

\*REVISED\*

APPLICATION FORM

ZONING MAP AMENDMENT  
BOONE COUNTY PLANNING COMMISSION

DEC 20 2005

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Name of Project RED STONE VILLAGE
- 2. Location of Project RICE PIKE
- 3. Total Acreage of Site 55.966
- 4. Current Zoning of Site A-2
- 5. Proposed Zoning (Classification being requested) RS
- 6. Proposed Uses (please specify each use)  
84' lots for single-family detached homes
- 7. Names of Applicant(s) TOEBBEN LTD.
- 8. Phone Number 859-331-1560 Fax No. 859-331-9702
- 9. Address of Applicant(s) 541 BUTTERMICK PIKE STE 10A  
CRESCENT SPRINGS KY 41017  
City State Zip
- 10. Name of Property Owner(s) WALTER & KAREN TERRELL
- 11. Phone Number \_\_\_\_\_ Fax No. \_\_\_\_\_
- 12. Address of Property Owner(s) 2188 RICE PIKE  
UNION KY 41091  
City State Zip
- 13. Proposed Building Intensities (please specify) \_\_\_\_\_
- 14. Are there any existing buildings on the site? YES
- 15. How many? ONE RESIDENCE AND TWO OUTBUILDINGS
- 16. Deed Book 428 Page No. 179 Group No. 2055
- 17. Are you also applying for:  
 Conditional Use Permit  
 Dimensional Variance (FLAG LOT SETBACKS)
- 18. Have you submitted a Concept Development Plan? ATTACHED
- 19. Have you had a pre-application meeting with BCPC Staff? YES
- 20. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

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

# EXHIBIT

“A”

## STAFF REPORT

Request of Toebben Ltd. (applicant) for Walter Terrell and Karen Terrell (owners) for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS), and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single family residences.

January 18, 2006

### PROPOSAL

This request is for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS) for 55.966 acres located at 2188 Rice Pike, Boone County. The proposal is to allow a subdivision for eighty four (84) lots for detached single family residences, which is a density of 1.5 dwelling units per acre. A Public Hearing was scheduled for December 7, 2005 for a similar seventy five (75) lot subdivision, but was postponed at the request of the applicant. Two basic lot frontages (width at the front yard setback line) are proposed (average 85' wide lots and average 100' wide lots), with the wider lots being generally provided in the east part of the site.

The Concept Development Plan shows one access point along the western portion of the Rice Pike frontage. The street system includes a divided boulevard style entrance road from Rice Pike, local streets and a cul-de-sac in the western part of the site, and a long cul-de-sac with a smaller cul-de-sac branching from it in the eastern part of the site. A street connection to the property to the northwest is also proposed. The plan notes state that no lot shall have direct access to Rice Pike. An existing lake in the center of the site is proposed to be used for storm water retention. Existing vegetation around the perimeter of the site is proposed to be retained as indicated by the proposed contours on the plan. Public water and sanitary sewer are proposed, and all utilities will be underground. A new sanitary sewer pump station is proposed along the Rice Pike frontage.

Also included in the request are Variances to reduce the front and rear yard setbacks for certain flag lots (lots 66, 73, and 74 as shown on the Concept Development Plan) from 40 feet to 10 feet. The Variances are requested so that the building setbacks will correlate to the orientation of the three flag lots in question. The definition of "yard, front" in Article 40 of the zoning regulations requires that the front yard setback on a flag lot be determined by the location of the rear lot line of the adjoining lot which fronts the street. The requested variances include a front yard reduction for lot 73, a rear yard reduction for lot 74, and front and rear yard reductions for lot 66. The setback areas defined as "side yards" by the zoning regulations have been increased to 40 feet to correlate to the actual front and rear facades of the future structures on these lots.

### ADJACENT LAND USES AND ZONING

The land uses and zoning adjacent to the site include the following.

- A. A subdivision (Lassing Green) of detached single family residences is located to the east (RS; density is 1.34 units/acre per both GIS and final plat figures).
- B. The Ryle High School/Gray Middle School/Shirley Mann Elementary School campus is located to the north/northeast (PF).
- C. Lassing Point Golf Course is located to the north (SR-1/PD).
- D. A combination of agricultural, low density residential, and open space/woods uses are located to the west, north/northwest, and south (A-2).

### SITE CHARACTERISTICS

The site contains approximately 56 acres and has approximately 1,670 feet of frontage along Rice Pike. The site contains a residence and several outbuildings. The site also has tree lines/areas around its perimeter (except for most of the Rice Pike frontage), several tree lines within the interior of the site, a large lake in the approximate center and a small pond in the northeast part of the site, although the majority of the site is open pasture. An intermittent blue line stream runs from the southeast corner of the large lake through a culvert across Rice Pike (a small tributary to the "Dark Hollow Branch," which in turn is a tributary to Big Bone Creek). Elevations on the site range between approximately el. 894 in the northeast corner of the site to approximately el. 812 at the outflow from the lake by Rice Pike. An existing water main runs across the Rice Pike frontage and a sanitary pump station is located to the east along Rice Pike by Lassing Green Subdivision. Soil types on the site include Cynthiana flaggy silty clay loam (CyF), Faywood silty clay (FcD), and Nicholson silt loam (NiB and NiC).

### RELATIONSHIP TO COMPREHENSIVE PLAN

The 2005 Boone County Comprehensive Plan's Future Land Use Map designates the site for "Suburban Residential" (SR) uses. This designation is described as "single family housing of up to four units per acre. This classification does not preclude low density or estate residential developed as a formal subdivision."

The Land Use Element text makes the following statements that relate to the overall area.

- A. This section of Boone County contains the City of Union and a substantial portion of Hathaway Road and U.S. 42. In general, this section should experience considerable residential growth due to Union's current residential nature, growth associated with the City of Florence, and improvements to U.S. 42.

New subdivisions should be developed with connecting roads providing alternative routes for residential traffic and decreasing the impact on major roadways. Road connections should include multi-modal elements such as pedestrian paths and bike lanes, and bus stops; Wetherington Boulevard is an example.

Development proposals shall be carefully evaluated relative to the area-wide road network and any necessary contributions to the network.

An elementary school is planned to be open in 2006 at the Ryle High School campus, since Erpenbeck Elementary has reached capacity.

All major residential developments should provide recreational facilities, or other public facilities, through cooperative efforts between developers, legislative bodies, and other agencies/ organizations. These facilities should be designed not only to serve the residents of the specific subdivision but, where appropriate, to serve surrounding populations in order to mitigate the impacts upon existing facilities ("4. Union Area," pg. 146).

- B. This section of Boone County is characterized by a substantial portion of U.S. 42, Richwood Road, Hicks Pike, and Rice Pike area. This section will also be greatly affected by the reconstruction of U.S. 42. Suburban Residential Development of this section of the county is dependent upon the provision of water and sewer, and should not negatively impact the Big Bone Creek and Mud Lick Creek watersheds.

It is important that residential subdivisions construct internal roadway systems rather than using the existing roads for primary access; these existing roads should serve as corridors to move traffic through the area. Substantial residential growth will compound crowded conditions at the New Haven Elementary School and will require expansion of school facilities ("27. Beaverlick Area," pg. 159).

The Land Use Element provides the following general comments that relate to the proposal.

- A. Developments in Boone County should begin with an assessment of the existing site features to determine positive and useful attributes, as well as features which should or can be preserved. Development design should incorporate the use of these attributes for the benefit of the development and the County as a whole, rather than leveling an entire site to meet a pre-conceived project design. Development plans should identify such areas, and delineate disturb limits to protect those areas that have been defined. True Open Space subdivision design should be considered to blend new subdivisions in with areas that have a rural character ("Utilization of Existing Vegetation and Topography," pg. 140).
- B. As described in the Goals and Objectives, different development densities can occur in Boone County as long as the development is designed in a proper manner and the infrastructure exists or is planned to support the development.

In these conditions, proposed residential developments that have smaller lot sizes than surrounding land uses are recommended to utilize the following design mechanisms to address the impacts on existing development.

The proposed development should consider in its design a band of larger lots and setbacks along the affected perimeter of the site adjacent to existing development to provide an adequate transition.

The proposed development should consider a band of development along the existing main roadway in which the houses face the main road to appear rural, and where the lots in this band are larger than those in the balance of the proposed development. Building setbacks and lot frontages should imitate existing setbacks along the road.

Highly visible portions of the proposed development site should consider green space. The style of green space, including tree types, fencing or other similar features should imitate the existing road corridor views. Grandiose subdivision entryways may not be appropriate depending on existing conditions in the corridor.

These recommendations are site specific and should be evaluated on a case-by-case basis. In fact, there may be other design mechanisms not identified here that may work in some instances ("Development Layout, Lot Sizes, and Setbacks," pp. 140 and 141).

- C. 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 . . .

Typically, buffering is required and provided between unlike land uses, however, as the development of Boone County fills in previously rural areas, different lot sizes and designs of residential development sometimes impact each other. Where an appropriate gradation of lot size and setbacks cannot be designed into a proposed residential subdivision development of a significantly higher density than existing adjacent residential uses, deliberate vegetation buffering may need to be incorporated into the design to help protect low density residential areas. Buffer areas should use and supplement existing site features where possible ("Buffering," pg. 141).

- D. Developments in Boone County must include landscaping to accompany the proposed project. This landscaping should be designed to improve the public view of a development, and should be incorporated into parking lots and other vehicle circulation areas, as well as within open spaces and around structures. Landscaping is intended to minimize the visual impacts of the development from adjoining properties and roadways.

Developments along major roadways in Boone County must include landscaping 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 land uses ("Landscaping," pg. 141).

- E. 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, provisions for access connections to adjoining properties, and dedication of public right-of-way. In subdividing property, arterials or collectors should not be used for direct access to lots, rather a system of local streets should feed into the collector and arterial system ("Access Management," pp. 141 and 142).

- F. Developments in Boone County must be designed, where appropriate, to improve the County's transportation network system of roadways, and functional classifications 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. Development along existing arterials and collector roadways should not have direct driveway access, but be served by a local street. Appropriate road connections should be constructed to provide alternate routes for traffic to and through specific projects and to enhance the capacity of existing streets.

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 ("Transportation and Pedestrian Network," pg. 142).

The Housing Element provides the following comments that relate to this proposal.

- A. Although single-family homes are by far the most numerous, they continue to decrease in their percentage of total Boone County housing. Most new construction of single-family housing will take place on the outer rings of growth. The Union area has a high percentage of single-family housing ("Housing Types," pg. 75).
- B. A progression of densities of residential uses from high (multi-family) to low (single family) shall be encouraged. Where traditional progressions of high to low net density are not possible through creative development design, an appropriate and attractive visual transition should be achieved. This could include existing vegetation or new landscaping and/or fencing. Existing vegetation (such as wooded fence rows) should be retained as much as possible to provide buffer strips and stormwater filters. This serves a dual purpose in that woodland is becoming relatively scarce in the eastern uplands of the county, and these areas buffer different land uses ("Housing Densities," pg. 76).
- C. The design of true open space housing development should be strongly encouraged, as an alternative to the conventional subdivision divided entirely into ownership lots. To accomplish this, densities within portions of a site can be increased while the overall intensity on the site can remain basically the same. Topography, vegetation, and public improvement costs reduction should be incentives for open space design. Provision is made in the zoning and subdivision regulations for true open space design to occur under existing zoning. By increasing densities and clustering on portions of a site, these planned developments will preserve green space and/or provide space for public facility or

recreation opportunities. The overall intensity of units per acre on the whole site becomes the issue to consider when evaluating public services and relationship to the Future Land Use Map. All residential developments should be designed to preserve and utilize natural site features wherever possible ("Open Space Subdivision Design," pg. 77).

- D. The factors that will help fuel growth in this area include the improvements (expand from two to five lanes) of U.S. 42 from Florence to the Ryle High School and Gray Middle School near Froggtown Road; the extension of water and sanitary sewer lines; access to the interstate highway system and the vast amount of developable land.

