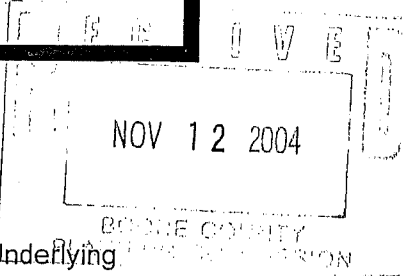


APPLICATION FORM

CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION



(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check One:

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

- 2. Name of Project D.C.-KY 18 - Lot Nos. 19 & 20 Concept Dev. Plan
- 3. Location of Project Houston Road
- 4. Total Acreage of Site 9.8 Acres
- 5. Current Zoning C-2/PD/CD
- 6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) _____
- 7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) Houston/Donaldson Study
- 8. Proposed Uses (please specify each use) Retail Stores
- 9. Proposed Building Intensities (please specify) Not to exceed 15,000 sq. ft. of gross floor area per acre of land
- 10. Have you submitted a Concept Development Plan? Yes
- 11. Are you also applying for:
 - No Conditional Use Permit
 - No Dimensional Variance
- 12. Name of Applicant(s) James W. Berling
Phone Number 331-9191 Fax No. 344-7422
- 13. Address of Applicant(s) 1671 Park Road, Suite One
Ft. Wright, Kentucky 41011
City State Zip
- 14. Name of Property Owner(s) D.C.-KY 18, L.L.C.
Phone Number 283-2260 Fax No. 283-2265
- 15. Address of Property Owner(s) 8800 Bankers Street, Suite 3
Florence, Kentucky 41042
City State Zip
- 16. Are there any existing buildings on the site? No
How many? _____
- 17. Deed Book D815 Page No. 34 Group No. 2033-B
- 18. Have you had a pre-application meeting with BCPC Staff? Yes

(over)

EXHIBIT

“A”

STAFF REPORT

Request of **James W. Berling (applicant)** for **D.C.-KY 18, LLC (owner)** for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for 9.8 acre tract located on the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports golf course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky. The request is for a Change in an Approved Concept Development Plan to allow the option of developing a multi-tenant retail building or the single user commercial buildings that are permitted under the approved Concept Development Plan.

December 15, 2004

REQUEST

The applicant has requested a Change in an Approved Concept Development Plan to allow the construction of either a single-use retail facility or a multi-tenant retail center on 9.8 acres with frontage on Houston Road. The site is located on lots 18 and 19 of the total 95 acres comprising an approved Concept Development Plan for the Doering/Fuller/Foltz/Durr/Crist property, which is situated on the east and west sides of Houston Road, between KY 18 and Woodspoint Drive. The Conditions of Approval for the Concept Development Plan included the following:

“The outlots along Houston Road are to be developed as individual businesses or establishments. The lots, which are approximately 1.5 acres each in size, shall not be consolidated for the purpose of developing a strip center along Houston Road. Any consolidation of lots shall be for an individual business and any additional parking needs or requirements only.”

The proposed Concept Development Plan indicates an approximately 85,400 square foot building, divided into three tenant spaces: two 24,500-square foot tenant spaces and a 33,250-square foot tenant space. Two 40-foot wide curb cuts, located on an extension of the existing Woodspoint Drive, would provide ingress and egress to the site. There are 335 parking spaces shown on the plan.

A 10-inch sanitary sewer line and a 12-inch force main are currently located in the site, as well as an 84-inch storm sewer line. A stream is located along the western property boundary. Landscaping and architectural design were not shown.

SITE HISTORY

In 1988 the Boone County Fiscal Court adopted the Houston-Donaldson Study. It was revised in 1992.

In November of 1997 the Boone County Planning Commission recommended approval of a Zoning Map Amendment from Industrial One/Planned Development to Commercial Two/Planned Development, along with a Utilization of An Underlying zone, for the 95-acre overall development. This was approved with conditions. The Concept Development Plan indicated that the site in question would be developed as two lots, with no specific use designated except for "commercial/office." The Committee Report approving the request is attached.

Because the Florence City Council overturned the Planning Commission recommendation, the applicants filed a lawsuit, challenging the decision, The lawsuit was settled out of court, with conditions.

SITE CHARACTERISTICS

The site is currently undeveloped and heavily wooded. The topography slopes downward toward the stream located along the western property boundary. Elevations range from 834 feet above sea level to 900 feet above sea level. Slopes range from 7 percent to up to 50 percent. There is a ridge at the central portion of the site. As mentioned in the previous paragraph, an existing sanitary 10 inch sewer line, located across Houston Road from the site, extends through the site and continues across the stream to the western property boundary. A 12-inch sanitary force main runs concurrent with the 10 inch main for the portion that adjoins the western property boundary. An existing 84 inch storm sewer line runs through the property, daylighting at a headwall located across Houston Road from the property. A 20-inch Boone County Water main runs the length of property, within the right of way. An 8-inch City of Florence water main runs parallel to the Boone Main, east of the City of Florence main under Houston Road. The site is 9.8 acres in area with approximately 790 feet of road frontage on Houston Road and 710 feet of road frontage on the proposed extension of Woodspoint Drive. The Plan indicates that Woodspoint Drive would be extended across Houston Road, connecting to the proposed South Airfield Road. This road would serve as a connector road from KY 18 to airport property, continuing to Houston Road near the intersection of Turfway Road. A map showing the proposed alignment of this road as of 2002 is attached.

The site in question abuts the proposed Walmart and Lot Number 1 of the Florence Marketplace Subdivision. At this time Planning Commission Staff is reviewing a Preliminary Plat and Improvement Plan for the subdivision, as well as a site plan for the Walmart.

ADJACENT LAND USES

- **North:** Vacant parcel, 3.29 acres, zoned Commercial Two/Planned Development/Concept Development (C-2/PD/CD)
- **South, West:** Vacant parcel, 68.23 total acres, site of the proposed Florence Marketplace Subdivision, zoned Commercial Two/Planned Development/Concept Development (C-2/PD/CD)

- **East:** World of Sports, 66 acres, zoned Recreation/Planned Development (R/PD)
- **West:** Airport property, 238.77 acres, zoned Airport
- **Southeast:** Houston North Office Condominiums, approximately 1.8 acres, zoned Commercial Two/Planned Development/Concept Development (C-2/PD/CD)

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The Future Land Use Map of the 2000 Boone County Comprehensive Plan designates the property as Commercial, which is defined as follows:

“Retail, corporate, and professional office, interchange commercial, indoor commercial, recreation, restaurants, services, etc (p. 158, ‘2000 Existing and Future Land Use Classifications’).”

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

- A. “Any commercial development in the Houston Road area should be consistent with the recommendations of the Houston-Donaldson Study (p. 162, ‘Florence Commercial Area’).”
- B. “The northern portion of this section is within the Houston-Donaldson Study area. The Study recommends an employment district which would include a mix of office, commercial, and industrial uses for the existing Houston Road corridor, with a preferred emphasis on office development along I-75 and high technology industrial uses west of Houston Road. The Houston-Donaldson Study further details these developments (p. 162, ‘Florence Commercial Area’).”
- C. “Commercial development in this section should remain near the arterial roads or close to the interstate. These consumer service and traffic-oriented developments must be contained to specific areas adjacent to the arterial roads and interstate. The coordination of curb cuts and parking lot connections in the already-developed areas must occur in order to maintain a reasonable ease of travel along these roads. Where no development has yet occurred, provisions for Access Management must be made for future development. This includes the use of frontage roads (p. 162-163, ‘Florence Commercial Area’).”
- D. “Regionally-oriented commercial development should be confined to Mall Road and the Houston Road area (p. 163, ‘Florence Commercial Area’).”

- E. "The visual appearance of commercial areas in general, and of Mall Road in particular, should be enhanced through the design of buildings, landscaping, signs, and the arrangement of buildings. Attention should be paid to aesthetic impacts of proposed developments should be part of all phases of the review process (p. 163, 'Florence Commercial Area')."

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

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

"Developments along major roadways in Boone County must include landscaping and/or the use of berms between the development and the right-of-way in order to promote the aesthetic appearance from the roads and to facilitate the compatibility of differing uses (p. 159, 'Landscaping')"
- C. "Developments in Boone County must recognize the potential impacts of associated traffic on adjoining properties and transportation systems. The need exists to protect the capacity of the existing roadway network and to plan improvements to accommodate new development and travel patterns. Access management provisions include the coordination of curb cuts, adequate corner clearance and site distance for access points, adequate space between access points, shared access points and parking facilities, and provisions for access connections to adjoining properties, and dedication of public right-of-way. In subdividing property, arterials or collectors should

not be used for direct access to lots, but rather a system of local streets should feed into the collector and arterial system (pg. 159, 'Access Management')."

- D. "Developments in Boone County must be designed, where appropriate, to improve the County's transportation network system of roadway classification and function must be used in the planning for and designing of new developments. Collector roadways should be extended and developed to provide for the safe movement of traffic through and between subdivisions. Developments along existing arterials and collector roadways should not have direct driveway access but be served by a local street. Appropriate road connections should be constructed to provide alternate routes for traffic to and through specific projects and to enhance the capacity of existing streets. The traditional grid system can provide an alternative to typical suburban design. Parallel and frontage roads should be used to minimize impacts of individual sites on collector and arterial roadways. Appropriate pedestrian networks should be incorporated into the design of developments which will generate or experience significant pedestrian use. These networks should not only provide internal paths but should provide connections to adjoining uses where appropriate. Public open space and recreation sites should be connected by bicycle and pedestrian paths where appropriate (p. 159-160 'Transportation and Pedestrian Network')."
- E. "Developments in Boone County should give consideration to the overall design of the area. Design should be a primary concern at the early stages of the development, with an emphasis on the aesthetic impact of the proposed use. The minimal use of signs is encouraged; signage should be adequate to identify specific development, but should not be used as a means to compete for motorist attention (pg. 160, 'Design, Signs, and Historic Preservation')."

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

"Since the immediate Florence area figures so prominently in Boone County's Commercial activity, this region has the momentum to continue dominating any expansion of commercial activity. Currently, "big box" retail has been overbuilt in the county. As a result, building vacancies are visible along the major commercial corridors in Florence. The market and infrastructure impacts of future large scale or regional commercial uses on the existing Florence commercial districts must be considered. Furthermore, it is important to encourage the reuse of vacant commercial buildings instead of creating new commercial districts. Two studies, the Houston-Donaldson Study and the Main Street Study, have defined the scale and type of commercial uses in the City of Florence and surrounding area. The Houston Road area will mature with expansion of the retail and office base, additional

racetrack uses, and expansions of St. Luke West Hospital (p. 70, 'Areas of Commercial Activity')."

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

- A. "Development issues shall be viewed in terms of promoting overall quality of life. Mixing of residential and other land uses shall be encouraged, within appropriately planned and designed neighborhood developments (Overall' Objective 2, p.4)."
- B. "Proper design principles shall be applied in development ('Overall' Objective 3, p.4)
- C. "Future growth shall be accompanied by adequate infrastructure and services ("Overall" Objective 4, p.4)"
- D. "Boone County shall strive to achieve both a diversity and balance in land use ('Overall' Objective 6, p. 4)."
- E. "The needs of Boone County's population base are measured and fulfilled through the provision of orderly growth ('Population' Goal, p. 5)."
- F. "New development or redevelopment within Boone County is designed, constructed, and operated in such as way that the quality of the existing physical environment and social environment are protected and enhanced. Development within Boone County preserves and promotes a better quality of life ('Physical Environment' Objective 2, p. 5)."
- G. "Existing vegetation shall be considered as both an important site characteristic and a community resource ('Social Environment' Objective 4, p. 6)."
- H. "Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ('Business Activity' Goal, p. 8)."
- I. "Compact, efficient development patterns shall be encouraged for business districts (e.g. industrial, Commercial, and office) with appropriately-sized and well-maintained buffer spaces between the business use and other land usage ('Business Activity' Overall Objective, p. 8)."
- J. "Commercial uses shall be limited to strategic locations serving trade areas and neighborhood needs and shall have safe and effective access and ample parking space (Business Activity,' Commercial [Retail and Office] Objective 1, p. 8)."

