mr. Louis Morris, 1922 Conway Hills Drive, stated that with the way it will be laid out and with the lot sizes and the size of the homes, the development will be a plus for the community. He is a homeowner in the community and he would prefer a nice development like this to multi-family development. This development will attract people to the community. With all the industry, a nice community is needed for people to move into the area.

Jerry Stephens, 5758 Woolper Road, Petersburg, stated that he is in favor of the project based on the size of the lots and the size of the homes.

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

Mr. Mike Ruberg, attorney, 25 Crestview Hills Mall Road, was present representing Laura and Tony Gillespie of 3484 Bullittsville Road. He stated that Lots #16 thru #18 would border on the Gillespie property. They are not necessarily against the request, but they have some concerns. They have spoken with Mr. Erpenbeck about a berm and they believe Mr. Erpenbeck is agreeable to the berm. Mr. Erpenbeck responded that he is agreeable. Mr. Ruberg stated that they also talked about a sewer easement over the Gillespie property and he believes it was acceptable to Mr. Erpenbeck. Mr. Erpenbeck agreed.

Mr. Don Rogers, 2939 Petersburg Road, stated that he is not against progress but he does not want his property washed away. His concern is that the water Mr. Erpenbeck talked about taking care of along Bullittsville Road will shift over to his property. He questioned the proposed use of the existing frog pond that is close to his property and home to a lot of bullfrogs. Mr. Light indicated the frog pond between Lots #38 and #39. Mr. Rogers stated that at the last Public Hearing

he read a letter that was published in The Enquirer from a lady in Mason who had her basement door blown off by flooding. He does not want problems like that. He questioned who would oversee the water flow. Mr. Costello responded that stormwater is reviewed by the Planning Commission's engineer and they will have to meet the standards and requirements. Mr. Rogers stated that water from the front end of Woolper Creek Road floods his bridge. There is mud coming from upstream that impedes the flow of the water. He is concerned about the property line with the land going into different ownerships. There is a bad fence there now and he would like to see something better there before the property is developed. Mr. Rogers submitted pictures of the existing water situation (see Exhibit 3).

In response to a request from Mrs. Kegley, Mr. Light indicated the location of the Rogers' property. Mr. Knock asked if there is natural water drainage through the Rogers property from the Fryar property now. Mr. Rogers responded "yes". Mr. Knock determined that there is a natural stream that joins into Woolper Creek and asked if it is getting out of its banks. Mr. Rogers responded "no" and stated that he does not want it to get out of its banks – that is his concern. He is in favor of detention and retention to control the water so that it drains out slowly.

Mr. Russell Stamper, whose property adjoins the Fryar property to the north, stated that he is also representing the Ferrells whose property adjoins to the north next to Lots #30 and #49 of the proposed development. He stated that this proposal has many improvements over the last proposal, but they have eliminated the 15-foot buffer zone along the edge of the property. He stated that most of the property is surrounded by a fence because there used to be cattle there. He is concerned that without the buffer zone, they might excavate right up to the fence and any trees on the other side of the fence will die because the roots will be cut. He wants a buffer along the fence so that the existing trees are not destroyed. He wants to keep as much green space as possible. He stated that sewage from this development will run along Bullittsville Road to the existing sewer line. He questioned if it will be his responsibility to pay for the sewer line since his property is along the road there. He questioned who will install the sewer line and who will pay for it. Mr. Costello responded that Mr. Stamper would have to give permission for a sewer line to cross his property and either the developer or the Sanitation District will approach him to negotiate it. He stated that if there is enough room, the sewer line could be in the right-of-way. If it is not in the public right-of-way and has to be on private property, then they will have to negotiate an easement. They cannot build anything on the Stamper property without permission.

Mr. Stamper stated that he is also concerned about traffic. He stated that traffic has been added to the north end of Bullittsville Road from Millakin Place, which has 42 lots, and this development will just about double the traffic. Most of the traffic goes north because it is the easiest way out.