Areas west and south of the Union Town Plan area, along U.S. 42, Hathaway Road, and Longbranch Road contain an existing agricultural, horse farm and estate residential character. Planning efforts, such as the Union Town Plan should be conducted in these areas. Street connections between developments and to arterials are critical in this central part of Boone County.

However, other existing roads in the area, such as Hicks Pike and Chambers Road are designed for less traffic. Significant improvements to these roadways will be needed to support extensive growth. Future development in this area should be sensitively designed to minimize impact on existing low density residential land uses, and connecting routes that take traffic off existing roadways should be encouraged. Boone County should be encouraged to work closely with the Kentucky Transportation Cabinet to improve existing roadways ("Union-West Florence Area-West Richwood Area," pp. 79 and 80).

- E. As noted previously, there is a desire of the population to live in rural areas that are convenient to the centers of commercial activity. This suggests a continuation of the outward movement of housing construction from the general Florence area. This movement is accelerated directionally by major thoroughfares such as KY 18, KY 237, US 42 and interstate interchanges. Residential development should occur near established urban or suburban areas, as opposed to leapfrogging to isolated areas, such as the western portion of the county. This will be an increasingly important issue as public water service is planned and implemented for the western parts of Boone County. For residential development to occur in these outlying areas, adequate and proper infrastructure must be provided, and impact on the natural environment must be minimized.

If public water and sanitary sewer infrastructure is implemented in currently rural areas, there would be demand for suburban subdivision densities. Just because one form of public infrastructure has been improved, however, does not mean the area is ready for suburban development. Other forms of infrastructure must be

provided as necessary. It is also possible that some areas of the county are not suitable for suburban or urban density, or may be suitable later in the twenty-five year planning horizon. Development phasing is an option to enable the timing of new development to correlate with the provision of adequate infrastructure. In addition, new subdivision development should include design considerations, and gradation of lot sizes, or both, to lessen the impact on the character of the area. "Bands" of residential lot sizes may be a model to consider in order to ensure compatibility. This is particularly true in areas of agricultural zoning, and could include larger lots or green space along the main road(s), larger lots or a buffer along adjacent low density residential uses, strategic open space, and detailed attention to the orientation of housing units ("Conclusion," pg. 80).

The Transportation Element provides the following comments that relate to this proposal.

- A. In addition to already planned improvements, certain geographic areas must develop both an interconnecting collector and local street system, as well as improved routes or connections to the interstate system. Some of these connections will be developer-built. The recommended connections listed here are in addition to existing GIS street connection layer information being used on a daily basis. Individual building lot access to these connector routes should not occur, and the connectors should be designed to serve side streets ("Street Connections," pg. 130).

The "Street Connections" section of the Transportation Element (pp. 130 and 131) also lists planned connections described as "north/south and east/west routes between Rice Pike, Hathaway, Big Bone, and Double Eagle/US 42."

The Population Element outlines population projections based on the Ohio-Kentucky-Indiana Regional Council of Government's (OKI) transportation analysis zones. The population for the zone in question (890) is expected to increase from 1,201 in the year 2000, to 4,001 in 2010, and to 6,445 in 2020 (pp. 24 and 25).

The 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).
- B. Proper design principles shall be applied in development ("Overall," Objective 3).

- C. Future growth shall be accompanied by adequate infrastructure and services. Existing infrastructure and services shall be monitored, maintained and improved as needed ("Overall," Objective 4).
- D. Boone County shall strive to achieve both a diversity and balance in land use. Land use and zoning decisions shall strive to balance the rights of landowners with the rights of the general public in a fair and impartial manner ("Overall," Objective 6).
- E. Innovative development design methods shall continue to be pursued and supported through incentives ("Overall," Objective 9).
- F. The needs of Boone County's population base are measured and fulfilled through the provision of orderly growth ("Population," Goal).
- G. New development or redevelopment within Boone County is designed, constructed and operated in such a way that the quality of the existing physical environment and social environment are enhanced. Development within Boone County preserves and promotes a better quality of life ("Environment," Goal).
- H. New development or redevelopment shall attempt to design sites utilizing existing topography and vegetation, and encourage preservation of the existing character of the land. New development shall be designed in harmony with the physical environment in such a way that each site's existing physical assets are used. Residential development design in particular should minimize grading work as opposed to clearing the entire site. Existing trees and pasture land shall be evaluated during the design and construction process as a visual and economic benefit to the community ("Environment," Physical Objective 2).
- I. Existing vegetation shall be considered as both an important site characteristic and a community resource ("Environment," Social Objective 4).
- J. A broad range of housing opportunities shall be provided which meet the needs and desires for all household types ("Housing," Objective 1).
- K. Housing supply in Boone County shall be balanced against present and planned commercial, industrial, and education needs. Primary and secondary education capacity shall be evaluated during housing development review ("Housing," Objective 4).

- L. In order to offer the citizens of Boone County maximum choice in living environment, residential development shall be judged primarily on the impact on infrastructure, buffering, and development design with only secondary consideration given to the type of dwelling units ("Housing," Objective 5).
- M. The interior street system of new residential developments shall insure continuity with adjacent built or planned neighboring areas. Residential developments shall be encouraged to provide interconnections between sections of their developments and with adjacent developments to promote safe and easy transportation access and a sense of neighborhood interaction. Based on certified traffic analysis, collector and sub-collector streets shall be evaluated to determine design without individual lot or driveway access. Lot and home buyers shall have access to approved plans regarding future connections. The interior street system shall also coordinate with and continue the evolving multi-modal transportation system (pedestrian and bicycle facilities, mass transit stops) ("Housing," Objective 8).
- O. Clustering (increasing net density while not altering overall usable density) shall be promoted by appropriate incentives in order to preserve green space, scenic views, other identified significant site features, and land for public facilities or recreation. The usability of green space must be carefully reviewed, and the provision of green space shall not in itself guarantee an increase of density. Clustered housing, or Open Space Subdivisions shall be permitted not only in planned developments, but in appropriately designed subdivisions under conventional zoning ("Housing," Objective 12).
- P. Residential developments shall be encouraged to plan and build in a manner which is compatible not only with the general housing density and design planned for the area but also with the existing conditions of the site, including the suitability of adjoining lands for appropriate access, and significant site features ("Housing," Objective 13).
- Q. Where existing infrastructure, services and the public school system are not adequate, developments shall be phased to coordinate with the provision of these items ("Housing," Objective 14).
- R. New infrastructure systems shall be built to definite planned and balanced capacities and for definite urban and rural forms ("Public Services and Facilities," Objective 2).

- S. Priorities for growth within any individual infrastructure system shall be based on the predicted needs of specific areas as prescribed by the future land use projections of this plan. No infrastructure system shall commit the county to excessive growth by the system's expansion ("Public Services and Facilities," Objective 3).
- T. New connector streets shall be developed where needed and feasible thus lessening the total dependence on arterial, collector, and local streets. Existing connector streets shall be improved where needed ("Transportation," 2<sup>nd</sup> Goal, Objective 2).
- U. Proper vehicular and pedestrian access to adjoining property shall be provided and/or retained when a property develops or redevelops ("Transportation," 2<sup>nd</sup> Goal, Objective 3).

#### STAFF COMMENTS

1. The governing bodies will need to determine whether the proposal is in agreement with the Comprehensive Plan. The Future Land Use Map designates the site for "Suburban Residential" uses, a designation which extends westward approximately 1,600 feet from the site's western boundary on the south side of Rice Pike, and approximately 4,400 feet on the north side of Rice Pike (refer to the attached "Future Land Use - Large View"). As the SR designation permits up to four units per acre, this development proposes 1.5 units per acre (slightly higher than the adjoining Lassing Green Subdivision which has 1.34 units per acre). Both the Land Use Element and Population Element acknowledge that the area at large will experience substantial residential growth. The Population Element forecasts a substantial increase in population for the traffic zone in question, although the population forecast is for the zone at large and should not, in and of itself, be construed to endorse a particular land use or density on a specific parcel.

In addition to use and density, the Comprehensive Plan puts great emphasis on design, compatibility, retention of existing site features, and transitions between areas and developments of differing character, including progressions of density. In particular, the Land Use Element recommends that open space style subdivisions be considered to blend new subdivisions in with areas that have a rural character. It also recommends that a band of larger lots with larger setbacks be provided around the perimeter of a development to create an appropriate transition to adjoining areas with a rural character; the houses on the lots that adjoin the existing road would face the street to correlate to the rural frontage lots. Such developments should also include elements which mimic or reinforce the rural corridors, such as green space, and tree and/or fence lines - "grandiose" entryways may not be appropriate. These basic tenets are also discussed in the Housing Element.

The new Comprehensive Plan also puts more emphasis on specific transportation improvements. In addition to mentioning street connections between sites, the Transportation Element specifically lists planned connections described as "north/south and east/west routes between Rice Pike, Hathaway, Big Bone, and Double Eagle/US 42." An exhibit in the draft Boone County Transportation Plan (not adopted; "Potential Subdivision Street Connections" exhibit is attached to the Geohegan memo referenced later) specifically illustrates the alignment of the Rice Pike/Hathaway connector running along the west boundary of the subject site, an alignment which could necessitate the dedication/acquisition of right-of-way from the subject site if it were adopted and implemented.

The governing bodies will also need to consider whether the current zoning is inappropriate and the proposed zoning is appropriate, and whether there have been changes of an economic, physical, or social nature not anticipated in the comprehensive plan that substantially alter the area's character.

2. As noted above, the Comprehensive Plan emphasizes appropriate design and relationships between new developments and adjoining areas with a rural character. As such, staff has the following comments regarding design issues.
  - A. Several sections of the Comprehensive Plan discuss the use of larger lots along existing roads, facing the houses toward the existing roads, or the use of green space bands along such roads. The applicant's narrative submitted with the original proposal basically states that larger lots have been provided along Rice Pike to better assimilate the development with the rural corridor. While this is true for the larger part of the development's frontage, the size and width of the frontage lots in the western part of the subdivision are more reflective of a "subdivision" environment. These lots could be enlarged/widened to have more of a "rural estate" character with the "lost" home sites being shifted elsewhere within the development. Facing the houses on all of the frontage lots to the existing road would be more indicative of the existing structures across Rice Pike and to the west, although access to these houses would most likely need to come from the interior subdivision roads due to sight distance concerns, which could cause some degree of driver confusion for all but the proposed corner lots with the current design (note - the current proposal is to have no direct lot access from Rice Pike). If the houses along Rice Pike were to face the road, the houses on lots 82 and 83 (first lots by the lake within the direct view shed from Rice Pike) could also be oriented southward.

- B. The Comprehensive Plan also discusses the use of elements such as board fencing and trees along the rural corridors. While these improvements are not addressed in the proposal, they could readily be incorporated into the plan. Drawing from existing improvements in the area, Staff's recommendation is to provide a board fence and regularly spaced canopy trees along the Rice Pike frontage, with the exception of the low area where the lake outlets across the road, where informal clusters of native plantings could be opted and should include screening for the pump station. The rural street tree scheme would be further reinforced by extending the trees along the main entry road within the subdivision to at least the first intersection, but preferably along it's entire length to the "T" intersection.
  - C. Both the Land Use and Housing elements discuss the progression or gradation from higher to lower densities. Due to design considerations and site conditions, the apparent density in the development increases (due to reductions in the lot sizes and/or widths) from east to west versus decrease. The governing bodies will need to determine whether a more profound "downward" progression within the development to the west is warranted, especially when considering that there is a fairly substantial area to the west planned for Suburban Residential uses (refer to attached "Future Land Use - Large View"), or whether a design truer to the open space or cluster subdivision concepts is appropriate to serve this purpose. Of note, the widths of the lots in the east part of the proposed development are comparable to the adjoining lots in Lassing Green Subdivision.
  - D. The Concept Development Plan illustrates conceptual grading and existing vegetation that would presumably be retained. As this vegetation is mostly around the perimeter of the site, and depending on the location, provides some visual separation to the adjoining areas, Staff recommends that all healthy, existing vegetation in the perimeter areas be retained.
3. Staff has the following comments regarding transportation related issues.
- A. While the proposed intersection with Rice Pike appears to be situated in the best location from a driver visibility standpoint, it is not clear that the sight distance standards in Article 32 will be met. The applicant should provide field data to the Zone Change Committee to verify compliance. Concerns regarding sight distance also relate to the possibility of individual driveways on Rice Pike if the houses were to face the road as discussed above (again, the current proposal is to have no direct lot access from Rice Pike).