- K. "The large scale mixing of commercial and non-commercial uses shall occur in planned developments or in areas where consideration has been given to assure compatibility with surrounding land uses. The location of large scale commercial uses shall take into consideration existing or planned infrastructure conditions so as to protect the existing and future population and businesses. Small scale mixing of commercial uses within residential areas shall be carefully assessed and properly placed so as to enhance the neighborhood ('Business Activity,' Commercial [Retail and Office] Objective 2, p. 8)."
- L. "Highway commercial uses shall be in close proximity to highway interchanges for maximum convenience and economy to the traveling public, while minimizing impact to the community in terms of traffic congestion, local commuting, patterns, and access ('Business Activity,' Commercial [Retail and Office] Objective 2, p. 8)."
- M. "Proper access to adjoining property shall be provided and/or retained when a property develops or redevelops ('Transportation' Objective 3, p. 14.)"
- N. "Transportation opportunities for pedestrians and bicyclists shall be provided by the development of a network of sidewalks, pathways, and roadway lanes ('Transportation' Objective 10, p. 14)."

RELATIONSHIP TO HOUSTON-DONALDSON STUDY

The site is located in the Houston-Donaldson Corridor Overlay [HDO] District. The following recommendations for the site in question are taken from the Individual Site Analysis and Recommendations section of the Study. The site under review is part of an area listed as "Site 6, Main Seligman and Foltz Property Remnant." The analysis of the existing conditions of the site at the time the Study was written highlight the challenges to the development of the property, including the fact that tributaries of Gunpowder Creek bisect the site; the fact that the site is within the flight path of one of the airport's north-south runways; and the location of sanitary sewer lines and gas lines on the property. The Study recommends that the site be developed for light industrial and office-flex uses. The Study states that commercial uses should be subject to the public hearing process rather than the short review process. As noted previously, the Houston Donaldson Study was last updated in 1992. The current Zoning Map Amendment and Concept Development Plan for the 95-acre development were approved in 1997.

The Houston-Donaldson Study Goals and Objectives contain the following items that pertain to the development of this site:

- A. "The future land uses in the Study Area are planned in relation to the overall land use pattern of Boone County, the existing and planned developments within the Study Area, and the sense of the Study Area as a distinct corridor (Goal I, p. 7)."
- B. "Consistent with the Boone County Comprehensive Plan's recognition of this area as suitable for a large-scale employment and commercial district with unique residential and recreational opportunities, proposed land uses shall be planned in order to provide a logical, realistic development pattern with a mixture of land uses (Goal I, Objective A, p. 7)."
- C. "Commercial uses shall be designed in an innovative manner that creates prominent landscaping areas (Goal I, Objective B, p.7)."
- D. "Commercial outlots shall be located near major development access points (Goal I, Objective C, p. 7)."
- E. "Sites that contain significant topography and vegetation should be considered in the Study's land use plan for land uses that could incorporate those site characteristics into design (Goal I, Objective E, p. 7)
- F. "Significant topography and vegetation should be retained where appropriate to address the aesthetics, absorbed sunlight heat and glare, stormwater runoff, and buffering of developments (Goal I, Objective F, p. 8)
- G. "Each development shall have a central architectural design focus (Goal I, Objective G, p.8)."
- H. "Recommended land uses shall be compatible with transportation-related noise impacts (Goal I, Objective H, p. 8)."
- I. "Submitted development requests shall be reviewed in context of Article 15 Planned Development of the Boone County Zoning Regulations and this document (Goal I, Objective I, p. 8)."
- J. "Where appropriate, development requests should include some form of recreation opportunity and/or pedestrian network (Goal I, Objective J, p.8)."
- K. "The traffic circulation system serves both destination and through traffic with a minimum of traffic congestion (Goal II, p.8)."
- L. "Individual uses should have access through integrated development driveways and not have individual access points (Goal II, Objective C, p.8)."

- M. "The Study shall recommend specific access locations or spacing requirements along the major roadways (Goal II, Objective D, p. 8)."
- N. "To ensure that the recommended land uses and the types of development occur in conjunction with appropriate exterior appearances to the general public. This goal is based upon the recognition that the Study Area has an enormous amount of visibility from major public thoroughfares. It also is based upon the idea that development should preserve, where appropriate, the natural terrain and vegetation (Goal III, p.9)."

STAFF COMMENTS / CONCERNS

1. The Planning Commission and Florence City Council will need to determine whether the proposal is in agreement with the Comprehensive Plan. Highlights of issues raised in this review include the following:

- A. The Future Land Use Map designates the property as Commercial, allowing the development of retail and office facilities. The Land Use Element indicates that commercial development in the general area of the subject property should be developed according to the recommendations of the Houston Donaldson Study. The Study calls for a mix of office, industrial, and commercial uses in this area.

The Element also states that commercial development should be located near interstate highways or arterial roads. Access management, specifically the coordination of curb cuts and shared driveways, are to be considered when property is developed. Regional commercial uses should be located along the Houston Road corridor. Attention should be paid to the appearance of buildings, and landscaping should be provided.

The Future Land Use Development Guidelines indicate that the preservation of existing natural features on a site should be encouraged instead of leveling the site to fit a pre-conceived plan. These Guidelines highlight the importance of providing buffers, such as berming or landscaping, as well as transitions in land uses, to mitigate the impact of new developments upon adjoining land uses. Overall design of a development must be considered at the time it is developed, with an emphasis placed upon the minimal use of signage. Neo-traditional design should be implemented so that new development readily blends with existing historic and natural features.

- B. The Business Activity Element discusses the importance of Florence in the County's overall commercial activity, noting that there has been a glut of big-box retail development in the County's recent history. The over-development of larger retail stores has lead to vacancies in Florence's commercial districts. The Element encourages the re-use of existing commercial buildings over the development of new commercial centers.

2. The Goals and Objectives of the Houston-Donaldson Study and Article 15 of the Boone County Zoning Regulations stipulate that the Concept Development Plan be evaluated according to the provisions of Section 1514 of the Boone County Zoning Regulations ("Planned Development Standards"). Staff already determined that the prior Zoning Map Amendment and Concept Development Plan met the standards listed in Section 1514. The proposed Concept Development Plan would be subject to the Conditions of Approval from the prior Concept Development Plan. As such an in-depth review of the subject site as measured by the Planned Development Standards is unwarranted. However, the following points are worth noting:

2. Compatibility of Uses-The overall 95-acre development entails a mix of uses, including big-box retail, single-use retail tenants of a smaller scale, and office uses. The proposal amounts to a consolidation of two lots, with a building area of approximately 85,000 square feet. Within the 95-acre site of the approved Concept Development Plan, there are no other retail land uses of this scale, except for the proposed Walmart. The following table indicates the area of retail land uses that have an approved Site Plan:

Name of Development	Size of Lot
Integra Bank	7,896 square feet
First Security Trust	16,508 square feet
Panera	4,896 square feet
Ruby Tuesday's	6,996 square feet
Hooter's	4,800 square feet

An attached map indicates the location of the above-mentioned buildings. The proposed Concept Development Plan would entail the construction of a building that would be more than five times larger than the First Security Trust building. The Conditions of Approval that accompanied the Committee Report for the approved Concept Development Plan included a condition prohibiting the consolidation of lots with frontage on Houston Road for the development of multi-tenant retail centers.

The intent in this condition was to maintain a low suburban scale within the development. The scale of the proposed retail center dwarfs the other outlot business. In previous discussion with the applicant, Staff suggested that three smaller buildings, broken up with an internal courtyards and buffer yards of a reduced width, be developed in lieu of the proposed retail center, to better maintain the suburban feel of the outlots in the development, with tangible breaks or spaces in between the individual tenants.

6. Landscaping-This standard requires that "substantial landscaping be provided with emphasis given to street scape areas, buffer zones, and the provision of significant landscaping (in terms of size of landscape areas, and quantity and quality of landscape materials) within the developed portions of the site." A streetscape plan was developed per the Conditions of Approval for the prior Zoning Map Amendment and Concept Development Plan. The proposed retail center would be subject to this requirement through the Site Plan Review Process.

Section 3625 of the Boone County Zoning Regulations ["Interior Landscaping for Vehicular Use Areas (VUAs)"] requires planting areas that are a minimum of 600 square feet in area when rows of parking are unbroken for a length of 180 feet. There appears to be a row of parking at the southern property boundary that has not met this requirement. Additionally the row of parking adjoining the southern edge of the building, next to Circuit City, would require a landscaping island under Section 3625, if the Concept Development Plan is approved.

7. Architecture-The approved Concept Development Plan includes detailed design guidelines. The proposed Concept Development Plan would be subject to these guidelines and would be evaluated according to these standards through the Design Review for the building and the signage.

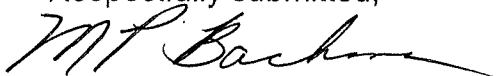
9. Signage-As mentioned above, signage would need to comply with the approved design guidelines for the 95-acre development.

3. The proposal is basically limited to a question of whether a multi-tenant building should be permitted as an option in addition to the single users required through the current Conditions of Approval. If the proposed Concept Development Plan is approved, its approval would allow the possibility that one of the conditions would be waived.

CONCLUSION

The Boone County Planning Commission and the Florence City Council must review this request on the basis of its relationship to the Comprehensive Plan and the Houston Donaldson Study and in terms of its relationship to Article 15 of the Boone County Zoning Regulations. The Future Land Use map will not need to be updated if the request is approved.