Mr. Stamper's wife Jeannine stated that his mother and father live next door to Lot #40 and they have some property in the back that adjoins Lot #39. She stated that this is a much improved plan. She asked for a better answer to her husband's question regarding who would be obligated to pay for the sewer. Mr. Costello stated that there would be negotiation between the Sanitation District and the developer and the Stampers would not be obligated to pay, but they will have to talk to the Sanitation District if they want to tap in. Mrs. Stamper emphasized that she wants to be sure that she is not responsible to pay for the sewer. Mr. Costello responded "that is correct". Mrs. Stamper stated that there is a dip and there is natural drainage to the creek next to the Rogers house. Mr. Light indicated its location on the map.

Ms. Carolyn Hollis-Nixon, 3239 Bullittsville Road, stated that she and her brother own a 430-acre farm across the road from the Fryar property. They have been there since the early 1950's and hope to stay there a long time. She indicated their property on the Power Point slide. She stated that her house is right across the road from the proposed Lots #1 - #7. Her engineer recommends that they reduce the quantity of lots facing Bullittsville Road from eleven to eight. She indicated Lots #1 - #7 on the Power Point slide and stated that they are 73 feet (lot width) along Bullittsville Road and they go back 300 feet, which is not consistent with what they will be putting on the back. She stated that Lot #8 is Mr. Fryar's and not part of the subdivision. She stated that Lots #40, #41, and #42 need to be renumbered as Lots #1, #2, and #3. The existing Lots #1 - #7 on the layout should be made into four lots, which would give them a decent width, and they should be renumbered Lot #4, #5, #6, and #7. They can have a 125-foot setback from Bullittsville Road and 134-foot frontage on Bullittsville Road, which is consistent with Brentwood and Millakin where there are a lot of two-acre lots. She stated that there is a thousand feet along the front that has not been designated in the description. She stated that last fall there was a street going in down the road approximately 200 feet, but now it is directly across from her house - so she will have to look at all the lots and the lights coming in and out. People will back out onto the street and back into her driveway, hitting her mailbox, and she will not be able to get out of her driveway with cars coming up and down the road at 100 MPH. She stated that there is a remedy for the situation and it is cheaper -- they should move the road 402 feet down the road towards Mr. Fryar's property and into one of the lots that adjoins the street. They can then put a cul-de-sac in where the first lots come in. This will balance out the subdivision and address the safety issue. Ms. Nixon showed a board with numerous pictures of Bullittsville Road and submitted the board as an exhibit (see Exhibit 4). She submitted the traffic numbers from the last Public Hearing (see Exhibit 5) and stated that traffic has increased since the last meeting. She stated that there is a difference between a retention pond and a detention pond. The county can go in and look at a retention pond - but it is just a pond that will overflow. Lauren Meadows is in trouble in Frankfort for that - 1,000 feet of Woolper Creek is destroyed and they are going into litigation. She stated that Kim's Subdivision, Liberty Hill, and Lauren Meadows are right there in the little swath but no one has mentioned

them. She stated that there should be a detention pond on Lots #20, #21, and #28 because water does not run up hill. She stated that when the street is redesigned, the water will go down the street and it has to be caught.

Mr. Costello stated that the original plan showed three areas of potential detention, but the new proposal indicates how the existing lake only will serve the site. He stated that Mrs. Nixon is asking that it be looked at to see that it is adequate in terms of storing all of the water at one site versus multiple sites, and if there are multiple sites they need to be properly located so as not to affect the adjoining properties. Mrs. Nixon stated that there are major water problems in the area. Mr. Costello responded "we recognize that". He stated that Mr. Erpenbeck has presented the concept and, as stated in the Staff Report, the Committee will take a close look at it.

Mrs. Nixon stated that a lot has gone on in their neighborhood. The detention pond was not there and they are getting water from Brentwood Subdivision – and it will happen again with this subdivision if the water is not addressed.