- B. The site adjoins the Ryle High School/Gray Middle School/Shirley Mann Elementary School campus. Due to this immediate proximity, a pedestrian link between this development and the three school campus should be provided, as was done with the neighboring Lassing Green development. Such a connection is further explained in the attached 10/31/05 memo from Kevin Costello, Executive Director, to Michael Hibbett, Boone County School District. The "open space" tract and "open space easement" in the northeast corner of the site can be used for this purpose.
  - C. The Concept Development Plan includes a local street connection to the "Meiman" property to the north. Based on the topography and configuration of the existing tracts, this connection (barring other major road network improvements that affect these properties like those discussed in the memo referenced below) is necessary and is in accordance with the requirements of the Boone County Subdivision Regulations and fulfills directives of the Comprehensive Plan.
  - D. A memorandum from Dave Geohegan, Director of Planning Services, regarding street connections and the major street network is attached.
4. The application includes front and rear setback Variances for three flag lots (lots 66, 73, and 74). As the zoning regulations require the front yard setback for flag lots to be oriented in one specific way (measured from the rear property line of the adjoining lot that immediately faces street), the requested Variances would allow the houses to be rotated ninety degrees to correspond to the orientation of the proposed lots. Based on the proposal, the lots in question would still have setbacks which served in some normative capacity as the respective 40 foot front and rear yards and 10 foot side yards. With the exception of the east property line of lot 66 which is near Lassing Green (where the minimum setback would be increased from 10' to 40' based on this proposal), the proposed setbacks do not affect areas outside of the development. The Planning Commission needs to evaluate the requested Variances in light of the criteria in Section 251 of the Boone County Zoning Regulations (attached).
5. Comments from the Boone County Schools are summarized in the attached letter from Bryan Blavatt, Superintendent.
6. Gary Aman of Sanitation District #1 stated that the District has approved the sanitary capacity for the development. Phil Trzop of the Boone County Water District has commented that water service can be provided to this site.

7. Several of the neighboring property owners have expressed concerns to Staff about potential storm water impacts from the proposed development onto the adjoining properties. These concerns have dealt largely with point discharge issues (velocity, erosion, etc.) versus detention volume for the overall development. The applicant should explain how these matters will be addressed as they are not explained in the application materials or on the plan.

### CONCLUSION

This request needs to be evaluated by the Boone County Planning Commission and the Boone County Fiscal Court in terms of the three criteria necessary for approving a Zoning Map Amendment as stated in Article 3 "Amendment" of the Boone County Zoning Regulations and the potential impacts on the existing and planned uses in the area. The requested Variances need to be reviewed by the Planning Commission in light of the criteria in Section 251 "Application and Standards for Variances" of the zoning regulations. The Future Land Use Map will not need to be amended if this request is approved.

Respectfully submitted,

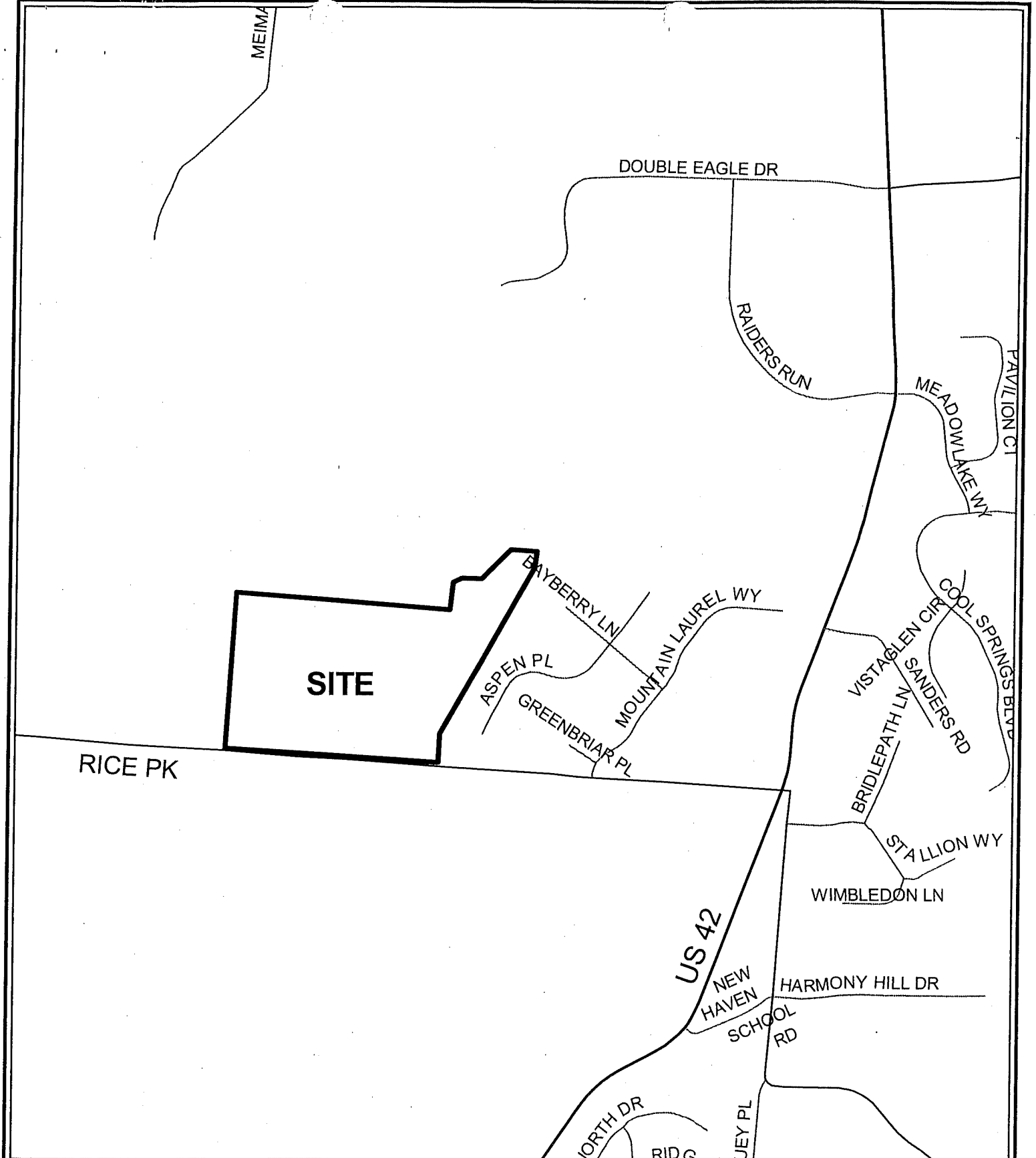


Kevin T. Wall, AICP  
Director, Zoning Services

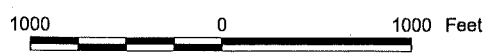
KTW/pr

attachments:

- location map
- aerial photo w/zoning
- Future Land Use Map excerpt
- Future Land Use Map large view excerpt
- topographic map
- 10/31/05 memo from Kevin Costello, Executive Director, to Michael Hibbett, Boone County School District
- 1/12/06 memo from David Geohegan, Director of Planning Services to Kevin Wall, Director of Zoning Services
- Section 251 "Application and Standards for Variances" of Boone County Zoning Regulations
- 1/16/03 letter from Bryan Blavatt, Superintendent, Boone County Schools
- application materials including Concept Development Plan
- written public comment received to date

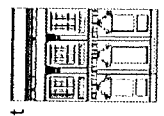
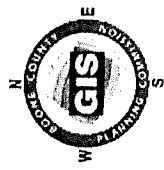
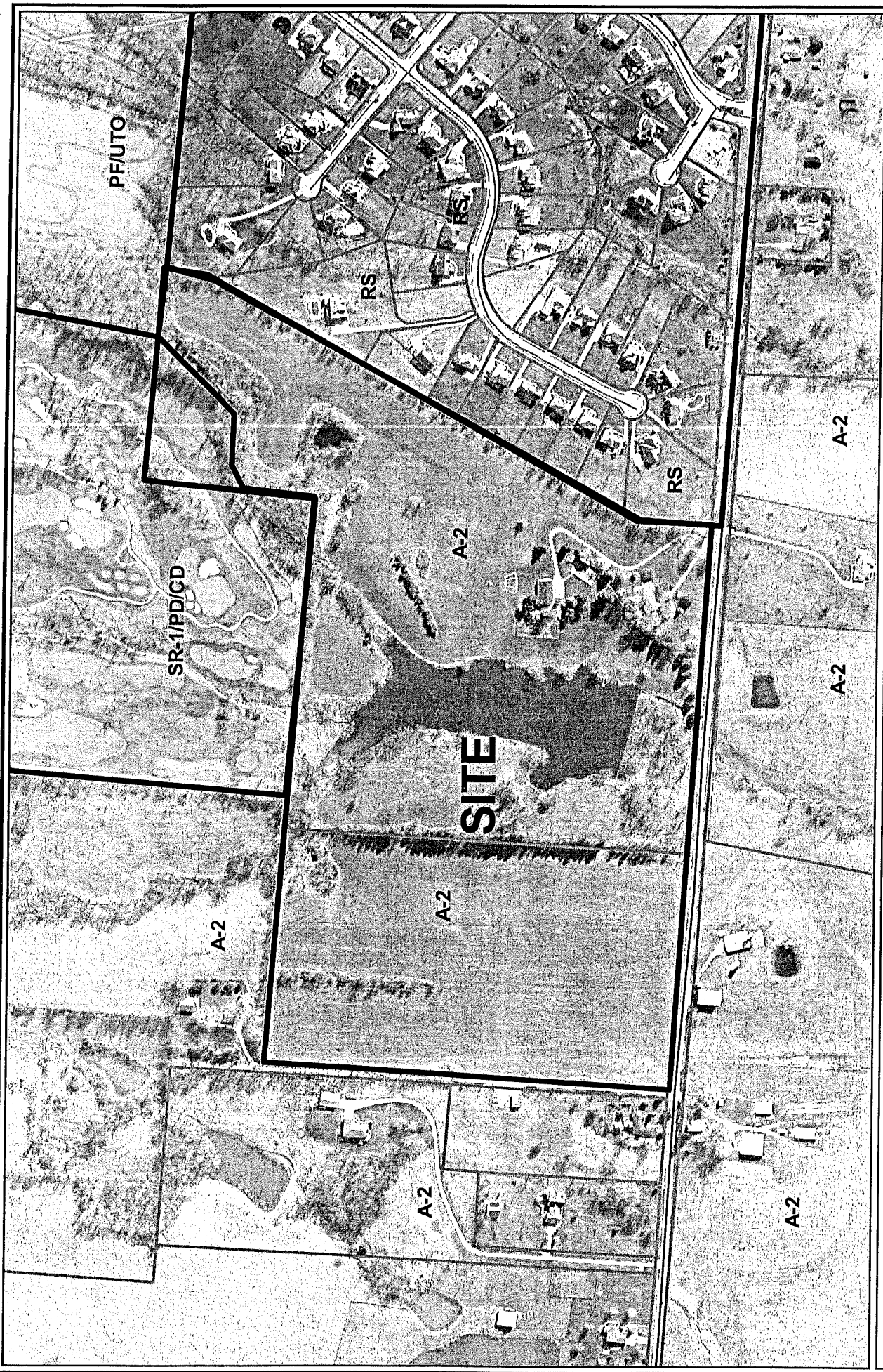