Respectfully submitted,

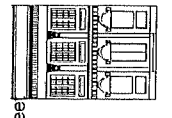
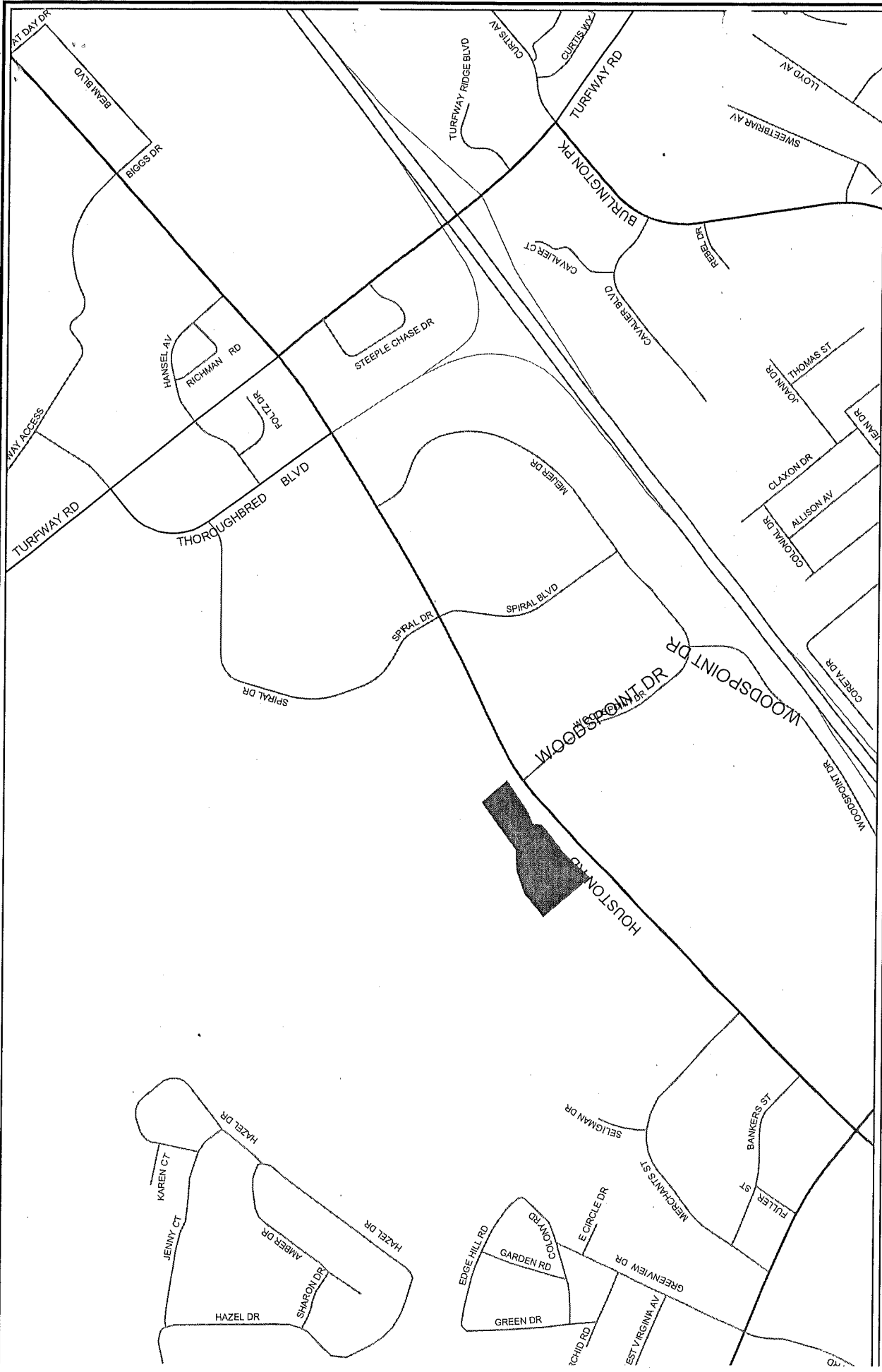


Patty Bachman
Planner

PB/pr

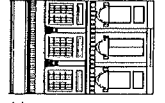
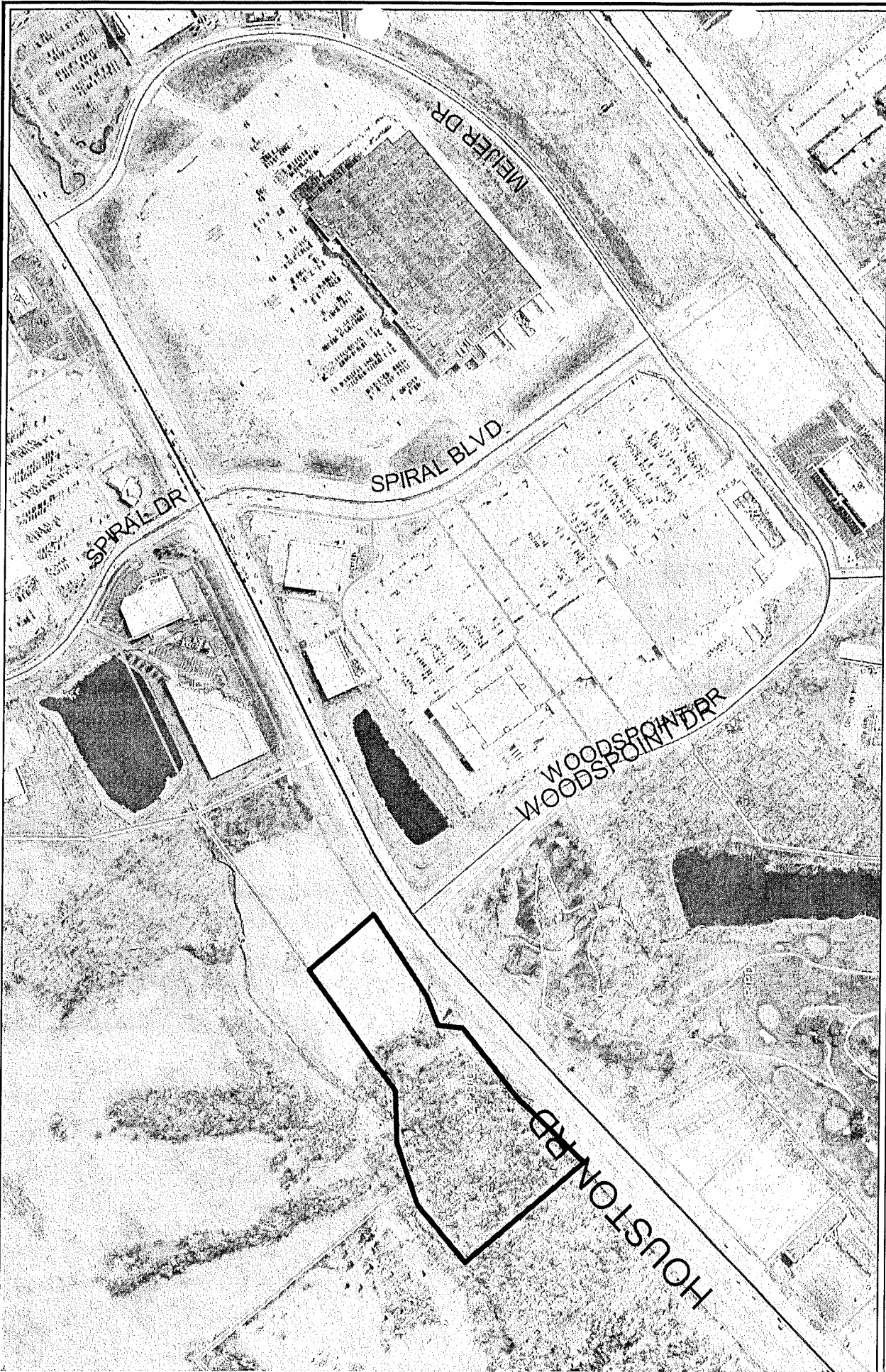
Attachments:

- vicinity map
- aerial photo w/zoning information
- future land use map excerpt
- site topography
- application materials including concept development plan
- committee report dated October 15, 1997
- Map of the area of buildings in general vicinity
- Map of the proposed South Airfield Road



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 Produced by the
 Boone County Planning Commission
 GIS Services Division
 December 3, 2004

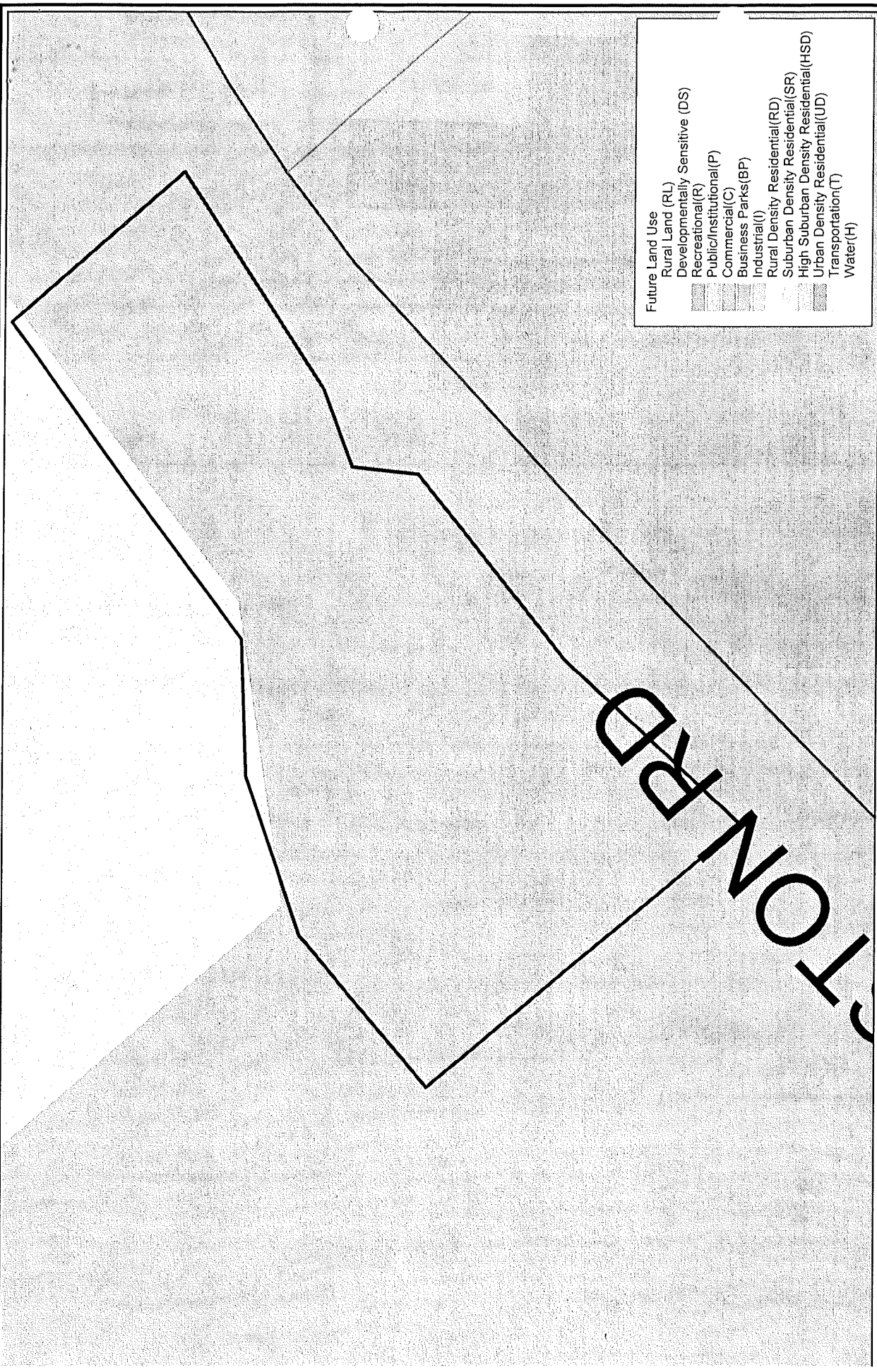
DC-KY 18 Vicinity Map



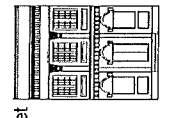
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Produced by the
Boone County Planning Commission
GIS Services Division
December 3, 2004