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

Mr. Bunger asked the applicant to discuss the retention/detention system in more detail and address the quantity of water that would be discharged in relation to what currently occurs. Mr. Erpenbeck responded that they are planning to use the existing lake. When they build the road, the current dam height will be increased to make the pond larger with a larger surface area. The pool elevation will give additional storage. The low spot in the development will be at the dam for the streets. All of the surface water from the streets will funnel through a storm sewer system and into the retention pond that will be designed to take care of the water. Under the regulations, they are not permitted to discharge any more water than leaves the site before development starts. All of the additional water generated from the development must be retained in the detention pond. He stated that the county has extensive regulations and the Sanitation District reviews the calculations to ensure that there will not be any more runoff from the site than there is now.

Mr. Bunger asked if the sewer connection for this site and the sewer service for Conrad are two separate lines. He questioned if there will be adequate service for Conrad with this development. Mr. Erpenbeck responded that any expense of bringing sewers into the site will be a cost of the developer. They do not anticipate the Sanitation District participating in the cost and definitely none of the abutting property owners would be liable for any of the cost for construction of the sewers. If abutting property owners want to tap in, they would have to go through the permitting process with the Sanitation District after the project is completed and the Sanitation District has accepted it for maintenance. He

indicated on the Power Point slide the property for which they would provide an easement to enable them to tap the sewer line they construct along the street. The exact location of the sewer line would be determined at the design phase. They will provide the proper easement so that if they want to tap the house in or develop the property indicated, they will have the easement. He stated that they will not build the sewer line for them, but will provide them with an easement.

Mr. Bunger questioned the purpose and value of the information submitted by Mr. Adams (exhibit 2). Mr. Erpenbeck stated that they will not necessarily be limited to those designs. The information is submitted to give a feel of the type of housing they anticipate will go in the development. It shows the intent for the housing in this market.

Mr. Knock asked if moving the entrance to the south as suggested by Mrs. Nixon would impede the water retention. Mr. Erpenbeck responded that in the previous submittal the entrance was further to the south, but it would create some grade problems. There would be a shorter distance and, therefore, the street grades would be steeper and there would be a problem servicing the lots and keeping the driveways off Bullittsville Road. Mr. Knock asked if the applicant evaluated other potential locations for egress to Bullittsville Road. Mr. Erpenbeck responded "yes" and stated that they went over a number of different situations with Staff. They looked at sight distance and grades and this was the best access point with proper sight distance and good grades on the roads. They do not want roads with steep grades coming out on Bullittsville Road. Mr. Knock questioned the distance to the blind spot. Mr. Erpenbeck responded "more than 650 feet". Mr. Knock questioned the speed limit. Mr. Light responded "45 MPH". Mr. Erpenbeck stated that they looked at alternatives and worked with Staff. He stated that they made a point of not bringing the street out directly where the headlights would shine in Mrs. Nixon's front door – they moved the street more than 100 feet to the north to ensure that does not happen.

Mr. Carmichael questioned why the buffer was removed from the original plan. Mr. Erpenbeck responded that it was removed because they increased the lot sizes. He stated that all of the developable property can be developed with 12,000 square foot lots – but they are proposing 20,000 square foot lots. He indicated the parcel than can be developed with 8,000 square foot lots. They do not feel that buffer is any longer a concern due to the significant increase in the size of the lots. He stated that they should not have to buffer the larger lots from the smaller lots. He stated that they agreed that they would build the Gillespie's a berm and they can do that.

In response to questions from Mr. Schwenke, Mr. Erpenbeck stated that they do not intend to take out the trees along the fence line – they would have to trespass onto the neighboring property to do that as the trees have grown into the fence. They anticipate that ten feet from the property line will stay undisturbed in the area to the south. He stated that if the adjoining property owners want a new

fence, it would be a 50/50 split and they will work with the property owners that come to them with that issue.

Mr. Knock asked Mr. Ruberg if he was satisfied with what had been proposed. Mr. Ruberg responded "I believe so and their cooperation has been very helpful".

Mr. McMillian asked if enlarging the pond will eliminate Lots #9 and #10. Mr. Erpenbeck responded "no". He stated that the five lots on the lake will be the premium lots as the houses will be around a lake several acres in size. Mr. McMillian asked if it is a detention area or a pond. Mr. Erpenbeck responded that it is a retention area – it is a pond used to retain water. He stated that they will establish a water elevation on the pond and when the rains come the water elevation may raise two, three or four feet. He indicated where they will discharge the water so that it goes back into the natural ravine before it leaves the property. The purpose of the retention pond is to ensure that the abutting property owners do not get any more water than they were getting before the development started.