# Location



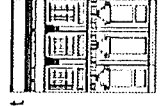
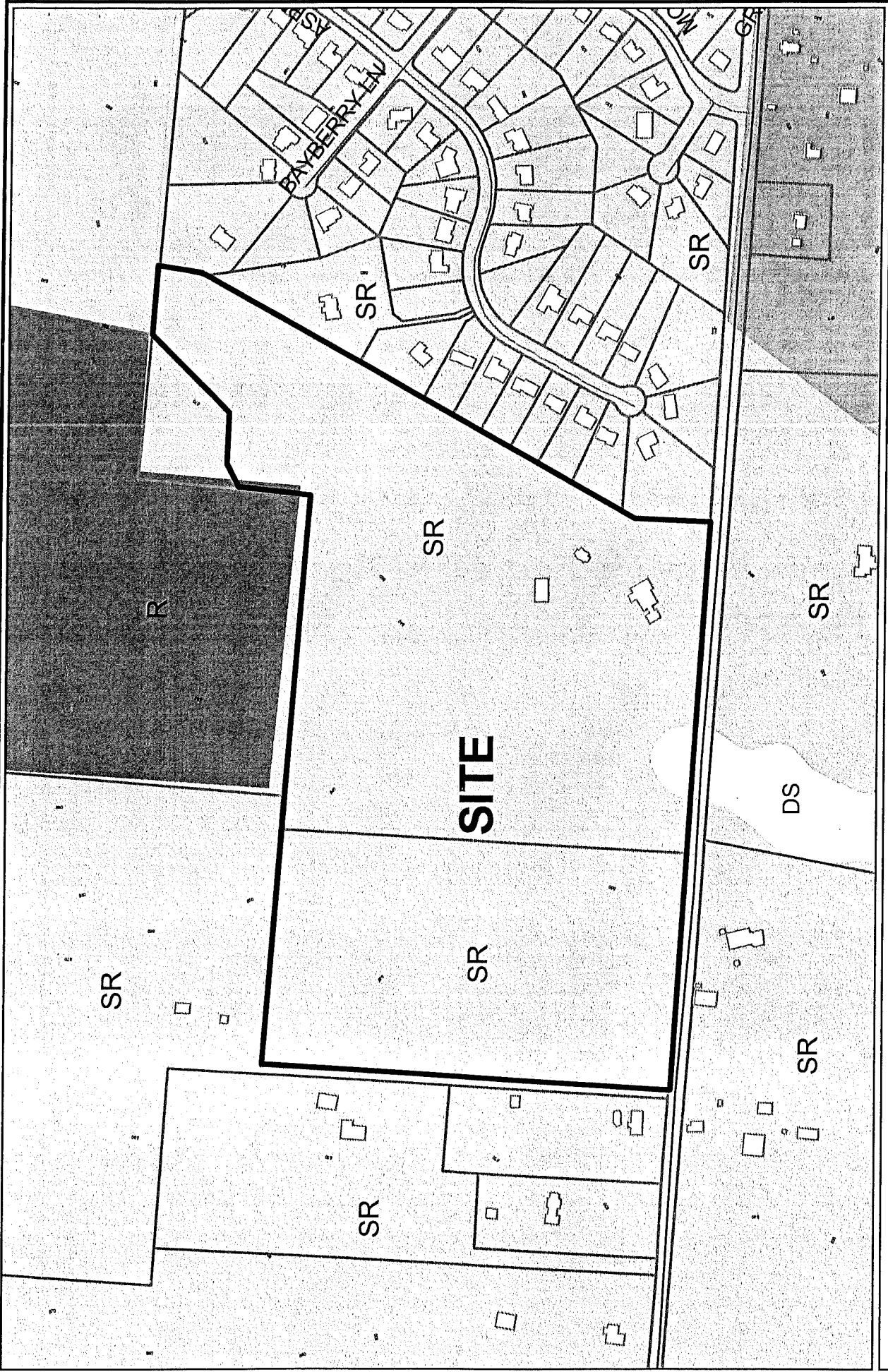
1 inch equals 1000 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 November 3, 2005





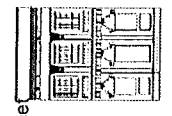
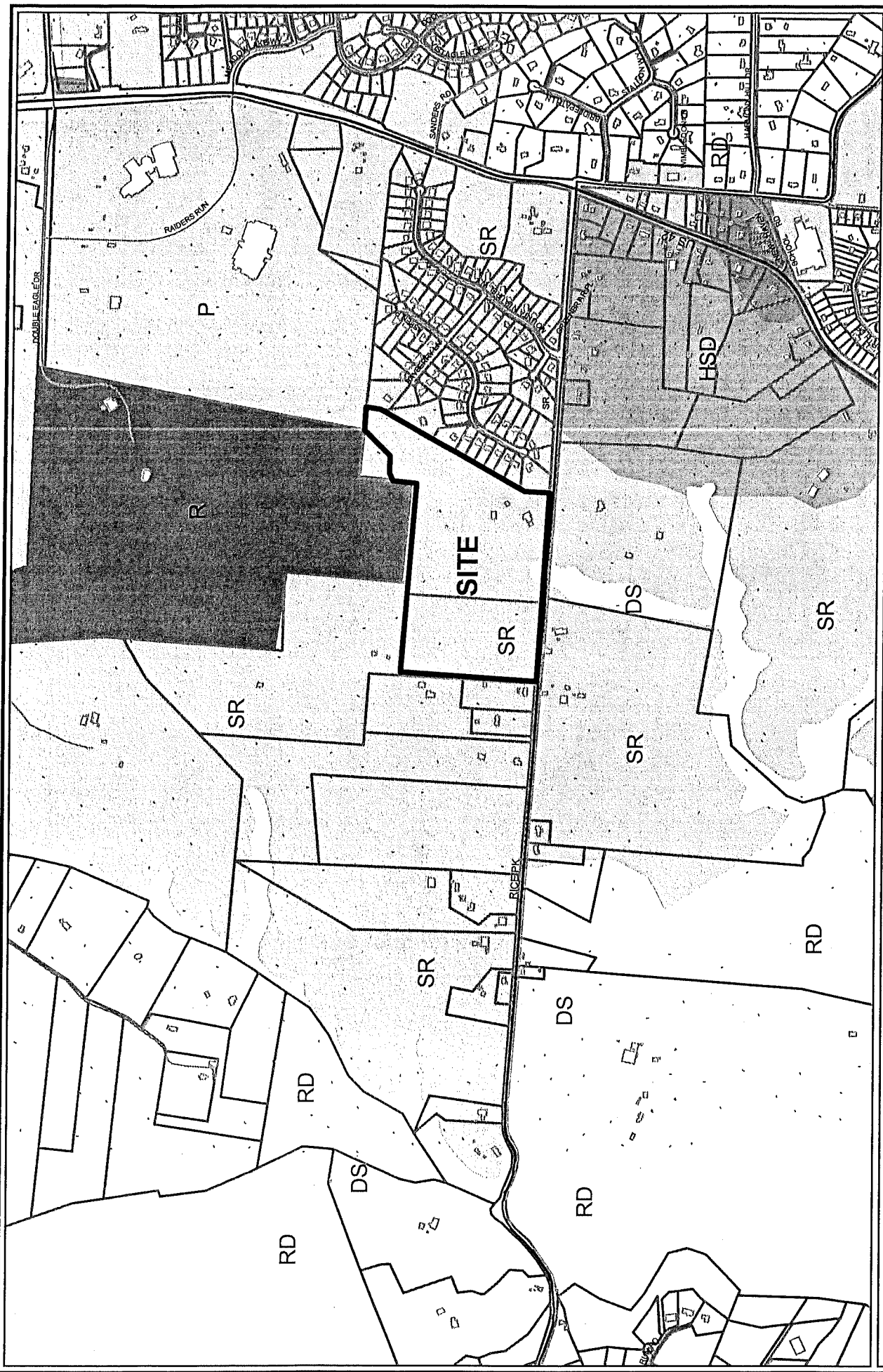
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Boone County Planning Commission  
GIS Services Division  
November 3, 2005

# Zoning



1 inch equals 400 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
November 3, 2005

# Future Land Use

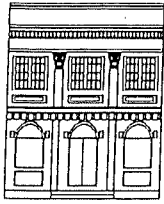


1 inch equals 1200 feet  
 Produced by the  
 Boone County Planning Commission  
 GIS Services Division  
 November 9, 2005

# Future Land Use - Large View



# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

[www.boonecountyky.org](http://www.boonecountyky.org)

Phone: (859) 334-2196

Fax (859) 334-2264

E-mail: [plancom@boonecountyky.org](mailto:plancom@boonecountyky.org)

## MEMORANDUM

**TO:** Michael J. Hibbett  
Boone County School District

**FROM:** Kevin P. Costello, AICP *KPC*  
Executive Director

**DATE:** October 31, 2005

**RE:** Toebben Property - Rice Pike

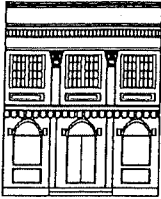
**CC:** Kevin T. Wall, AICP, Director of Zoning Services

I received your letter dated October 27, 2005 regarding the Toebben property located next to the new Shirley Mann Elementary School. For your information, our staff has met with the developer concerning a proposed residential subdivision. In discussing the proposed project, we informed the developer about an existing trail system from Lassing Green Subdivision to the Ryle High School campus. In doing so, we also told the developer about the location of Shirley Mann Elementary School. It is our opinion that the developer should explore the possibility of extending a pedestrian trail from the proposed residential subdivision through the school property to link up with the existing pedestrian trail. The primary reason for exploring this trail is to encourage students to walk to school since the proposed subdivision is adjacent to the three-school campus. This is for convenience and would save on transportation costs. Further, it meets the planning objective of creating residential areas near public facilities.

It is our recommendation that the developer meet with the School District to discuss where the trail would be located in the proposed subdivision and on school property. In addition, it should be determined who would be responsible to build and maintain the trail.

I trust this memorandum is sufficient in meeting your needs.

# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

## MEMORANDUM

Phone: (859) 334-2196

Fax (859) 334-2264

E-mail: plancom@boonecountyky.org

**TO:** Kevin T. Wall, AICP, Director of Zoning Services

**FROM:** Dave Geohegan, AICP, Director of Planning Services

**DATE:** January 12, 2006

**RE:** Redstone Village

The Red Stone Village Zoning Map Amendment that you are reviewing has some potential impacts on the existing and future planned road system in Boone County. I have visited the site, reviewed the draft 2005 Boone County Transportation Plan, and have several recommendations to assist the planning commission in the project review.

The 2005 Transportation Plan is not adopted yet by the Planning Commission or Fiscal Court, but does make some strong recommendations regarding future street connections. The document is specific on map alignments of connections, as well as on the type and function of future connections.

The Plan indicates a north-south future connection between Rice Pike and Hathaway Road. The location is specified as the west edge of the zoning map amendment site, and is a relatively straight alignment northward to Meiman Lane off Hathaway Road. The alignment depicted in the Plan includes an existing approximately 20 foot wide strip of one of the adjoining Meiman properties. A portion of the Potential Subdivision Street Connections map from the Plan is attached.

This recommended connection is referred to as an Access Controlled (AC) type roadway, which is defined as a 2 lane roadway with left turn bays as needed, or 3 lane roadway. This type of connection is recommended not to have individual lot access. Examples of similar roadways include Wetherington Boulevard, Grand National Boulevard, Hanover Boulevard and Oakbrook Drive. Often these types of roadways are constructed as part of a large planned development, however, the Transportation Plan has recognized the need for these roadways throughout many developing areas of Boone County where they may be implemented segment by segment.

I see three options (numbered in order of priority) for providing this future connector road in light of the zoning map amendment the planning commission is currently reviewing:

1. Work with the developer (if approved) to design the access controlled connector road through the development, using the proposed residential access point on Rice Pike and providing access to residential lots from side streets. This design would adjust the submitted local street connection concept and would place the connector road intersection at a favorable location in terms of sight distance along Rice Pike. It appears that the submitted concept development plan could be adjusted to yield the same number of lots that are currently proposed. There may need to be several residential lots that access this connector roadway in the southwest corner of the site. The developer has worked on a design for the connector road that would proceed toward the west property line and then curve north. In addition to the construction of the roadway to that point, I recommend that this proposed development include dedication of an approximately 30 foot wide

strip of right-of-way from that point to the northwest corner of the site. This northern portion of the roadway could be constructed as part of future development expected to occur to the north and west of the site.