DC-KY 18 Zoning

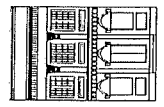
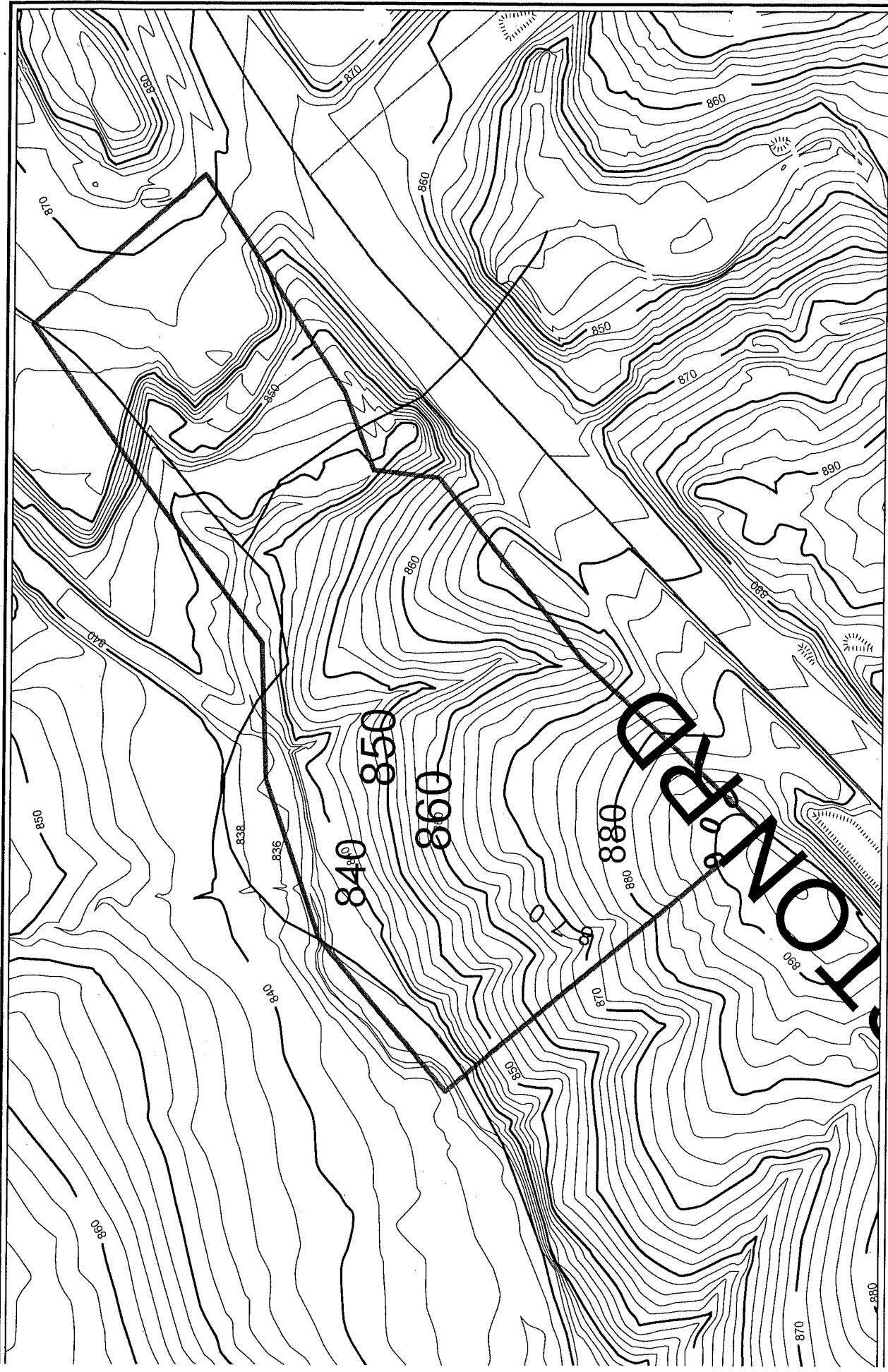


- Future Land Use**
- Rural Land (RL)
 - Developmentally Sensitive (DS)
 - Recreational (R)
 - Public/Institutional (P)
 - Commercial (C)
 - Business Parks (BP)
 - Industrial (I)
 - Rural Density Residential (RD)
 - Suburban Density Residential (SR)
 - High Suburban Density Residential (HSD)
 - Urban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



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 Produced by the
 Boone County Planning Commission
 GIS Services Division
 December 7, 2004

DC-KY 18 Future Land Use Map



1 inch equals 150 feet
Produced by the
Boone County Planning Commission
GIS Services Division
December 7, 2004

DC-KY 18 Topographic Map

APPLICATION FORM

**CONCEPT DEVELOPMENT PLAN
BOONE COUNTY PLANNING COMMISSION**

NOV 12 2004

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

1. Check One:

- _____ Concept Development Plan (Includes Utilization of an Underlying Zone in a Planned Development)
- XXX Change in an Approved Concept Development Plan ALTERNATE
- _____ Long Range Planning Committee Review (As stated in the Houston-Donaldson Study)
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2. Name of Project D.C.-KY 18 - Lot Nos. 19 & 20 Concept Dev. Plan
3. Location of Project Houston Road
4. Total Acreage of Site 9.8 Acres
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6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) _____
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) _____
Houston/Donaldson Study
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No Dimensional Variance
12. Name of Applicant(s) James W. Berling
Phone Number 331-9191 Fax No. 344-7422
13. Address of Applicant(s) 1671 Park Road, Suite One
Ft. Wright, Kentucky 41011
City State Zip
14. Name of Property Owner(s) D.C.-KY 18, L.L.C.
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Florence, Kentucky 41042
City State Zip
16. Are there any existing buildings on the site? No
How many? _____
17. Deed Book D815 Page No. 34 Group No. 2033-B
18. Have you had a pre-application meeting with BCPC Staff? Yes

(over)

Concept Development Plan
Page 2

19. Please check the following organizations/agencies which you have discussed the proposed development with in 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
- Northern Kentucky Health District
- USDA NRCS/Boone County Conservation District
- KY Division of Water
- Local School District
- Local Fire District
- Other: _____

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

21. Applicant's Signature(s) [Signature]
 22. Property Owner's Signature(s) RICHARD CRIST

RICHARD & RICHARD CRIST, MEMBERS

SECTION B (To be completed by BCPC Staff)

1. Date Received 11-12-04 Fee Received \$1451.00 R# 40818
2. Check what has been submitted:
 Application Fee Legal Description
 Concept Development Plan Addresses of Adjoining Property Owners
 No. of copies of plan received **
3. Is application complete? YES NO
4. Staff Reviewer PATTY BALKMAN
5. Committee Chairperson _____
6. Scheduled Public Hearing Date _____
7. Boone County Planning Commission Action:
 Approved
 Approved With Conditions
 Denied
8. Other: _____

** Five (5) Copies Required

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

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

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Arnold Caddell, Chairman

DATE: October 15, 1997

RE: Request of James W. Berling (applicant) for Ruth Doering, Harry Fuller, Mary Ellen Foltz, R.C. Durr and Richard Crist (owner) to consider a Zoning Map Amendment and the Utilization of an Underlying Zone in a Planned Development for 95 acres located on both sides of Houston Road generally between KY 18 and Woodspoint Drive, Florence and unincorporated Boone County, Kentucky. The request is for a zone change from Industrial One/Planned Development (I-1/PD) and Office Two/Planned Development (O-2/PD) to Commercial Two/Planned Development (C-2/PD), and the Utilization of an Underlying Zone in a Commercial Two/Planned Development (C-2/PD) zone, both to allow a retail/commercial development.

Remarks:

We, the Committee, recommend approval of the Zoning Map Amendment and Utilization of an Underlying Zone request based upon the following findings of fact and with the following conditions:

Findings of Fact:

The Committee believes that the applicant has adequately demonstrated that the restrictive site features, which include topography, geometry, and utilities, make the site unsuitable for industrial development. These site features were not foreseen in the 1995 Boone County Comprehensive Plan or the Houston Donaldson Study as possible deterrents for industrial development. As a result, the Committee has concluded that the existing Industrial One Planned Development (I-1/PD) zoning classification, which comprises a majority of the site, is not appropriate.

The applicant has demonstrated that the proposed uses within the underlying Commercial Two (C-2) zoning classification, as part of the Concept Development Plan, produce a cohesive and coordinated development of several distinct and separately-owned properties, which would otherwise be difficult to develop individually.

The Committee believes that the applicant has adequately demonstrated that the proposed Commercial Two Planned Development (C-2/PD) zoning classification is appropriate for the 95 acre site because, the submitted Concept Development Plan along with the attached conditions meets the standards required for a Planned Development within Article 15 of the Boone County Zoning Regulations. The Concept Development Plan with these conditions provides a beneficial interior circulation pattern, a comprehensive landscaping and entry feature package, a lightly controlled and consistent architectural theme and mixture of uses, all of which are consistent with the intent of a Planned Development.

The Applicant has signed a letter of agreement with these conditions and understands that the submitted Concept Development Plan along with these conditions serves as the basis for this recommendation.

Conditions

1. The development shall follow the revised Concept Development Plan which was submitted by the applicant during the review process to the Zone Change Committee. These changes reflect the issues raised at the Public Hearing on July 23, 1997. In addition to the revised Concept Development Plan, the applicant has provided supplemental design standards for the architectural treatment of all buildings, signage, and landscaping. The revised Concept Development Plan and supporting information contains the following:
 - A. The architectural development guidelines, as submitted by the applicant, outline the minimum design standards for all buildings to be constructed within the development. All proposed buildings shall be reviewed by the Design Review Committee and Planning Commission to determine if the architectural development guideline design standards are being followed. Each proposed building shall receive approval from the Committee and the Planning Commission before any construction occurs. Building types include anchor retailers (Exhibit A), attached retailers (Exhibits B & C), free standing commercial properties (Exhibits D & E), and single use buildings. The guidelines include general building design, roof treatment, building facade materials, colors, exterior lighting, window treatment, and signage. In addition, buildings shall not contain exposed heating or cooling units or other engineering devices. Roof mounted equipment shall not be seen as part of any building silhouette. See Exhibits A, B, C, D, and E of the Architectural Development Guidelines.

- B. Lot 1, which is located at the northeast corner of Houston Road and Hwy 18, will contain an architectural feature and landscaping for the purpose of identifying the southern entrance into the development. The architectural element shall be no taller than 32 feet and shall only identify the development. Advertising is prohibited. See Exhibits F, I, and J of the Architectural Development Guidelines. The existing billboard sign on Lot 1 shall be permanently removed.
- C. The proposed access road behind the Foltz property on the north end of the site shall either be relocated onto the Foltz property so that it runs parallel with the property line or constructed on the airport property as shown on the Concept Development Plan. Construction of this access road shall occur concurrently with the first phase of development of either lot. A four lane divided boulevard that extends from the airport to Houston Road is indicated on the north end of the Concept Development Plan. The applicant has agreed that if either lot on the Foltz property is ready to develop before the start of construction of the airport boulevard, the applicant shall develop the portion of the boulevard that runs the length of the Foltz property from Houston Road to the airport property.
- D. A Landscaping Master Plan has been included as part of the Concept Development Plan. The Master Plan provides uniform landscaping design and treatment along Houston Road, Merchants Street, Seligman Drive, and at all existing and proposed intersections. This landscaping shall be installed during the improvement phase of the development and is independent of, and in addition to landscaping requirements for individual lots that require a Site Plan review. See Exhibits H and J of the Architectural Development Guidelines.
- E. The development will include the following signage:

One 40' tall pylon sign, identifying the development and tenants within the commercial center, shall be located on the northwest corner of the commercial center-Houston Road signalized intersection. See Exhibit G of the Architectural Development Guidelines.

Low profile monument signs identifying only the development shall be located at the non-signalized intersection along Houston Road. The signs shall not exceed 6 feet in height.

Low profile wall mounted signs shall be located at the Seligman Street-Merchant Street and Merchant Street-Houston Road intersections, at the southeast corner of the proposed office building complex, and at the southeast and southwest corners of the Houston Road-Woodpoint Drive-

Airport Boulevard intersection. The low profile walls shall be constructed of masonry brick and/or stone and shall only identify the name of the development. The wall mounted signs shall contain only non-illuminated, polished metal, individual channel letters. See Exhibit J of the Architectural Development Guidelines.

Each out lot will be permitted one low profile monument sign. The signs shall not exceed 6 feet in height. All low profile monument signs shall be constructed of the same masonry material, and be of the same height, size, design.

All building mounted signs shall be individual channel letters and internally illuminated.