Mr. McMillian questioned the widths of Lots #1 thru #7. Mr. Erpenbeck responded that they are 75-foot lots and approximately 300 feet deep. Mr. McMillian asked if the builder builds house without the garage door in front. Mr. Adams responded "yes" and stated that there are designs with garage access from the rear and from the side. Mr. Erpenbeck stated that garage access will typically be from the rear. Mr. McMillian stated that there is not much room on the side with a 75-foot lot. Mr. Erpenbeck stated that they can have the house so that the garage will be in the rear. Mr. McMillian stated that he is not just concerned about the houses on Bullittsville Road, but also about the houses around the corner. Mr. Adams stated that they have a full time architect and they design houses to fit lots and applications. The submitted renderings are just an idea.

Mr. McMillian questioned green space. He asked if there are any playgrounds. Mr. Erpenbeck responded "no".

Mr. Bunger asked the developer to discuss the current requirements, which have been tightened over the last year, to control erosion and water runoff during construction. Mr. Erpenbeck responded that new regulations went into effect in August last year. He stated that they will have to go to the Sanitation District and obtain a Disturbance Permit and design all of the erosion control procedures and methods. There are inspections to ensure that erosion is controlled and silt leaving the site is minimized.

At this time, Mrs. Wilson recognized Mr. Joe Conrad who wished to speak. Mr. Conrad and his wife Lois live at 2903 Petersburg Road. Mr. Conrad stated that he spoke with Mr. Fryar and he was under the impression that Mr. Fryar would take care of the fencing -- but now Mr. Erpenbeck is saying he should talk to him. He has livestock, as do other people adjoining this property, and the fence should be

addressed. He questioned who is responsible for the fence. Mr. Erpenbeck responded that he represents Mr. Fryar and anything he agrees to would fall back to Mr. Fryar. He stated that he will sit down with any of the property owners who have fence issues and come to a solution. Mr. Conrad stated that there are a lot of big trees and woods on the Fryar property and he assumes they will be cleared out except along the fence line. Mr. Erpenbeck responded "that is correct". Mr. Conrad stated that he is concerned about his neighbors, all of whom have lived there for a long time. He stated that the water comes from Mr. Fryar's property through the Rogers' property and to Woolper Creek. The water is close to the Rogers' house. Mr. Roger stated that the creek is about 35 feet from his house. Mr. Conrad stated that sometimes a couple feet of water will come down the creek. Mr. Erpenbeck stated that the Planning Commission Staff and the Sanitation District will look closely at those things. He stated that they will do whatever is required to meet the regulations.

Mr. Carmichael questioned the setbacks for Lots #1 through #7. Mr. Erpenbeck responded that they are proposing a 50-foot setback from the edge of pavement, but Staff has recommended the setback be 100 feet and they are agreeable. He stated that they meet the zoning requirements of 10 feet on each side.

Mrs. Wilson asked if there was anyone else present who wished to speak.

Mr. Keith Nixon, 6247 Johnstone Court, stated that retention is the county's concern. Mr. Erpenbeck stated that the county will maintain the detention pond (a dry pond). A wet pond or lake used for retention is not maintained by the county, but the county does maintain the drainage structures and pipes that drain the lake so that it continues to function properly over time. Mr. Nixon asked if a retention pond towards the back of the property near the Rogers and Conrad properties would help alleviate the issues caused by moving the cul-de-sac. He stated that Mr. Erpenbeck only addressed the quantity of the water and did not address the rate of flow. He stated that when they put in concrete the water will come through at a higher velocity and the erosion will be higher. Mr. Erpenbeck stated that the rapid flow goes into the pond and it will increase in elevation. The discharge structure controls the flow out and it is reduced to the point where it does not exceed what is there now. Mr. Nixon stated that the runoff towards the south is addressed, but not towards the north and onto the other side of Bullittsville Road and onto the Hollis-Nixon property. Mr. Erpenbeck stated that they will control that water and the majority of it will go into the retention pond. He stated that it is a matter of a storm sewer taking the water and that is not a major issue to them. He stated that there will be a slight amount of water coming off the rear yards that will flow naturally and they will hold water back to compensate for it. Mr. Nixon stated that given the topography of the area, it would be quite a task to control the water.