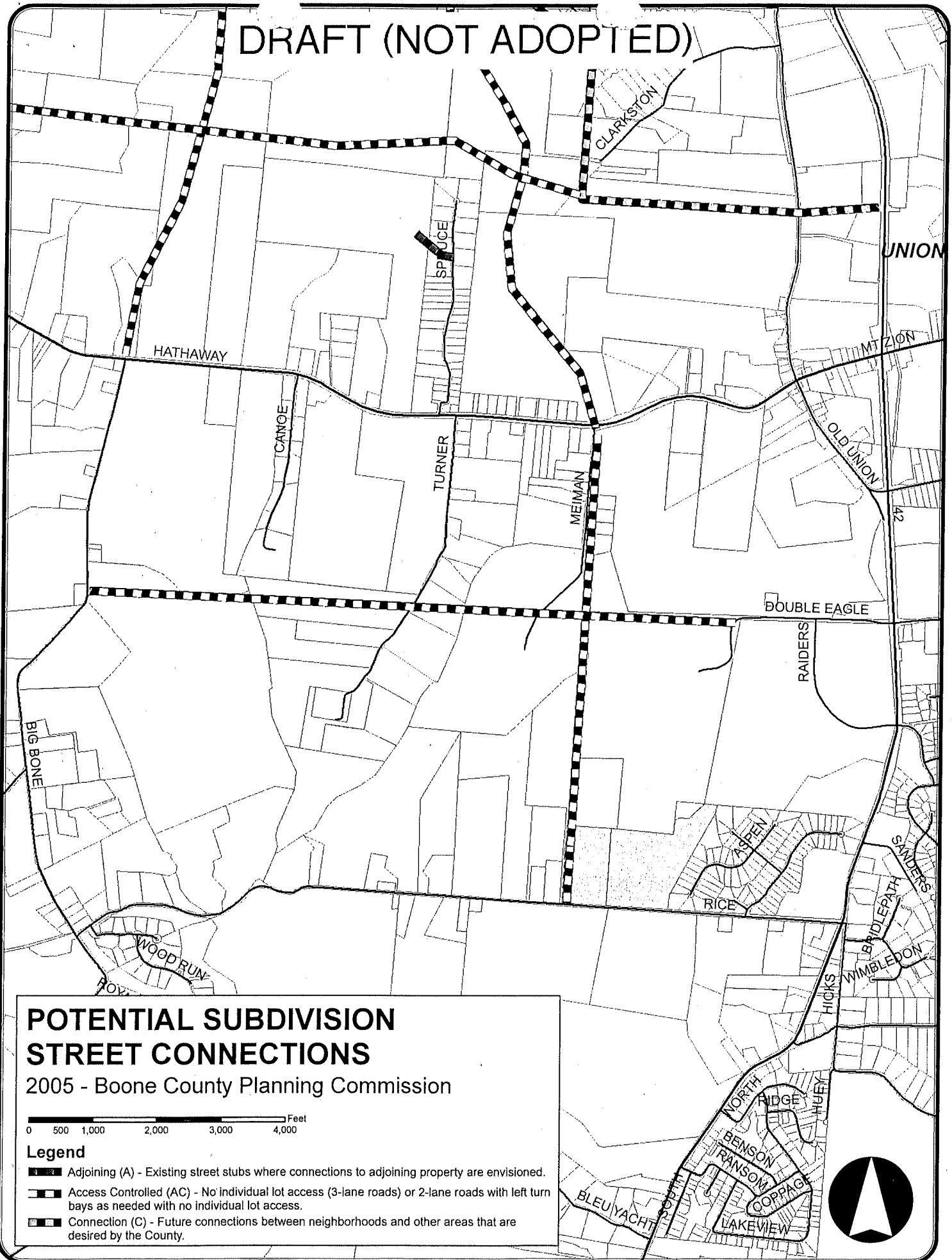
2. Work with the developer (if approved) to reserve an additional approximately 30 foot wide strip along the west edge of the site to combine in the future with the existing approximately 20 foot wide Meiman ownership in order to provide enough right-of-way to accommodate a future roadway. This location of an intersection, however, would require major improvements to Rice Pike to overcome severe sight distance limitations at this point.

3. A connector road route that intersects further west on Rice Pike encounters more severe topographic issues, involves more property owners, does not serve the intent and purpose of the 2005 Transportation Plan. It also may be located too far west to adequately serve this future residential growth area.

In conclusion, this issue needs to be addressed to prepare for potential development impacts and provide for the future orderly and well-planned development of this section of the county and should be examined during public hearing and committee review. Let me know if you have any questions or need to further examine the impacts of the development.

DAG/pr

DRAFT (NOT ADOPTED)



## **SECTION 250**

### **Dimensional Variance**

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

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

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

## **SECTION 251**

### **Application and Standards for Variances**

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

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

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

## **SECTION 252**

### **Supplementary Conditions and Safeguards**

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

## **SECTION 253**

### **Notice of Hearing**

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

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

## **SECTION 254**

### **Action by Board of Adjustment and Zoning Appeals**

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

## **SECTION 260**

### **Conditional Use Permits**

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

## **SECTION 261**

### **Contents of Application for Conditional Use Permit**

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

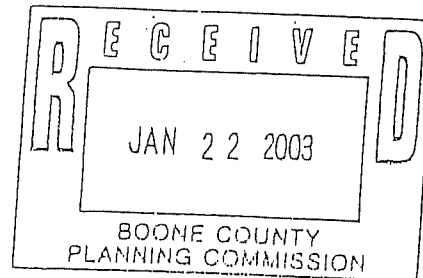
BRYAN A. BLAVATT  
Superintendent of Schools

8330 U.S. 4  
Florence, KY 410  
Phone: (859) 283-10  
Fax: (859) 282-23  
[www.boone.k12.ky.u](http://www.boone.k12.ky.u)

**BOONE COUNTY SCHOOLS**

January 16, 2003

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



Dear Kevin,

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

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

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

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

Sincerely,

Bryan Blavatt  
Superintendent of Schools

**\* REVISED \***

APPLICATION FORM

**ZONING MAP AMENDMENT  
BOONE COUNTY PLANNING COMMISSION**

DEC 20 2005

(See Boone County  
Zoning Regulations)

SECTION A (To be completed by applicant)

1. Name of Project RED STONE VILLAGE
2. Location of Project RICE PIKE
3. Total Acreage of Site 55.966
4. Current Zoning of Site A-2
5. Proposed Zoning (Classification being requested) RS
6. Proposed Uses (please specify each use)  
84' lots for single family detached homes
7. Names of Applicant(s) TOGBBEN LTD.
8. Phone Number 859-331-1560 Fax No. 859-331-9702
9. Address of Applicant(s) 541 BUTTERMILK PIKE, STE 10A  
CRESCENT SPRINGS KY 41017  
City State Zip
10. Name of Property Owner(s) WALTER & KAREN TERRELL
11. Phone Number \_\_\_\_\_ Fax No. \_\_\_\_\_
12. Address of Property Owner(s) 2188 RICE PIKE  
UNION KY 41091  
City State Zip
13. Proposed Building Intensities (please specify) \_\_\_\_\_
14. Are there any existing buildings on the site? YES
15. How many? ONE RESIDENCE AND TWO OUTBUILDINGS
16. Deed Book 428 Page No. 179 Group No. 2055
17. Are you also applying for:  
 Conditional Use Permit  
 Dimensional Variance (FLAG LOT SETBACKS)
18. Have you submitted a Concept Development Plan? ATTACHED
19. Have you had a pre-application meeting with BCPC Staff? YES
20. Please check the following organizations/agencies which you have discussed the proposed development within the last several months:

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

(over)

ZONING MAP AMENDMENT  
APPLICATION  
PAGE 2

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

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

19. Applicant's Signature Neil Whitmore *subchalf of Toebben Companies*
- Property Owner's Signature Walt Small Karen Anne Ferrill

SECTION B (To be completed by BCPC Staff)

1. Date Received 12-20-05
2. Review Fee \$ 370.00 ~~445.72~~
3. Check what has been submitted:
  - Application
  - Fee
  - Legal Description
  - Concept Development Plan
  - Address of Adjoining Property Owners
  - Number of copies of plan received\*\*
4. Is application complete?  Yes  No
5. Staff Reviewer KTW
6. Committee Chairman \_\_\_\_\_
7. Scheduled Public Hearing Date 1/18/05
8. Boone County Planning Commission Action:
  - Approval
  - Approval with Conditions
  - Denial
9. Other: \_\_\_\_\_

\*\* Five (5) Copies Are Required

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

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




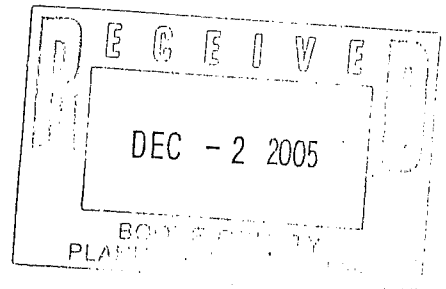
12/1/05

Kevin T. Wall  
Director of Planning Commission  
Burlington, KY

This memo is directed to the project engineers regarding the Terrell property. Special attention needs to be paid by the project engineers to make sure that the post-development water run-off is no more than the pre-development/agricultural. Currently, there is some run off water but never any amount to keep me from crossing that section in order to maintain and mow my property. Otherwise, there could be a real problem not allowing me to maintain a section of property. I have experienced a problem from the Lassing Green development. Thank you.

Sincerely yours,

  
John Collett



**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
COURTROOM 3A  
January 18, 2006  
7:30 P.M.**

**PUBLIC HEARINGS**

**Commission Members Present:** Mrs. Arnett, Mr. Barlow, Mr. Bungler, Mr. Caddell – Chairman, Mr. Carmichael, Mrs. Kegley, Mr. Knock – Temporary Presiding Officer, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Rolfsen, Mr. Schwenke, and Mrs. Wilson – Secretary/Treasurer.

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

**Legal Counsel Present:** Mr. Dale Wilson

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:35 PM. Following an explanation of the public hearing process, he introduced the first item on the Agenda:

**Applicant:** Toebben Ltd. for  
Walter Terrell and Karen Terrell (owners)

**Request:** Zoning Map Amendment and Variances

**The request of Toebben Ltd. (applicant) for Walter Terrell and Karen Terrell (owners) for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS) and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single-family residences.**

Staff Member Kevin Wall presented the Staff Report which included a Power Point presentation (see Staff Report). He stated that the Boone County Transportation Plan has been adopted since the Staff Report was written. In regard to Staff Comment 3.B., he stated that the School Board has indicated that they do not want to pursue a pedestrian link between this development and the school.

The Chairman asked for the applicant's presentation.

Mr. John Toebben, 952 Rosewood Drive, Villa Hills, is Vice President of the Toebben Companies, a family-owned and operated company that has been developing and building residential real estate in this area for over fifty years. They built County Squire Estates in Villa Hills and it has received national and local attention for excellence in planning and design since 1967. The proposed development will be their first residential community in Boone County. He introduced Jay Bayer with Bayer-Becker Engineers and Bob Calvert, their legal counsel. Mr. Toebben stated that the proposed development is a nice transition from one community to the next. It is adjacent to the public golf course and the school. The number of homes proposed is well below what the Comprehensive Plan allows and the development blends well with the community to the east. They plan to establish a Homeowners' Association to maintain the amenities in the community. The design works well to preserve the vegetation on the perimeter of the property. They farmed the property themselves until the present time. He stated that in Lassing Green ten homes have the rears facing Rice Pike and they can bring the homes into the community by having them face the internal subdivision. They will work with Staff to coordinate landscape buffers and street trees along Rice Pike. They have a lift station planned and it will be screened. They plan to keep the existing lake and use it to minimize runoff and provide open space for the community. He stated that the development is a nice separation between two different levels of houses and communities. They planned to meet with Boone County Schools on Friday, but may cancel that meeting as the schools do not want the path connection.