- F. The development shall contain a pedestrian access network as shown on the Concept Development Plan.
 - G. The development shall also contain a vertical architectural element at the southwest corner of Merchants Street and Houston Road. See Exhibit F of the Architectural Development Guidelines.
2. The Seligman property, which contains approximately 51 acres including the three major commercial users, storm water detention basin, and 5 out lots on the west side of Houston Road, will develop as commercial uses described within a Commercial Two (C-2) zoning district of the Boone County Zoning Regulations. The applicant has agreed to develop 25% of the remaining 45 acres with uses permitted within the Office One (O-1) zoning district and the following uses that may occur in Commercial One (C-1) or Commercial Two (C-2) zoning district:
- A. Real estate sub-dividing and developing services;
 - B. Postal services and packaging services provided the use is essential for pick-up and delivery convenience;
 - C. Nursery and day care centers;
 - D. Consumer and mercantile credit reporting, adjustment and collection services;
 - E. Travel arranging, transportation ticket and public event or promotional booking agencies;

- F. Art, music, and dancing schools, libraries, museums, art and craft galleries and similar exhibit space;
- G. Medical clinics with out-patient services;
- H. Welfare and charitable services;
- I. Aquariums, botanical gardens and other natural exhibitions;
- J. Arcades and other amusement centers;

Included as part of this 25% is a proposed office building complex on the east side of Houston Road, immediately across from the three major commercial users on lots 6 and 7. Eleven (11) acres constitutes as a minimum, 25% of the remaining 45 acres that shall be developed with the uses described above.

3. The out lots along Houston Road are to be developed as individual businesses or establishments. The lots, which are approximately 1.5 acres each in size, shall not be consolidated for the purpose of developing a strip center along Houston Road. Any consolidation of lots shall be for a individual business and any additional parking needs or requirements only.
4. The Planning Commission has been informed that grave sites or possibly a cemetery exists somewhere on the site between the proposed storm detention basin and the airport property. The applicant shall be responsible for performing an archeological survey as required in the Boone County Zoning Regulations, to determine the location of any grave sites or a cemetery.
5. The traffic intersections along Houston Road shall be spaced at a minimum of 600' intervals as indicated on the Concept Development Plan.
6. The intensity of the 95 acre development shall will not exceed 10,000 square feet per acre.
7. The applicant will maintain all existing trees on the property lines between the development, the municipal golf course, and the Greenview Subdivision. The applicant shall establish a 15' no disturb limit on the site to the property line with the golf course and a 25' no disturb limit on the site to the property line with the Greenview Subdivision.
8. The applicant shall provide a minimum of 22% greenspace for the development as a whole, including the detention area, in accordance with the open space provisions of the Houston Donaldson Study.

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.

Arnold Caddell
Arnold Caddell, Chairman

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

Larry Brown
Larry Brown

For	<input type="checkbox"/>	Against	<input checked="" type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

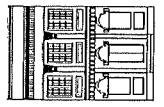
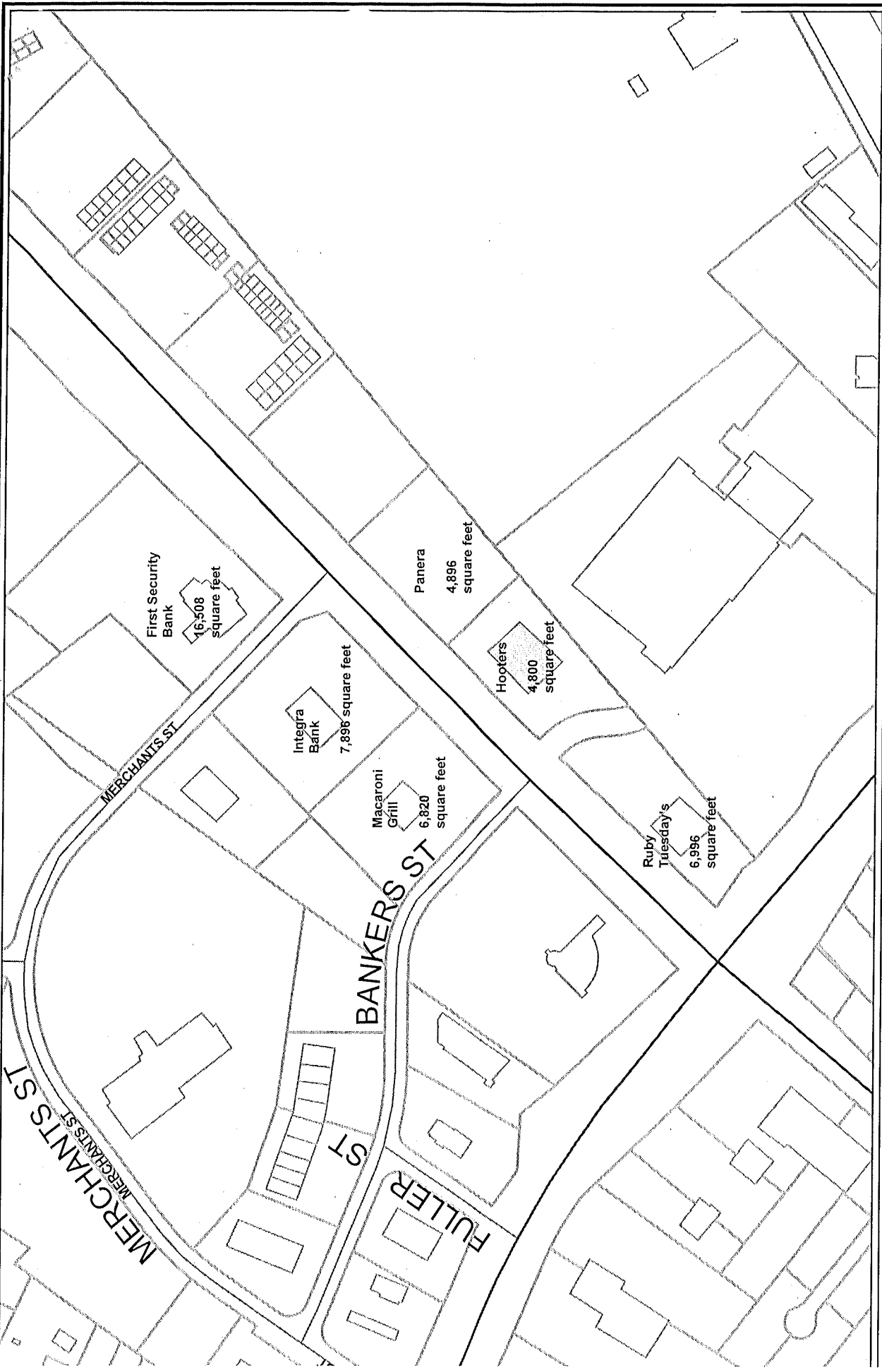
Donald McMillian
Donald McMillian

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

Linda Schaffer
Linda Schaffer

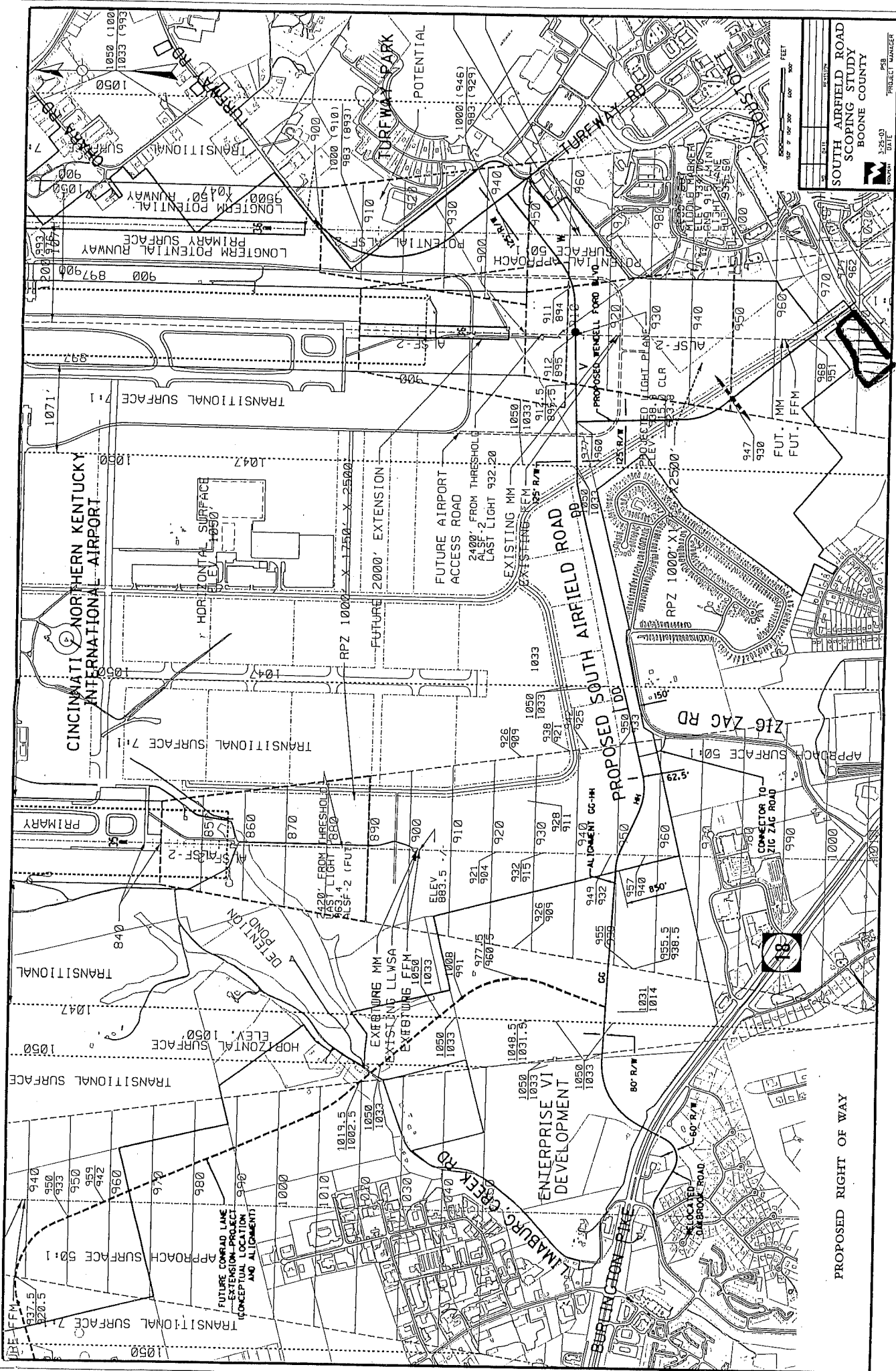
For	<input type="checkbox"/>	Against	<input checked="" type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

TOTAL: 2 FOR . 2 AGAINST — ABSTAIN — ABSENT



1 inch equals 300 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 December 9, 2004

DC-KY 18 Area of Buildings



DATE	PROJECT MANAGER
3-28-03	
BOONE COUNTY	
SOUTH AIRFIELD ROAD SCOPING STUDY	

PROPOSED RIGHT OF WAY

Map of Proposed South Airfield Road → Site

**BOONE COUNTY PLANNING COMMISSION
BURLINGTON ELEMENTARY SCHOOL
5946 N. ORIENT STREET
BURLINGTON, KENTUCKY
December 15, 2004
6:30 P.M.**

PUBLIC HEARING

Commission Members Present: Mr. Barlow, Mr. Breetz, Mr. Bunger, Mr. Caddell – Chairman, Mrs. Kegley, Mr. Knock – Temporary Presiding Officer, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Reynolds, Mr. Schwenke, and Mr. White.

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

Legal Counsel Present: Mr. Dale Wilson

Mr. Arnold Caddell, Chairman, called the meeting to order at 6:30 PM and introduced the item on the Agenda:

Applicant: James W. Berling for
D.C.-KY 18, LLC (owner)

Request: Change in Approved Concept Development Plan

The request of James W. Berling (applicant) for D.C.-KY 18, LLC (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 9.8 acre tract located on the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports golf course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky. The request is for a Change in an Approved Concept Development Plan to allow the option of developing a multi-tenant retail building or the single user commercial buildings that are permitted under the approved Concept Development Plan.