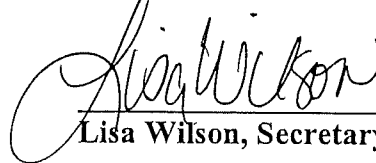
Mrs. Wilson asked that some of the existing vegetation remain. Mr. Erpenbeck responded that they will keep all the vegetation they can. They do not anticipate

taking anything out within ten feet of the property line. Mrs. Wilson asked that they try to save more vegetation.

Mrs. Wilson stated that she is concerned about the school bus going into the development and turning around. She questioned moving the entrance. Mr. Erpenbeck stated that he does not know that the development is any different than any other subdivision. He stated that ultimately the stub will connect over to Lauren Woods and there will be a through street that ties in. There will be another through street that comes to Bullittsville Road. Mrs. Wilson noted that Mr. Erpenbeck previously indicated that moving the street involved a grading issue. Mr. Erpenbeck indicated the low spot in the development. He stated that the distance to the road would be much shorter and the grade would be four times as steep as it is currently shown. He stated that they kept the street to the north so that headlights do not shine onto the Nixon front door. Mrs. Wilson asked if it is a matter of cost. Mr. Erpenbeck responded "no" and stated that the way it is shown is probably more expensive. He stated that there would be problems with the street grades that service the lots. He indicated other locations they looked at for the entrance, one of which was eliminated because of the sight distance. He stated that the frog pond is dry most of the year and both of the small frog ponds will be eliminated.

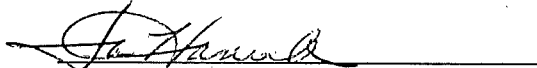
There being no further comments, the Mrs. Wilson stated that Mr. Breetz is the Committee Chairman for this request. The Committee Meeting for this item will be on June 23, 2004 at 5:00 PM in this room. This item will be on the Agenda for the Business Meeting on July 7, 2004 at 7:00 PM. Mrs. Wilson closed this Public Hearing at 9:12 PM.

APPROVED:



Lisa Wilson, Secretary/Treasurer

Attest:


Jan Hancock, Recording Secretary

Exhibits –

1. Spiral bound book "Fryar Property Zone Change" submitted by Ray Erpenbeck
2. Information regarding S. L. Williams Homes, Inc. and examples of the houses they build, submitted by Robert Adams
3. Pictures (20) of the existing water situation submitted by Mr. Rogers
4. Exhibit board of pictures submitted by Carolyn Hollis-Nixon
5. Date/Time/Volume/Average Speed/Temperature Report, 7/16/2003 – 7/22/2003 submitted by Carolyn Hollis-Nixon

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

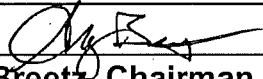
FROM: Greg Breetz, Chairman

DATE: June 23, 2004

RE: Request of Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family residences.


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.



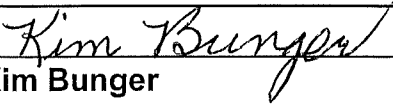
Greg Breetz, Chairman

For Project Absent _____
Against Project _____
Abstain _____ Deferred _____



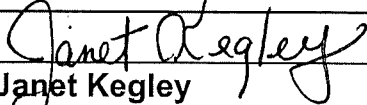
Randy Barlow

For Project Absent _____
Against Project _____
Abstain _____ Deferred _____



Kim Bunger

For Project Absent _____
Against Project _____
Abstain _____ Deferred _____



Janet Kegley

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 _____

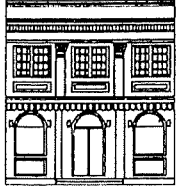
Earl White (Alternate)

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

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

SUPPORTING INFORMATION

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

July 2, 2004

Mr. Raymond Erpenbeck
Erpenbeck Consulting Engineering
4205 Dixie Highway
Elsmere, KY 41018

RE: Request of **Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family residences.