Mr. Bob Calvert, General Counsel for the Toebben Companies, stated that they have concerns over the recent update to the Transportation Plan and the recommendation that a boulevard be constructed along the west property line. They are interpreting that the Toebben Companies would be required to contribute sufficient right-of-way to construct that roadway. He stated that the Comprehensive Plan states that the Transportation Plan is a guide and that it is being updated for 2005. He stated that the Transportation Plan is a separate document from the Comprehensive Plan and is not an amendment to the Comprehensive Plan. It is one of many planning tools and does not have the same force and effect of the Comprehensive Plan. He stated that the update was adopted last night and there are a number of recommendations, including recommendations concerning collector streets or boulevards, and they have not had sufficient time to digest all of the recommendations. He stated that John Toebben had at least two meetings with Staff and there was no mention of potentially having to put a boulevard through there or contributing right-of-way for the boulevard. They understood that the Development Plans were consistent with the Comprehensive Plan and thought they were safe to move forward with the project. After they submitted an application for the map amendment, they found out about the Transportation Plan and it was like having new rules thrown

at them at the last minute. They had an option on the property and felt comfortable enough to close the transaction – but if they had known they may have to contribute right-of-way, they may not have made that decision. He stated that this is a fairly small development and the contribution of right-of-way would have a major impact, not only financially, but also on the number, size and value of the lots. They would be underwriting a significant portion of the cost of a boulevard that is not beneficial to the development. The boulevard would be expensive for Toeppen and for the county in terms of construction and maintenance. He stated that emphasis is placed on saving vegetation and there is a row of trees on the western property line that would be removed as a result of the roadway, which affects the aesthetics inside and outside of the development. He stated that boulevards and collector streets are typically part of much larger developments like Triple Crown or Oakbrook. This is not a development of that magnitude. He stated that there is a sight distance problem at Rice Pike and it sounds like it is expensive to correct it. Their consultant does not see a future traffic increase to justify a boulevard between Hathaway Road and Rice Pike, especially considering that it is so close to U.S. 42. The cost of updating Rice Pike at the intersection, the reconstruction of at least two holes of Lassing Green golf course, right-of-way acquisition and the cost of construction and maintenance of the road are considerable. They feel that they have adequately provided for the traffic associated with this development and have stubbed in a road to the Meiman property which would handle the traffic flow that would result from the development. The collector road as it goes towards Hathaway Road passes along the property line of the golf course. He stated that the Comprehensive Plan states that one of the objectives of establishing a connector road is the intent of providing collector roads to side streets and along that stretch they do not have side streets on one side of the road and it is inconsistent with that objective. The Goals and Objectives of the Comprehensive Plan state that with future growth there should be adequate provision for infrastructure. Their plan is consistent with that and other aspects of the Comprehensive Plan. The requested zone is appropriate for the area. He asked for approval of the request.

Mr. Jay Bayer, a civil engineer and land surveyor with Bayer-Becker Landscape Architects, Engineers and Land Planners, stated that the lake in the center of the site will be preserved and used as a stormwater detention basin. They will preserve as much vegetation as possible on the perimeter. They will grade the site down on the east side. The streets will be down below the property line on the east and they will preserve the vegetation on the east side. Along the north side, they will have use of the golf course. Along the west side, they will try to preserve the existing tree line and not extend a roadway along that edge. The lots along the front are larger to improve the view from the perimeter. The sanitary sewer lift station will pump to the east and tie into Lassing Green lift station. They have conceptual approval and there is sufficient capacity in that lift station to receive the flows. There is an 8" water line along Rice Pike and they will extend water through the development. There is potential development to the northwest and they will stub the line in that direction. They have done

preliminary field work and with a slight adjustment to the entrance they can make the sight distance work to the County Engineer's approval. He reviewed Section 251 of the Zoning Regulations in regard to the requested Variances. He stated that it would be a hardship to move the two lots at the upper end of the lake down the hill and would cause more money to be spent on grading and clearing of trees. He stated that they tried to create similar lot sizes to the east towards Lassing Green and on the west side there is a suitable distance to make the transition to a rural area. They do not believe there is a transition issue on the site because they are located in the center of the SR zone. This concluded the applicant's presentation.

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

Mr. Jeff Lawson, 10682 Aspen Place, stated that he is not necessarily opposed to the development, but he has some concerns. He stated that there are two major issues that must be addressed in order for the development to be in line with the Union City Plan and the green space in Union. There are concerns about safety in regard to the additional traffic that will be generated. There is a major blind spot when turning out of Lassing Green onto Rice Pike. There have been accidents and near-accidents there and with the increased flow of traffic, something has to be done. Lot 60 is a flag lot and they are asking for a Variance. He stated that considering the back yards in Lassing Green, the goal is to create space – but the flag lot is as close as can be to the back yards. He stated that the flag lot is not necessary. He asked that the applicant be required to keep the perimeter tree buffer. He stated that the increased traffic is a concern and there are quite a few other developments that will also happen. He is concerned about increased accidents. The intersection of U.S. 42 and Rick Pike needs to be addressed before there are more houses and traffic in the area. The Chairman asked Mr. Lawson to indicate the blind spot on the Power Point slide. Mr. Lawson reviewed the slide and indicated a dip and a hill in relation to the entrance to Lassing Green. He stated that Rice Pike dips down immediately after the entrance to Lassing Green and when people pull out of the subdivision they have to wait because they can see oncoming traffic at the top of the hill and then the road dips down and there is a blind spot.

Mr. Bill Smith, 2355 Rice Pike, speaking for the Smith family, stated that they have lived there for 45 years. He indicated three places on their farm that will be affected by the water runoff. He submitted pictures taken of their property (see Exhibit 1). He does not see that any retention is being provided. He stated that as soon as the vegetation is taken off the property, they will get a lot of new water runoff. He is particularly concerned about an area between his father's house and his house. He will keep pre-development pictures of their property in his safe. He stated that concrete, blacktop, and roofs do not absorb water and he would like the Planning Commission to address the runoff issue. He stated that when school

is getting out and people are go to and from work it is difficult to get off Rice Pike and onto U.S. 42. A traffic light or something needs to be done there. On U.S. 42, especially going south, there is a blind spot and it is a major problem with people coming out on Rice Pike.

Carolyn Sampson, 2274 Rice Pike, west of the proposed development, stated that she does not want the boulevard to come from her property. She agreed with the previous speakers regarding safety. She stated that the Comprehensive Plan says the area is "rural" but she does not see how "rural" relates to a boulevard and 85 houses on 55 acres. She questioned how far the back door of the closest house would be from her house and where the property for the boulevard will come from. She asked that safety be considered.

Mr. Joe Meiman, 10217 Meiman Drive, an adjacent property owner, questioned water retention. He asked if the level of the lake will be raised. He stated that in a heavy rain, the lake currently backs up to the fence. If the lake is maintained as it is or if the water level is raised, the water will back up onto his property. He stated that the Comprehensive Plan talks about a transitional area and he would like to see this property developed less dense than Lassing Green instead of more dense. He indicated his hayfields and the golf course. He stated that the Comprehensive Plan addresses that the development should build an un-climbable fence between the two properties. He stated that in 1991, the golf course put up the fence they agreed on. He is concerned about additional runoff and the fencing, and he wants less density. In response to a request from Mr. Knock, he indicated on the Power Point slide how the lake backs up towards his property in a good rain. He indicated the location of a fence. He stated that the fence is addressed on Page 95 of the Comprehensive Plan.

Chairman Caddell asked Mr. Costello to address the comments made about a potential boulevard. Mr. Costello stated that the county updated the Transportation Plan recently. The Transportation Plan deals with the existing and future roads. The complete document is available on the website and copies are available in the Staff Office. The recommendation is to make Rice Pike a safer road and to widen it in the future (depending on funding). The plan looks at a new road network that takes people north, south, east and west and one of the concepts is a north/south route that would go from Rice Pike up to Hathaway Road. No exact route was selected. He stated that even if a road like that were to be built, the county or whoever builds it, would have to seek the permission of the property owner. He stated that the Transportation Plan indicated a potential road and Staff wanted to discuss that potential with the developer as to how feasible it would be. The road would be dependent on all of the property owners affected by it. He stated that people are focusing on the road, but should be looking as importantly at the proposed use at this time. Chairman Caddell stated that "concept" is a key word. The road is a concept.

Mr. Doug DeLander, 10694 Aspen Place, supported the comments made by Mr. Lawson. He supports preserving the tree line on the east side between Lassing Green and this development. He questioned the impact on the water pressure in Lassing Green, the value of the proposed homes, and deed restrictions. He asked if Toebben would be the builder or if the homes will be subcontracted out to other builders. He asked if Toebben will sell lots to other builders. Chairman Caddell stated that the developer may not be in a position to answer some of Mr. DeLander's questions and they may not have a lot of bearing on a decision regarding the zoning of the property.

Mr. Brian Schlucter, 10690 Aspen Place, stated that Lots 50 – 60 on the east side facing Lassing Green are not consistent with Lassing Green. He is concerned about traffic and safety at U.S. 42 and Rice Pike. He stated that the Transportation Plan, working paper #5, prioritizes inexpensive improvements in the county. At Rice Pike and U.S. 42 it references a \$2,200 construction cost to remove an embankment (it was #1 in the 1 –3 Year Plan).

Mr. John Mefford, 10710 Aspen Place, stated that coming here this evening it was almost impossible to see lights coming up in the blind spot. He questioned a stop sign at Rice Pike and Mt. Laurel to slow down the traffic. He stated that it is difficult to get in and out on Rice Pike. The 35 MPH speed limit is seldom observed and a stop sign would increase safety at the intersection. Chairman Caddell responded that the Planning Commission has no authority in regard to the installation of stop signs, but will pass that information along.

Terry Curry, 2292 Rice Pike, stated that his property looks at the back of Lots 8 – 14. He agreed with Mr. Meiman about the runoff. When it rains, there is runoff going over the top of his driveway and it will be increased with this subdivision. There is also runoff onto the Smith property when the water goes across the road. He is concerned about the traffic and has statistics about the accidents there. He does not want to stop the development, but wants the lots to be more comparable in size to Lassing Point. Towards his property the lots are about one-third of an acre. He has an issue with the fact that the property is laid out around the lake. He stated that a boulevard from Rice Pike to Hathaway Road would give the option of not having to get on Rice Pike from U.S. 42. He stated that people can only see about 100 yards to the left and if people are coming from Hathaway Road, it is even more difficult. He would support a boulevard there for access. A boulevard would also supply access to Union, which would be advantageous to Union. Mr. Curry stated that he has 11.25 acres.

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

Mr. Bunger questioned the letter from John Collett (attached to the Staff Report). Mr. Wall indicated the Smith, Meiman and Collett properties on the Power Point

slide. He noted that people on three sides of the subject property have expressed concerns about water runoff.

Mr. Knock asked if Toebben is now the applicant for themselves instead of the Terrells since they have purchased the property. Mr. Toebben responded that at the time they made the application, it was not Toebben property but it is now. Mr. Knock asked that the record be corrected. Mr. Costello stated that they will have to revise the application.

Mr. Carmichael stated that he thought SR zoning was one unit per acre. Mr. Wall indicated the RS zone, the RSE zone and the SR-1 zone. He stated that they are zoning tools. The RSE is just less than one acre lot size. RS is 12,000 square feet lot size. If the development were in an unregulated zone, it would be three units per acre. He stated that they are asking for a Concept Plan. He stated that SR is uniquely tied to the Comprehensive Plan and it is up to four units per acre.

Mr. Carmichael commented that the boulevard could happen in the long term and it would be irresponsible for the Staff not to inform the developer that it could happen.

Mr. Schwenke asked the Committee to strongly look into the runoff issue. He stated that the existing lake is at full capacity now and might have to be lowered to be used for retention. He noted A-2 on the west side and stated that there are small lots on the back corner and there should be larger lots there to transition to the A-2. He asked the Committee to also look at this.