Staff Member Patty Bachman presented the Staff Report which included a Power Point presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Jim Berling, applicant and engineer, introduced Dick Crist and Steve Miller. Mr. Berling stated that Staff did not present a copy of the overall Concept Development Plan that was agreed to in the lawsuit. He stated that this site is approved in two lots as part of the approved design that was in the lawsuit. The lawsuit involved the City of Florence and the five or six applicants that made the proposal several years ago. He stated that the plan was approved by the Planning Commission, but it was disapproved by the City of Florence and ended up in a court settlement. Since that time, the settlement agreement has become the Bible for all development on the 95 acres – and Kevin Will uses it in that manner. He stated that the architecture and the traffic are being controlled. Reviewing the Power Point slide, he indicated the outlots and the access point. He stated that this is a better development because they can consolidate the access and eliminate one of the curb cuts on Houston Road. He stated that the roadway was negotiated between the Foltz family and the airport and both parties reserved the right to build the road with review rights to the other party. In the settlement agreement, there is a plan that shows the entrance and the landscape walls. He stated that the only thing they are asking for is to eliminate the curb cut, consolidate the access, and put the curb cut on the side street on a five-lane road with turn lanes. It is a good development that is landscaped in the front. He stated that everything that has been done in the development has followed the settlement agreement. The settlement agreement supersedes the Houston-Donaldson Study and takes precedence over all the other agreements -- and that is the way it has been implemented to date. He stated that what they are requesting is an improvement to the plan approved by the Planning Commission. They have spoken with Kevin Wall and because there was a difference, they needed to come before the full Planning Commission.

The Chairman asked if there was anyone else present who wished to speak on behalf of the applicant. Mr. Crist and Mr. Miller reserved the right to speak, but had no comments at this time.

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

Mr. Reynolds questioned the cemetery on the site. Mr. Berling responded that the cemetery is not on this site, it is behind where Wal Mart will go. The archaeologist has been out there and it is being preserved.

Mrs. Kegley asked that the map from the lawsuit settlement be provided for the Zone Change Committee. Mr. Costello agreed and stated that he will also ask Mr. Wall to attend the Committee Meeting as he is charged with making sure future applications follow the settlement agreement and he is very familiar with it. Mrs. Kegley commented that some of the issues that have come up are due to the differences between what the Houston-Donaldson Study says and what the lawsuit settlement says.

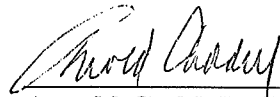
Mrs. Poston stated that the outlots along Houston Road are to be developed as individual businesses or establishments. She asked if there is anything in that area that has not been developed that way. Ms. Bachman reviewed the Power Point slide and indicated that lawsuit area. She stated that all of the development on the outlots have been single-tenant users.

Mr. Berling stated that it is unfortunate not to have the drawing that went with the settlement agreement. He reviewed the Power Point slide and stated that it has been interpreted that all of the uses on the outlots are in conformance with the settlement agreement. He stated that the lot they are talking about is nine acres, and the average size of one of the outlots in front of Wal Mart is 1.5 acres. This is a large parcel and there are only two buildings on it.

Mr. Bunger asked that the drawings concerning extending Woodspoint Drive and information on how this development will impact that intersection and Houston Road be provided for the Committee Meeting. Mr. Berling agreed to bring the drawings and information as requested. Ms. Bachman stated that there is a map attached to the Staff Report in this regard. Mr. Costello questioned how far back they will build Woodspoint Drive. He stated that there is a public road on the west side behind the center that will connect to the Wal Mart development and questioned how it fits in. Mr. Berling responded that the Woodspoint Drive extension will be built as part of this because the access is from there. It will go to the back property line and they will work out something with the airport to get it extended. They have talked to the airport and the road will be extended. They are meeting with the airport tomorrow. The road is on airport property and it is there for support of the overall development of the Wal Mart property. He does not know exactly who will build it, but it will be built -- it is a condition of approval of the whole development. It is beyond Mr. Crist's property, but when he bought the property from Mr. Foltz he bought the obligation and the right to do the development.

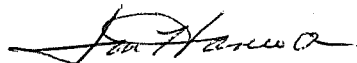
The Chairman asked if there were any further comments. There being no response, he stated that the Committee Meeting for this item will be on January 5, 2005 at 4:30 PM in Courtroom 3A of the Administration Building. This item will be on the Agenda for the Business Meeting on January 19, 2005 at 7:00 PM in Courtroom 3A of the Administration Building. The Chairman closed this Public Hearing at 6:58 PM.

APPROVED:



Arnold Caddell, Chairman

Attest:



Jan Hancock, Recording Secretary

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
January 19, 2005
7:00 P.M.**

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:05 PM.

COMMISSION MEMBERS PRESENT:

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

COMMISSION MEMBERS NOT PRESENT:

Mr. Jim Carmichael
Mr. Richard Knock, Temporary Presiding Officer
Mr. Robert Newman
Mr. Charlie Reynolds
Mr. Earl White

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

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

1828, and 1846 North Bend Road, an approximate 4.5 acre parcel located immediately to the north and east of 1820 North Bend Road and immediately to the south of 1586 Grandview Drive and 2253, 2259, 2271, 2277, 2283, 2289, and 2295 Britt Drive, and an approximate 2.5 acre parcel located immediately to the east of 1846 North Bend Road and immediately to the south of Souther Cemetery and 2221 Blair Drive, Boone County, Kentucky. The request is for a Zone Change to allow a subdivision for single-family residences and Variances to allow reductions in the required sight distances at the intersection of the proposed subdivision access road and North Bend Road.

The Chairman stated that Agenda Item #2 is recommended for deferral to the February 2, 2005 Business Meeting at 7:00 PM. Mr. Barlow so moved. Mr. Bunger seconded the motion and it carried unanimously.

3. Change in Approved Concept Development Plan

The request of James W. Berling (applicant) for D.C.-KY 18, LLC (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 9.8 acre tract located on the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports golf course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky. The request is for a Change in an Approved Concept Development Plan to allow the option of developing a multi-tenant retail building or the single user commercial buildings that are permitted under the approved Concept Development Plan.

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

Mr. Costello stated that Woodspoint Drive will be extended northwest to the airport property and will eventually connect to the South Airfield Road. A road will connect to the extension of Woodspoint Drive and to the west into the Walmart development. The connection is critical to get people through that area. He stated that it was not clear at the Public Hearing that the other road is part of the overall development. It was part of the original plan and it is part of the overall development.

There being no further comments, Mrs. Kegley moved by resolution to the City of Florence that the request be approved based on the Committee Report. Mr. Bunger seconded the motion.

Mrs. Kegley stated that this is a transition property between the lawsuit area and neighboring properties. She stated that two outlots are being put together as one lot to allow for the possibility of a single center, which can be offset with the architectural designs (per the conditions) and landscaping that breaks up the parking

lot and gives the appearance of smaller tenants. She does not want anyone to think that this approval shows a willingness to do this with other smaller outlots – the intent is to keep them small.

There being no further comments, the Chairman asked for a vote on the motion made by Mrs. Kegley **and it carried unanimously.**

4. Zoning Map Amendment

The request of Robert Adams for Sundance Holdings, LLC (applicant) for Randall Hodges and Kathy Hodges (owners) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for a 24.975 acre tract located at 3950 Bullittsville Road, Boone County, Kentucky. The request is for a zone change to allow single-family residences.

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

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

5. Zoning Map Amendment

The request of Ken Perry (applicant) for Larry Horton and Sig Horton (owners) for a Zoning Map Amendment from Agriculture (A-1) to Agricultural Estate (A-2) for approximately 23.2 acres of a 32.58 acre site located at 7847 Howe Road, Boone County, Kentucky. The request is for a zone change to allow a subdivision for detached single family residences.

The Chairman stated that Agenda Item #5 is recommended for deferral to the February 16, 2005 Business Meeting at 7:00 PM. The Committee Meeting will be on February 2, 2005 at 5:00 PM in this room. Mrs. Poston so moved. Mr. Schwenke seconded the motion and it carried unanimously.

NEW BUSINESS:

Agenda Item

No.

6

Change in Approved Concept Development Plan

The request of Terrace Development Company, LLC (owner) for a Change in an Approved Concept Development Plan for a 13.88 acre tract located on the north side of US 42, across from

EXHIBIT
"B"

ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: January 19, 2005

RE: Request of **James W. Berling (applicant)** for **D.C.-KY 18, LLC (owner)** for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for 9.8 acre tract located on the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports golf course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky. The request is for a Change in an Approved Concept Development Plan to allow the option of developing a multi-tenant retail building or the single user commercial buildings that are permitted under the approved Concept Development Plan.

REMARKS:

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

FINDINGS OF FACT

1. The site is designated by the 2000 Boone Comprehensive Plan's Land Use Map as "Commercial." The Future Land Use Map classifies the area in which the site is located as appropriate for commercial development. Specifically, the Land Use Element recommends that regionally-oriented commercial land uses in the Florence Commercial Area be confined to Mall Road and Houston Road. The proposal amounts to a continuation of Houston Road as a regional commercial center.
2. A. Objective C of Goal I of the Houston Donaldson Study states that "commercial outlots shall be located near major development access points." The proposed development would be located at the intersection of Woodspoint Drive and Houston Road.
- B. Goal II of the Houston-Donaldson Study states that "the traffic circulation system serves both destination and through traffic with a minimum of traffic congestion (p.8)." Objective C of this Goal calls for integrated driveways to serve an entire development rather than individual access points for each land use. A minor curb cut on Houston Road that was shown on the approved Concept Development Plan for the 95-acre development in which the site is located would be eliminated through the proposed Concept Development Plan, with traffic routed to the proposed secondary road network on the far west side of Houston Road.

3. The Committee has concluded that the proposed Concept Development Plan, with the attached conditions noted below, generally fulfills the applicable requirements outlined in Section 1514 "Planned Development Standards" of the Boone County Zoning Regulations. In addition to the conditions noted below, the site would subject to the Conditions of Approval for the 1998 Concept Development Plan.
4. The proposed Concept Development Plan is similar in intent to the approved Concept Development Plan for the 95-acre development. The sole difference between the two plans is the size and number of buildings proposed for the lots in question. While the Conditions of Approval for the 95-acre development indicate that frontage lots on Houston Road should not be consolidated, this importance of this Condition is diminished in the location in question. The site anchors the corner of what will be a major intersection; it fronts vacant property; and it simultaneously anchors the "lawsuit area." It is part of the transition to the central part of the Houston Donaldson Study area.
5. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2000 Boone County Comprehensive Plan and the Houston-Donaldson Study, as well as the intent, objectives, and requirements of the Article 15 "Planned Development District (PD)" of the Boone County Zoning Regulations. The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

CONDITIONS

1. The proposed building may accommodate no more than 3 tenants.
2. The front facade shall have the appearance of 3 or more different zero lot line style facades or storefronts and shall otherwise break up the visual mass of the building by staggering the storefronts to break up the plane of the building or offsetting the angle of the building. In addition care should be taken with regard to landscaping to break up the mass of the parking area, using additional landscaping if necessary. Further, the site will be subject to the architectural requirements mandated in the approval of the original Zoning Map Amendment and the lawsuit settlement. Both landscaping and building design will be reviewed through the Design Review process.