Dear Mr. Erpenbeck:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their June 23, 2004 meeting. If you, as the applicant, agree with these conditions, please indicate by providing the signatures of the property owners in the space provided at the end of this letter, and return the original letter to the Planning Commission's office by Tuesday, July 6, 2004.

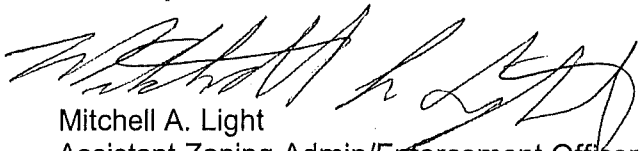
CONDITIONS

1. The property owners agree to a 100' minimum front yard setback for the lots fronting on Bullittsville Road.
2. The property owners agree to shared access for lots 6, 7, 9, and 10, as well as lots 39, 40, and 41 as they are shown on the Concept Development Plan.
3. The property owners agree to install sidewalks on both sides of all public streets.
4. The property owners agree that the homes to be built within this development will be consistent with the architectural elevations that were submitted at the June 16, 2004 Public Hearing by Mr. Rob Adams, SL Williams.
5. The property owners agree to a 15' undisturbed area along the perimeter of the property except in the area of the future road connection and at the location of the storm sewer outlet where grading is necessary.
6. The property owners agree to construct a 4' high berm with buffer yard "A" evergreens to begin in lot 15, continuing through lots 16 and 17 and ending in lot 18.
7. The property owners agree to provide a 20' Sanitary Sewer easement to the adjoining properties to the south.

Mr. Raymond Erpenbeck
July 2, 2004
Page 2

8. The property owners agree to provide the necessary information at the Improvement Plan review to assure that the design and construction of the proposed storm sewer system for this development fulfills the commitment stated at the June 16, 2004 Public Hearing and that the specifics of the retention pond ownership and maintenance are properly identified. This will also be required on the final plat and deeds for recording with the Boone County Clerks Office.
9. The property owners agree that a determination will be made at the Improvement Plan review by the Boone County Engineer if additional right-of-way will be necessary for possible turn lanes on Bullittsville Road. If additional right-of-way is required by the Boone County Engineer, the property owners will dedicate the necessary land, at that time, for future improvement by others.

Sincerely,



Mitchell A. Light
Assistant Zoning Admin/Enforcement Officer

MAL/pr

AGREEMENT

We, Durward Fryar, Pearl Jean Fryar, Tom Fryar, and Theresa Fryar (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for single family residences.

Durward Fryar 7-6-04
Durward Fryar Date
Owner

Pearl J Fryar 7-6-04
Pearl Jean Fryar Date
Owner

Tom Fryar 7-6-04
Tom Fryar Date
Owner

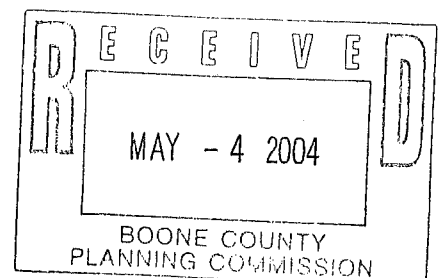
Theresa Fryar 7-6-04
Theresa Fryar Date
Owner

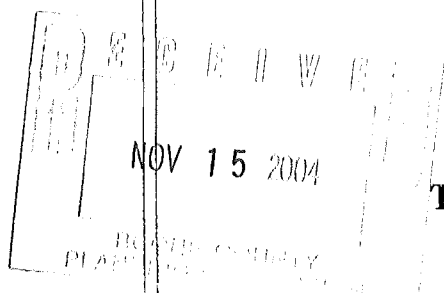
LEGAL DESCRIPTION

Being a tract of land located on the east side of Bullitsville Road south of KY 20 near the town of Hebron, Boone County, Kentucky and being more particularly described as follows:

Beginning at a point in the east right of way line of Bullitsville Road at its intersection with the common line between Fryar (DB 229, page 272) and Ferrill (DB 585, page 23) thence with said common line S 68° 11' 20" E, 546.00 feet to a common corner with Rogers (DB 350, page 292); thence with a common line with Rogers S 09° 51' 05" W, 276.32 feet to a common corner with Rogers; thence S 66° 45' 40" E, 986.49 feet to a common corner with Joseph Conrad and Elizabeth Conrad (DB 167, page 136); thence with Elizabeth Conrad's west line S 10° 00' 15" W, 694.22 feet to a common corner with said Elizabeth Conrad and Powers (DB 844, page 229); thence with Powers north line N 74° 24' 10" W, 512.77 to a point near a common corner with Gillespie (DB 367, page 124) and Bowman (DB 823, page 227); thence with the north line of Bowman N 87° 32' 40" W, 194.62 feet to a common corner with Fryar (DB 203, page 619) thence N 09° 18' 53" W, 210.00 feet to a common corner with Fryar (DB 496, page 164) thence with the common line with Fryar N 87° 32' 40" W, 318.50 feet to a point in the east right of way line of Bullitsville Road; thence with said right of way line N 06° 52' 10" W, 90.08 feet to the Point of Beginning.

Containing: 24.24 acres





**ORDINANCE
OF
THE BOONE COUNTY FISCAL COURT**

Ordinance No. 04-11

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT APPROVING, WITH CONDITIONS, A REQUEST OF DURWARD FRYAR, PEARL JEAN FRYAR, TOM FRYAR AND THERESA FRYAR (OWNERS) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM RURAL SUBURBAN ESTATES (RSE) TO RURAL SUBURBAN (RS) FOR 18.77 ACRES OF A 24.24 ACRE SITE LOCATED AT 3200 AND 3290 BULLITTSVILLE ROAD, BOONE COUNTY, 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 Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky, which is more particularly described below; and,

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

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

SECTION I

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and is hereby approved, with conditions, this Zoning Map Amendment being a zone change from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of a 24.24 acre site located at 3200 and 3290 Bullittsville Road, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in a Rural Suburban Estates (RSE) zone is more particularly described in DEED BOOKS 229 & 496, PAGE NOS. 272 & 164, respectively (as supplied by the applicant) as recorded in the Boone County Clerk's office.

**ORDINANCE
OF
THE BOONE COUNTY FISCAL COURT**

Ordinance No. 04- _____

SECTION II

That as a basis for this approval for a Zoning Map Amendment request are the findings of fact and conditions 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 the Boone County Planning Commission Business Meeting minutes and marked as "Exhibit B."


In addition to the conditions agreed to as part of "Exhibit B", this approval is subject to the additional condition that the applicant agree to share equally in the cost of a woven wire line fence with the following adjacent landowners: Joseph Conrad; Donald and Sylvia Rogers; Russell and Jeanette Stamper and Wyndell and Joycetta Ferrill.

SECTION III

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

Introduced and given First Reading on the 27th day of July, 2004.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the 28th of September, 2004, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested by the County Fiscal Court Clerk and declared to be in full force and effect.



GARY W. MOORE
BOONE COUNTY JUDGE/EXECUTIVE

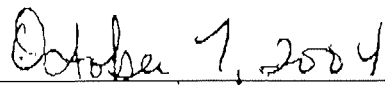
ATTEST:



MICHELE ROBERTS
FISCAL COURT CLERK



JAMES R. SCHRAND II
BOONE COUNTY ATTORNEY



DATE PUBLISHED

AVON
CONTOUR
1:25,000
Scale
1:25,000
Scale
1:25,000
Scale

IRYAR PROPERTY
MIDDLEBORO TOWNSHIPP, MIDDLESEX COUNTY, MASSACHUSETTS

ORWOOD & PALM, JEAN LEVY AND
141 & 142 SOUTH MAIN STREET
MIDDLEBORO, MASSACHUSETTS 01545
1987

MASSACHUSETTS
DEEDS
MIDDLESEX COUNTY
MIDDLEBORO TOWNSHIPP
MIDDLESEX COUNTY, MASSACHUSETTS