Mr. Knock questioned the distance to the major watershed stream from the lake. Mr. Wall responded that he did not know the actual distance, but the lake runs into a tributary of Dark Hollow Branch, which is a tributary of Big Bone Creek. The lake drains to the south.

Mrs. Poston questioned what the applicant means by transition. She stated that there were several comments about accidents on the road and asked Staff to get information on the accidents that have occurred there. Staff will provide the information to the Committee.

Mr. McMillian asked if the roads in the development are large enough for buses to turnaround. Mr. Wall responded that the streets are standard residential cul-de-sacs. He stated that when they get up to 900 feet long, they would be at commercial or industrial standards and a bus would be able to turn around, but he does not believe that are that long. Mr. McMillian asked if there is public transportation in Lassing Green. Mr. Wall responded "no".

Chairman Caddell asked the applicant to respond to the questions raised.

Mr. Toebben stated that he cannot comment in regard to the water pressure in Lassing Green. The Water Department indicates that there is sufficient water pressure in the area. He stated that the lake currently spills over at will, which may cause problems now, and they can improve that with the dam embankment and the retaining structure. If they have the ability to retain additional water, they would like to do that. He cannot speak to whether Toebben would build the homes or the value of the homes. In regard to transition of density, he stated that on the street where the lots transition down slightly in size they average 85 feet wide and 180 feet deep. He stated that there is an existing gravel driveway at the rear of the lots and they are not sure what will occur there. It is an unimproved road and it will connect to the Meiman property, but they do not know his intentions. He stated that once they have the community accepted by Fiscal Court, they will be in a position to finalize deed restrictions. He asked people to judge them by their track record. He stated that in their existing communities, trees cannot be cut down without approval and residents are on the approval board. He stated that it is premature to address the HOA documents at this point.

Mr. Bayer reviewed the topographical map in regard to the runoff. He stated that the lake in the center of the site drains to the south and he indicated the drainage course. He stated that Mr. Meiman is concerned about the high side of the lake. He stated that they are looking at lowering the lake to provide additional stormwater capacity and will grade the site to drain primarily into the lake. They will construct a new dam or rework the existing dam to control the water. Sanitation District No. 1 requires a detailed and thorough analysis. He indicated the lower left corner of the development and stated that they will provide detention there or direct the water into the lake. They will limit the water in the area indicated to existing peak flows.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on February 1, 2006 at 4:30 PM in this room. This item will be on the Agenda for the Business Meeting on February 15, 2006 at 7:00 PM. The public is invited to attend the Committee Meeting, but no additional testimony will be taken. The Chairman closed this Public Hearing.

**APPROVED:**



**Arnold Caddell, Chairman**

**Attest:**



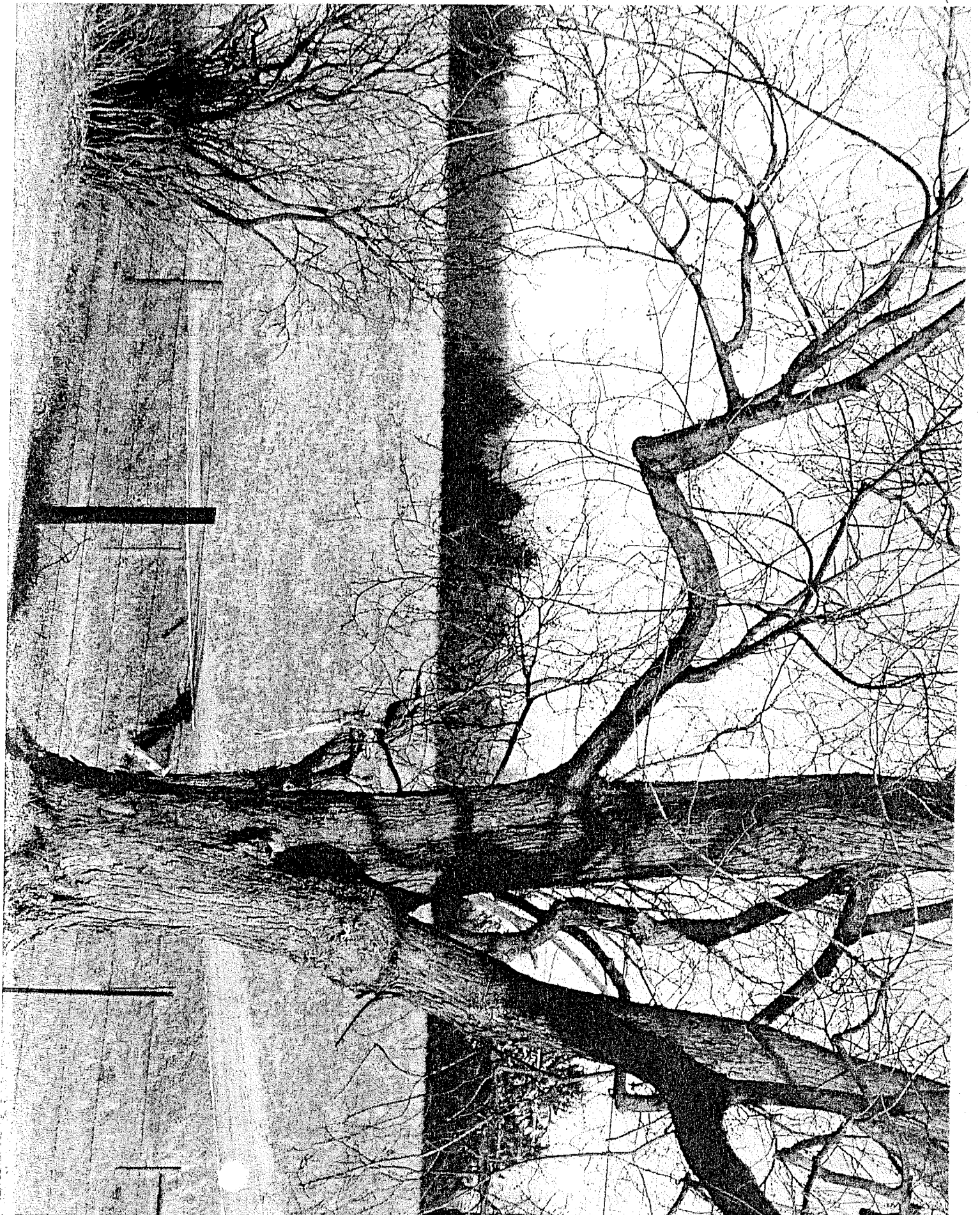
**Jan Hancock, Recording Secretary**

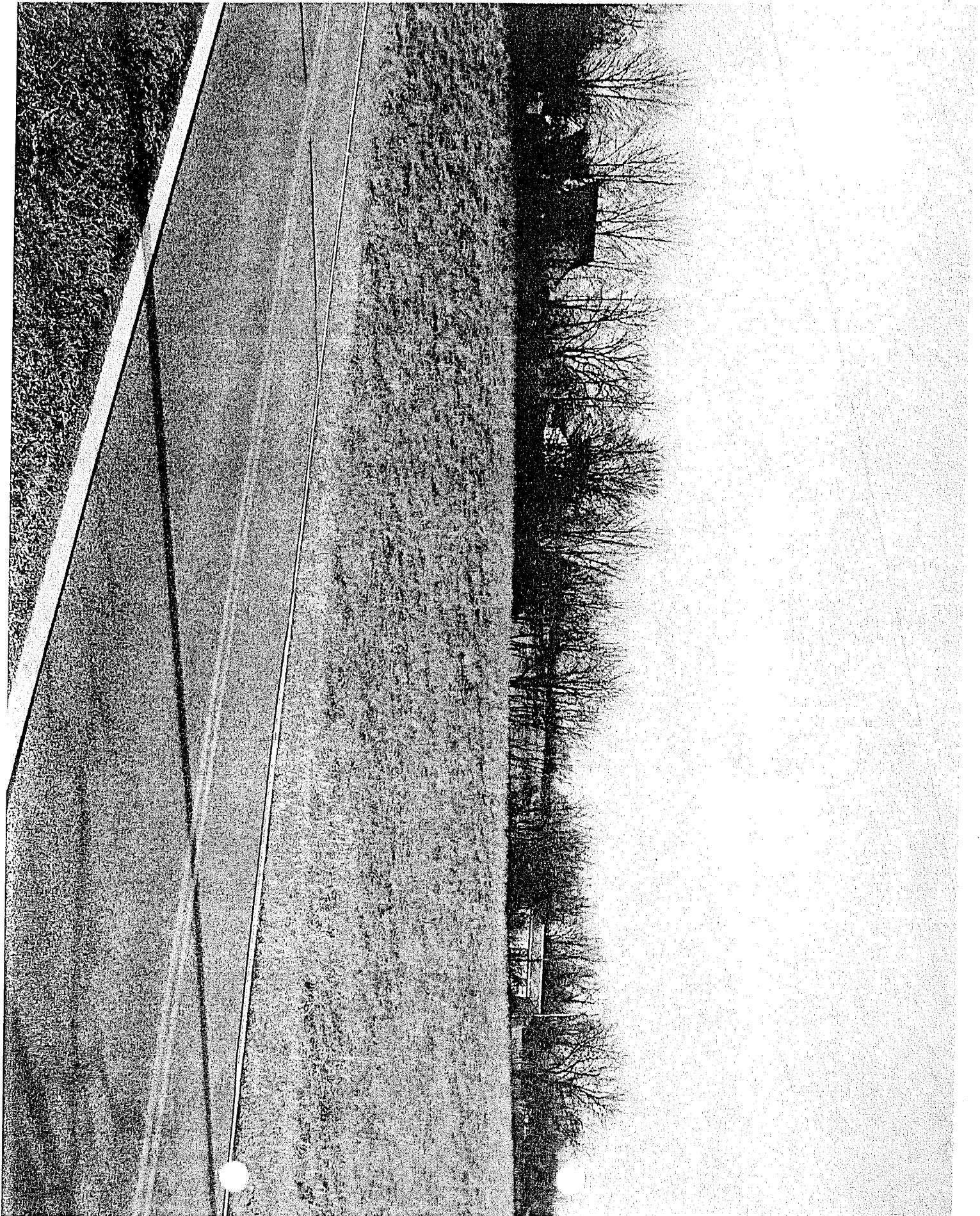
**Exhibit 1 – binder of pictures submitted by Bill Smith**