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

ORDINANCE NO. 0-18-98

AN ORDINANCE ADOPTING AND APPROVING A REZONING ON AN APPROXIMATE 95 ACRE SITE GENERALLY LOCATED ON BOTH SIDES OF HOUSTON ROAD BETWEEN KENTUCKY 18 AND WOODSPOINT DRIVE FOR THAT PORTION OF THE SITE WITHIN THE CITY OF FLORENCE, KENTUCKY, AND APPROVING THE UTILIZATION OF THE UNDERLYING ZONE IN ACCORDANCE WITH A CONCEPT DEVELOPMENT PLAN AGREED TO BY THE CITY AND THE OWNERS OF THE SITE PURSUANT TO THE SETTLEMENT OF A PENDING APPEAL IN THE BOONE CIRCUIT COURT. (DOERING, FULLER, FOLTZ, DURR AND CRIST PROPERTY)

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

WHEREAS, the Boone County Planning Commission by Resolution R-97-020A recommended that a request for a zone change for an approximate 95 acre site located on both sides of Houston Road, generally between Kentucky 18 and Woodspoint, being part of the complete tract as recorded in Deed Book 446, Page 301, Deed Book 136, Page 74, and Deed Book 635, Page 68, of the Boone County Clerk's records (the "Site") to Commercial Two/Planned Development (C-2/PD) from Industrial One/Planned Development (I-1/PD) and Office Two/Planned Development (O-2/PD) be approved and utilization of the underlying zone be granted, and

WHEREAS, On January 6, 1998, City Council voted to override the recommendation of the Boone County Planning Commission and deny the zone change request, and

WHEREAS, the zone change applicant and owners of the site filed an action in the Boone Circuit Court being James W. Berling, et al v. City of Florence, et al, Case No. 98-00145 (the "Lawsuit") as an appeal from such denial, and

WHEREAS, settlement negotiations between the parties to that action resulted in agreement on a revised concept development plan which was acceptable to all parties, and

WHEREAS, because the revised concept development plan results in a decrease in the intensity of uses recommended by the Boone County Planning Commission and, on advice of the staff of said Commission, the City and the applicant/owner have determined that, in settlement of the lawsuit, the zone change and utilization of the underlying zone represented by the revised concept development plan can be approved without the necessity of additional Planning Commission review and recommendation, and

WHEREAS, the parties have agreed to settle the lawsuit by granting the requested zone change in accordance with the revised concept development plan and subject to the terms and conditions hereinafter set out.

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

SECTION I

That a zone change for the Site is hereby approved as shown on the concept development plan titled: "June 16, 1998, Second Amendment Concept Development Plan, Seligman/Durr/Crist/Foltz Properties, Houston Road, Florence, Kentucky" (the "Development Plan"), a copy of which is attached hereto as Exhibit "I", subject to the conditions hereinafter set out. The zoning map of Boone County, Kentucky as it applies to the City of Florence, Kentucky shall be amended or changed to reflect the rezoning of that portion of the Site located within the City of Florence, Kentucky, as so approved.

SECTION II

That utilization of the underlying zone for that portion of the Site located in the City of Florence, Kentucky, in accordance with the Development Plan is hereby approved, subject to the conditions hereinafter set out.

SECTION III

The zone change and utilization of underlying zone are subject to all of the terms and conditions of the Committee Report of the Boone County Planning Commission dated October 15, 1997, (the "Committee Report"), a copy of which is attached hereto and incorporated herein as Exhibit "II", except as modified by the following:

A. Condition 1 is modified to provide that the development shall follow the Development Plan attached hereto as Exhibit "I".

B. Condition 1E is modified to provide that signage for the site shall be permitted in the areas designated on the Concept Development Plan and in compliance with the following criteria:

1. Building Mounted Signage shall be limited to the number and size as permitted by the Zoning Ordinance but must be internally illuminated individual channel letters, mounting raceway optional, and generally of the dimensions and criteria as depicted on Exhibits "A" through "E" to this Ordinance.

2. Project Identification Signage shall consist of a pylon sign maximum 28 feet in height and of materials and architectural details as depicted on Exhibit "F", hereto and of low wall signage not to exceed six (6) feet in height and constructed of masonry, brick or stone identifying only the development and containing only polished metal individual channel letters which may be backlighted as depicted on Exhibit "G" to this Ordinance. The developer shall construct an architectural feature at the northeast corner of Houston Road and Kentucky Highway 18 identifying the south entrance to the development. This feature shall be architecturally compatible with the other landscaping and building construction.

3. Low Ground Monument Signage is permitted one per out-lot not to exceed six (6) feet in height and seven (7) feet in width and generally as depicted on Exhibit "H" to this Ordinance.

C. Condition 2 is deleted and the following substituted:

Zoning of the entire tract shall be in accordance with the land use designations on the Development Plan. The 19.20 acre parcel designated Office/Research Park/Light Industrial and the 3.80 acre parcel designated Office shall be zoned O1/PD. The remainder of the Site shall be zoned C2/PD. The following additional uses shall be permitted in the O1/PD and C2/PD areas.

1. Real estate sub-dividing and developing services.
2. Postal services and packaging services provided the use is essential for pick-up and delivery convenience.
3. Nursery and day care centers.
4. Consumer and mercantile credit reporting, adjustment and collection services.
5. Travel arranging, transportation ticket and public event or promotional booking agencies.
6. Art, music, and dancing schools, libraries, museums, art and craft galleries and similar exhibit space.
7. Medical clinics with outpatient services.
8. Welfare and charitable services.
9. Aquariums, botanical gardens and other natural exhibitions.

10. Rehabilitation hospital facilities.
11. Micro-brewery.
12. Professional scientific and controlling instruments, photographic and optical goods, watches and clocks.
13. Electric and electronic equipment.
14. Technology and research centers including medical and hospital research establishments.
15. Educational and governmental institutions.
16. Wholesale trade of drugs, drug proprietaries and sundries.
17. Wholesale trade of electrical and electronic parts.
18. Research, development and testing services.
19. Photo finishing and other photographic laboratories.
20. Postal services and related storage, distribution and transfer activities.
21. Blueprinting and photocopying services, stenographic services and other duplicating, mailing and delivering services.
22. Fire stations or fire related protective services including rescue services.
23. Warehouse and distribution center-warehouse facilities.

D. The retail commercial center located on parcel no. 22 shall not exceed 296,000 square feet under total roof and the square footage of any single user in the retail commercial center shall not be more than 150,000 square feet.

E. Not less than 22% of the total acreage of the Site shall be green space which may be integrated throughout the other approved uses, provided that green space of 18% of the total acreage shall be contained in the privately owned areas.

F. Neither the owners of the Site nor their successors or assigns shall apply for a land use change within the area zoned O1/PD to any commercial use for a period of 5 years from the date of final passage of this Ordinance.

SECTION IV

If these approvals for a zone change and utilization of the subject property should be held invalid by any court of proper jurisdiction, such invalidity shall not affect the validity of any of the other zoning regulations, zoning map, or comprehensive plan provisions as they are severable from these approvals herein and are intended to continue to have effect regardless of any invalidity regarding these particular approvals.

SECTION V

This Ordinance shall be effective upon final passage, publication by summary, and approval by Judgment of the Boone Circuit Court in the Lawsuit.

PASSED AND APPROVED ON FIRST READING THIS 21th DAY OF September, 1998.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 22nd DAY OF September, 1998.

APPROVED:

Emory M. Holt
MAYOR

ATTEST:
Betsy R. Conrad
CITY CLERK

I, Betsy R. Conrad, City Clerk for the City of Florence, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 0-18-98 as same appears in the official records of my office. Dated this 23rd day of September, 1998.

Betsy R. Conrad
Betsy R. Conrad, City Clerk

BOONE COUNTY PLANNING COMMISSION
BURLINGTON ELEMENTARY SCHOOL
5946 N. ORIENT STREET
BURLINGTON, KENTUCKY
December 15, 2004
6:30 P.M.

PUBLIC HEARING

Commission Members Present: Mr. Barlow, Mr. Breetz, Mr. Bunger, Mr. Caddell – Chairman, Mrs. Kegley, Mr. Knock – Temporary Presiding Officer, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Reynolds, Mr. Schwenke, and Mr. White.

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

Legal Counsel Present: Mr. Dale Wilson

Mr. Arnold Caddell, Chairman, called the meeting to order at 6:30 PM and introduced the item on the Agenda:

Applicant: James W. Berling for
D.C.-KY 18, LLC (owner)

Request: Change in Approved Concept Development Plan

The request of James W. Berling (applicant) for D.C.-KY 18, LLC (owner) for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for a 9.8 acre tract located on the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports golf course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky. The request is for a Change in an Approved Concept Development Plan to allow the option of developing a multi-tenant retail building or the single user commercial buildings that are permitted under the approved Concept Development Plan.

Staff Member Patty Bachman presented the Staff Report which included a Power Point presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Jim Berling, applicant and engineer, introduced Dick Crist and Steve Miller. Mr. Berling stated that Staff did not present a copy of the overall Concept Development Plan that was agreed to in the lawsuit. He stated that this site is approved in two lots as part of the approved design that was in the lawsuit. The lawsuit involved the City of Florence and the five or six applicants that made the proposal several years ago. He stated that the plan was approved by the Planning Commission, but it was disapproved by the City of Florence and ended up in a court settlement. Since that time, the settlement agreement has become the Bible for all development on the 95 acres – and Kevin Will uses it in that manner. He stated that the architecture and the traffic are being controlled. Reviewing the Power Point slide, he indicated the outlots and the access point. He stated that this is a better development because they can consolidate the access and eliminate one of the curb cuts on Houston Road. He stated that the roadway was negotiated between the Foltz family and the airport and both parties reserved the right to build the road with review rights to the other party. In the settlement agreement, there is a plan that shows the entrance and the landscape walls. He stated that the only thing they are asking for is to eliminate the curb cut, consolidate the access, and put the curb cut on the side street on a five-lane road with turn lanes. It is a good development that is landscaped in the front. He stated that everything that has been done in the development has followed the settlement agreement. The settlement agreement supersedes the Houston-Donaldson Study and takes precedence over all the other agreements -- and that is the way it has been implemented to date. He stated that what they are requesting is an improvement to the plan approved by the Planning Commission. They have spoken with Kevin Wall and because there was a difference, they needed to come before the full Planning Commission.

The Chairman asked if there was anyone else present who wished to speak on behalf of the applicant. Mr. Crist and Mr. Miller reserved the right to speak, but had no comments at this time.

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

Mr. Reynolds questioned the cemetery on the site. Mr. Berling responded that the cemetery is not on this site, it is behind where Wal Mart will go. The archaeologist has been out there and it is being preserved.

Mrs. Kegley asked that the map from the lawsuit settlement be provided for the Zone Change Committee. Mr. Costello agreed and stated that he will also ask Mr. Wall to attend the Committee Meeting as he is charged with making sure future applications follow the settlement agreement and he is very familiar with it. Mrs. Kegley commented that some of the issues that have come up are due to the differences between what the Houston-Donaldson Study says and what the lawsuit settlement says.

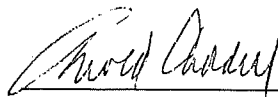
Mrs. Poston stated that the outlots along Houston Road are to be developed as individual businesses or establishments. She asked if there is anything in that area that has not been developed that way. Ms. Bachman reviewed the Power Point slide and indicated that lawsuit area. She stated that all of the development on the outlots have been single-tenant users.

Mr. Berling stated that it is unfortunate not to have the drawing that went with the settlement agreement. He reviewed the Power Point slide and stated that it has been interpreted that all of the uses on the outlots are in conformance with the settlement agreement. He stated that the lot they are talking about is nine acres, and the average size of one of the outlots in front of Wal Mart is 1.5 acres. This is a large parcel and there are only two buildings on it.

Mr. Bunger asked that the drawings concerning extending Woodspoint Drive and information on how this development will impact that intersection and Houston Road be provided for the Committee Meeting. Mr. Berling agreed to bring the drawings and information as requested. Ms. Bachman stated that there is a map attached to the Staff Report in this regard. Mr. Costello questioned how far back they will build Woodspoint Drive. He stated that there is a public road on the west side behind the center that will connect to the Wal Mart development and questioned how it fits in. Mr. Berling responded that the Woodspoint Drive extension will be built as part of this because the access is from there. It will go to the back property line and they will work out something with the airport to get it extended. They have talked to the airport and the road will be extended. They are meeting with the airport tomorrow. The road is on airport property and it is there for support of the overall development of the Wal Mart property. He does not know exactly who will build it, but it will be built -- it is a condition of approval of the whole development. It is beyond Mr. Crist's property, but when he bought the property from Mr. Foltz he bought the obligation and the right to do the development.

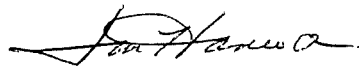
The Chairman asked if there were any further comments. There being no response, he stated that the Committee Meeting for this item will be on January 5, 2005 at 4:30 PM in Courtroom 3A of the Administration Building. This item will be on the Agenda for the Business Meeting on January 19, 2005 at 7:00 PM in Courtroom 3A of the Administration Building. The Chairman closed this Public Hearing at 6:58 PM.

APPROVED:



Arnold Caddell, Chairman

Attest:



Jan Hancock, Recording Secretary

ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Janet Kegley, Chairwoman

DATE: January 5, 2005

RE: Request of **James W. Berling (applicant)** for **D.C.-KY 18, LLC (owner)** for a Change in an Approved Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) zone for 9.8 acre tract located on the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports golf course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky. The request is for a Change in an Approved Concept Development Plan to allow the option of developing a multi-tenant retail building or the single user commercial buildings that are permitted under the approved Concept Development Plan.

REMARKS:

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

Janet Kegley

Janet Kegley, Chairwoman
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

Randy Barlow

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

Greg Breetz

Greg Breetz
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

Kim Bunger

Kim Bunger
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

Susan Poston

Susan Poston
For Project Absent _____
Against Project _____
Abstain _____ Deferred _____

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

Earl White (Alternate)
For Project _____ Absent _____
Against Project _____
Abstain _____ Deferred _____

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

SUPPORTING INFORMATION



JAMES W. BERLING ENGINEERING, PLLC

Land Surveying • Site Development • Civil Engineering Services • Land Planning

KY License No. 5745

1671 PARK ROAD, SUITE ONE • FT. WRIGHT, KENTUCKY 41011 • (859) 331-9191 • FAX (859) 344-7422

Land Surveyor License KY 206

February 2, 2005

LEGAL DESCRIPTION

D.C.-KY. 18

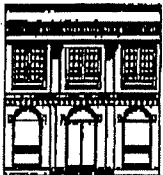
LOT NOS. 19 AND 20

HOUSTON ROAD

Beginning at a point in the northwest right of way line of Houston Road, said point being the south corner of D.C.-KY. 18, L.L.C.'s property as described in Deed Book 815 at Page 34 recorded in the Boone County Clerk's records at Burlington, Kentucky; thence along the southwest line of said property N 40° 53' 23" W 60.40 feet, N 42° 42' 00" W 310.42 feet, and N 39° 53' 00" W 127.50 feet to a corner; thence along the northwest line of said D.C.-KY. 18, L.L.C.'s property N 43° 18' 00" E 287.54 feet and N 38° 57' 00" W 12.00 feet to a point, corner to the airport property; thence along the common line between the D.C.-KY. 18, L.L.C. property and the Kenton County Airport Board N 51° 22' 00" E 512.78 feet and S 41° 13' 49" E 445.14 feet to a point in the northwest right of way line of Houston Road; thence along the northwest right of way line of Houston Road S 32° 10' 51" W 130.07 feet and S 46° 01' 41" W 670.46 feet to the place of beginning.

Containing 9.8 Acres

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

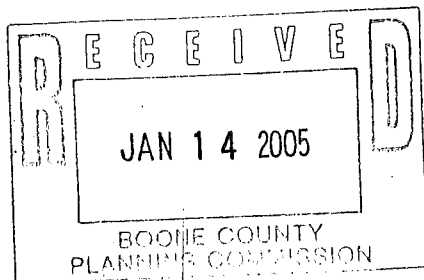
www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

E-mail: plancom@boonecountyky.org

January 11, 2005



Mr. R.C. Durr
Mr. Richard Crist
DC-KY 18, LLC
8800 Bankers Street
Florence, KY 41042

RE: Proposed Change to an Approved Concept Development Plan, Houston Road,
Florence, KY

Dear Mr. Durr and Mr. Crist:

The following conditions, in conjunction with the Concept Development Plan, as agreed to by the Boone County Planning Commission's Zone Change Committee, serves as the basis for the Committee's recommendation of approval. If you, as the property owners, agree to the following conditions, please indicate so by signing at the space provided below, and return this letter to the Planning Commission Office by 5:00 P.M. Monday, January 17, 2005.

1. The proposed building may accommodate no more than 5 tenants.
2. The front facade shall have the appearance of 3 or more different zero lot line style facades or storefronts and shall otherwise break up the visual mass of the building by staggering the storefronts to break up the plane of the building or offsetting the angle of the building. In addition care should be taken with regard to landscaping to break up the mass of the parking area, using additional landscaping if necessary. Further, the site will be subject to the architectural requirements mandated in the approval of the original Zoning Map Amendment and the lawsuit settlement. Both landscaping and building design will be reviewed through the Design Review process.

Sincerely,

Patty Bachman
Planner

MPB/pr

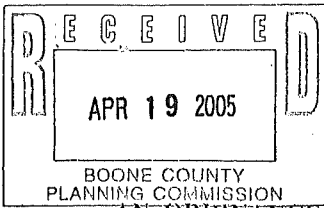
Mr. R.C. Durr
Mr. Richard Crist
DC-KY 18, LLC.
January 11, 2005
Page 2

Agreement

We, the property owners, agree to the above-listed conditions of approval for the requested Zoning Map Amendment and Change in Concept Development Plan for property located at the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports golf course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky.

R.C. Durr 1-11-05
R.C. Durr, (Date)
Property Owner

RICHARD CRIST 1-11-05
Richard Crist, (Date)
Property Owner



ORDINANCE NO. 0-3-05

AN ORDINANCE ADOPTING AND APPROVING A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN FOR A 9.8 ACRE SITE, GENERALLY LOCATED ON THE NORTH/WEST SIDE OF HOUSTON ROAD, ACROSS HOUSTON ROAD FROM THE CITY OF FLORENCE, WORLD OF SPORTS GOLF COURSE AND THE HOUSTON ROAD/WOODSPOINT DRIVE INTERSECTION, FLORENCE, KENTUCKY, CURRENTLY ZONED COMMERCIAL TWO/PLANNED DEVELOPMENT (C-2/PD), TO ALLOW THE OPTION OF DEVELOPING A MULTI-TENANT RETAIL BUILDING OR THE SINGLE USER COMMERCIAL BUILDINGS THAT ARE PERMITTED UNDER THE APPROVED CONCEPT DEVELOPMENT PLAN. (DC-KY 18, I.I.C, OWNER)

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

WHEREAS, the Boone County Planning Commission has recommended approval, subject to a development plan and agreed conditions, of a change in concept development plan described above, and

WHEREAS, the recommendation for approval by the Boone County Planning Commission is based upon certain findings and conditions attached to its Resolution of Recommendation, all of which have been reviewed by the City Council for the City of Florence, Kentucky.

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

SECTION I

That the requested change in concept development plan for the approximate 9.8 acre site located on the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports Golf Course and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky, shall be and is hereby approved to allow the option of developing a multi-tenant retail building or the single-user commercial buildings that are permitted under the approved concept development plan, subject to the concept development plan and other agreed conditions for this site currently zoned Commercial Two/Planned Development (C-2/PD). The real estate which is the subject of this ordinance is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. The zoning map of Boone County, Kentucky, as it applies to the City of Florence, Kentucky, shall reflect the approval of this concept development plan.

SECTION II

The approval of this change in concept development plan is granted subject to the conditions, terms and provisions of the Boone County Planning Commission recommendation, including the Committee Report made a part of that recommendation, and all provisions comprising the development plan herein, a copy of that recommendation and Committee Report of the Boone County Planning Commission being attached, marked Exhibit "B", and incorporated herein as if fully set out, this recommendation being in the form of Resolution No. R-05-001-A of the Boone County Planning Commission along with the referenced exhibits to that Resolution.

SECTION III

In addition to those conditions set forth in the recommendations of the Boone County Planning Commission, this approval of the City of Florence, Kentucky, through its City Council shall be and is hereby subject to those additional conditions that have been agreed to in writing by the property owner/applicant as shown on Exhibit "C", a copy of which is attached and incorporated herein by reference.

SECTION IV

This approval is granted based on the findings of fact made by the Boone County Planning Commission and contained within its recommendation, including the Committee Report of that Commission, which is attached and part of the Commission's Resolution No. R-05-001-A, marked Exhibit "B", and incorporated herein as if fully set out.

SECTION V

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

SECTION VI

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

PASSED AND APPROVED ON FIRST READING THIS 8th DAY OF March, 2005.

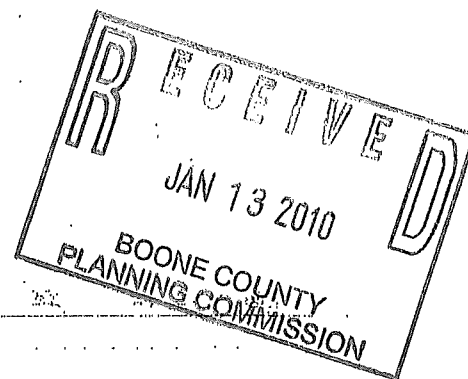
PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 22nd DAY OF MARCH, 2005.

APPROVED:

Deane E. Whalen
MAYOR

ATTEST:

[Signature]
CITY CLERK

EXHIBIT "C"City of Florence Special Conditions

The undersigned, on behalf of DC-KY18, LLC hereby agrees to the following special conditions for approval for the requested change in concept development plan for property located at the north/west side of Houston Road, across Houston Road from the City of Florence/World of Sports and the Houston Road/Woodspoint Drive intersection, Florence, Kentucky.

1. That the rear of the building shall be constructed of brick, or a brick like substance such as "quick brick" or other material as approved by the City of Florence, which substantially conforms to the exterior appearance of the rear of the proposed Super Wal-Mart. The front and sides of the building shall be constructed predominately of brick material and other complimentary materials similar to the exterior appearance of the front and sides of the proposed Super Wal-Mart.
2. Dumpster enclosure(s) shall be constructed of materials similar to that of the building.
3. A connection from the southwest portion of the site shall be made to Doering Drive.
4. The rear hillside of the site shall be broadcast seeded with black locust. Additionally, a pine/spruce mixture shall be planted. Pines shall be 5' minimum height when planted.

FEB. 25, 2005

Date

RICHARD D. CRIST MEMBER
Member, DC-KY18, LLC (owner)

With Conditions
 Please See Comments
 Report
 APPROVED
 Staff *[Signature]*
 Date 1-19-05
 Mono County
 Public Commission

POURING ROAD STA. 2+47.2
 WOODPOINT DRIVE STA. 6+4.6
 (EXTENDED)

ROAD

WOODPOINT DRIVE (EXTENDED)

WOODPOINT DRIVE

THE AREA NORTHEAST OF DOERING DRIVE
 STA. 10+32 IS SET ASIDE FOR REEF TRUCK ONLY

SCALE: 1" = 40' (VERTICAL)
 1" = 100' (HORIZONTAL)