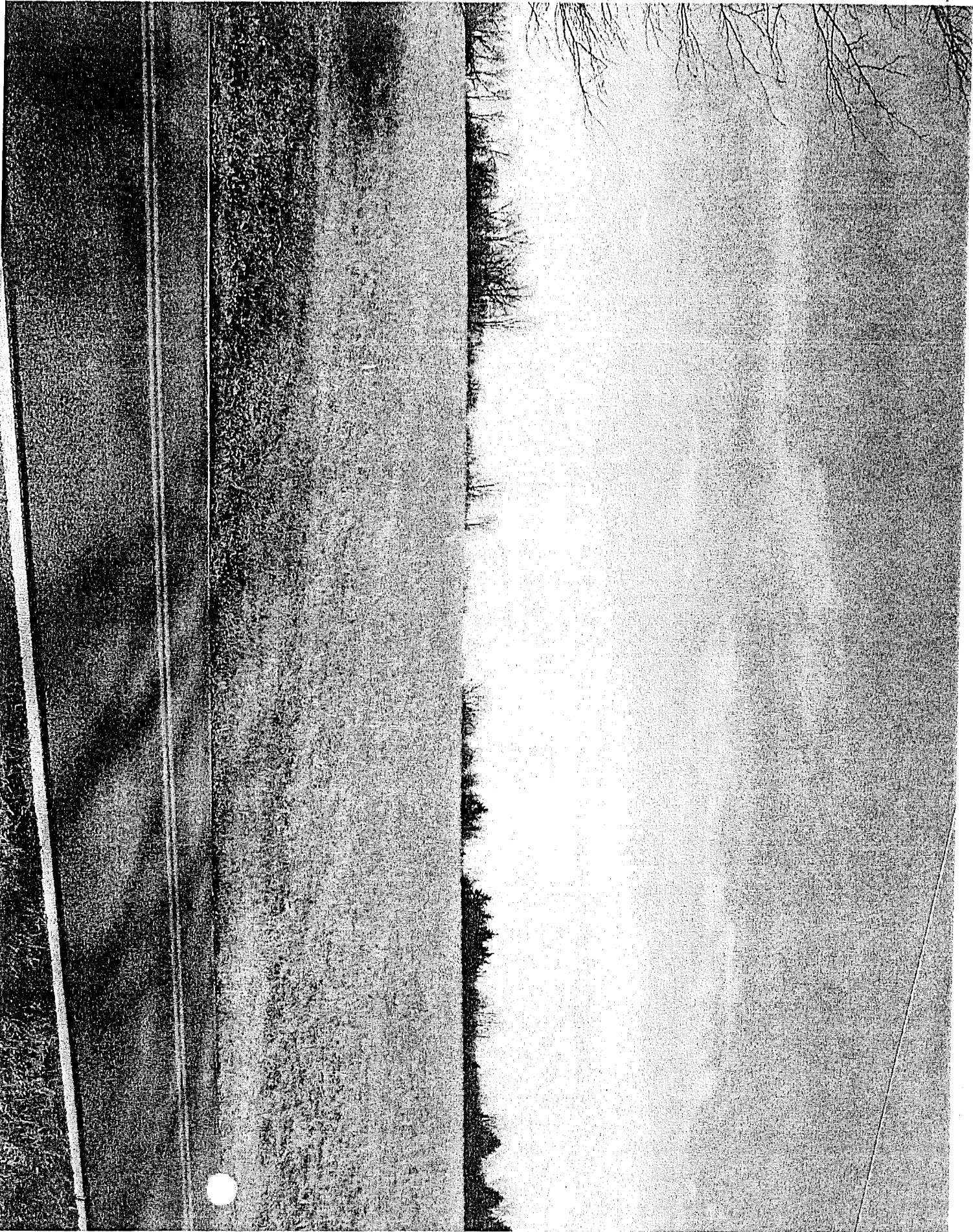
Topography of Terrill  
Property as viewed from  
2267 Rice Pike

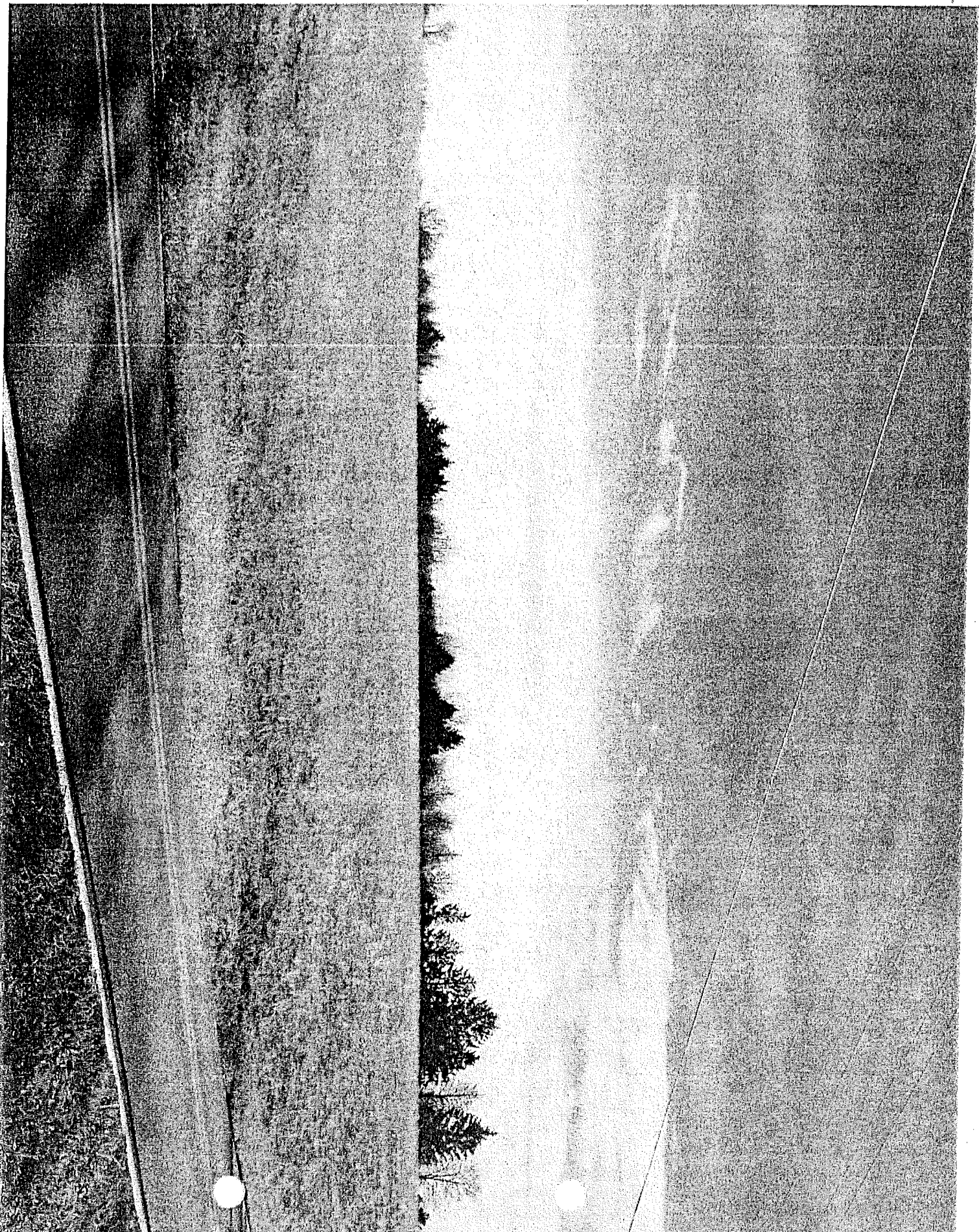
Issue being the potential water  
Run-off onto Smith Farm

Pictures taken January 15, 2006









**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
COURTROOM 3A  
BUSINESS MEETING  
March 1, 2006  
7:00 P.M.**

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Mr. Arnold Caddell, Chairman, called the meeting to order at 7:02 PM.

**COMMISSION MEMBERS PRESENT:**

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

**COMMISSION MEMBERS NOT PRESENT:**

Mrs. Judy Arnett  
Mr. Richard Knock, Temporary Presiding Officer

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin Costello, AICP, Executive Director  
Ms. Patty Bachman, Planner  
Mr. David Geohegan, AICP – Director, Planning Services  
Ms. Jan Hancock, Secretary  
Mr. Robert Jonas, AICP – GIS Specialist  
Mr. Kevin Wall, AICP, CDT – Director, Zoning Services

**ACTION ON PLAN REVIEWS:**

Mr. Reynolds left the meeting at this time and did not participate in regard to the following item:

**1. Zoning Map Amendment and Variances**

**The request of Toebben Ltd. (applicant) for Toebben Ltd. (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS) and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single-family residences.**

Staff Member Kevin Wall presented the Committee Report which recommended approval of the request based on the Findings of Fact, but subject to conditions (see Committee Report).

The Chairman offered the applicant the opportunity to make a summary statement. Mr. John Toebben had no comments.

Chairman Caddell asked if there was anyone present who wished to make a summary statement on behalf of the opposition.

Mr. Meiman stated that the four-foot fence adjoining his property will not be sufficient. The Comprehensive Plan says that the fence should not be vinyl, but a woven fence is vinyl. Chairman Caddell asked Mr. Meiman if he attended the Committee Meeting. Mr. Meiman responded that he attended the Public Hearing and the Committee Meeting. Mrs. Poston agreed and stated that Mr. Meiman's wife or daughter also attended the second Committee Meeting and she said that they were not able to come to agreement about the fence. Counselor Wilson advised that the Committee discussion was that the Meimans could have their own fence on their property to keep their animals in and the developer could have a four-foot fence on his property to keep children off the Meiman property.

Mr. Terry Curry, a resident of Rice Pike, stated that they will be looking at the back of these houses. He stated that if the boulevard had gone in the original position discussed, it would not have ostracized all of the properties to the west. The properties to the west will develop in the future. Lassing Green did not make arrangements for the future. Now there is a chance to have a connector road from the proposed subdivision through Lassing Green. He read from Section 305 of the regulations regarding street connections and from the Transportation Plan. He stated that there is nothing in the proposed plan to address street connections to the west, which affects the value of his property. He has a 50-foot strip of land that

goes back to 13.383 acres and, if there is not some consideration in this plan to allow development of that property in the future, it will affect the value of his property. Chairman Caddell asked Mr. Curry if he attended the Zone Change Committee Meeting. Mr. Curry responded that he has attended every meeting. He stated that Mr. Meiman, who has a 20-foot lot, received notice. He understands that only adjoining landowners have to be notified, but when a 20-foot strip divides the development from the property owners on the other side, they are affected and should be included in the process. He did not know about the first meeting until two days before it occurred and he did not have a lot of time to prepare.

**At this time, Mrs. Poston moved by resolution to Boone County Fiscal Court that the request be approved based on the Committee Report with the conditions. Mr. Bunger seconded the motion.**

Mr. McMillian asked for clarification of Finding of Fact 1.A. and Mr. Wall responded that the Comprehensive Plan allows up to four units per acre, but Lassing Green Subdivision is at 1.34 units per acre and the proposed development is at 1.5 units per acre.

Mr. Schwenke asked the developer to be a good neighbor and provide a chainlink fence so that children will not be able to reach through to the livestock. He stated that a chainlink fence would be a good boundary between the farm and the residences. He is concerned about safety. Mr. John Toebben responded that the fence is not a problem and they will do that, but it may be vinyl-coated chainlink for appearance purposes. Mr. Schwenke questioned the plans for the big lake and asked if there will be a retention pond near the Smith property. Mr. Toebben responded that they are developing a water retention/detention plan that will meet the Boone County and Sanitation District #1 requirements to retain water and the runoff will not be any greater than it is now. He stated that adjoining properties like Lassing Green are not containing water.

Chairman Caddell asked if the Committee is agreeable to changing the woven wire fence in Condition #5 to chainlink fence. Mr. Bunger stated that the Committee is agreeable, but questioned if it would be a four-foot or a five-foot fence. Chairman Caddell responded that the recommendation is for a four-foot fence. Mr. Meiman asked that the fence be five-feet high. Mr. Schwenke stated that five feet is the standard and the fence needs to be five feet high. Mr. Toebben agreed to a five-foot high chainlink fence. Mrs. Poston agreed and Mr. Bunger agreed. Mr. Meiman stated that the five-foot fence would address his concerns.

Mr. Poe stated that he wants to be sure that signs are posted saying that this will be a major road connection. He stated that there have been issues with Orleans Boulevard and Hempstead in the past. Mr. Costello stated that Staff gives the Public Works Department a list of the streets where signs are to be posted. He stated that everyone knows from the start that these are through streets, but the

developers and real estate people do not tell buyers. He stated that the signs will definitely be posted.

There being no further discussion, the **Chairman asked for a vote on the motion made by Mrs. Poston, with the amendment to Condition #5 that the fence is to be a five-foot high chainlink fence. The vote found all voting members in favor. Mr. Reynolds was not present. The motion carried. Mr. Reynolds returned to the meeting at this time.**

**2. Zoning Map Amendment**

**The request of Toebben Ltd. (applicant) for Toebben Ltd. (owner) for a **Zoning Map Amendment from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.7 acres located at 1922 & 1932 North Bend Road, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow a Retail Center and uses permitted in the Commercial Two (C-2) zone.****

Chairman Caddell stated that Agenda Item #2 has been withdrawn by the applicant.

**3. Zoning Map Amendment**

**The request of Towne Development Group Ltd. (applicant) for Emmitt C. Pennington, Jr., Linda G. Pennington, James R. Perry and Patricia Perry (owners) for a **Zoning Map Amendment from Suburban Residential One (SR-1) and Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD) for an approximate 40.65 acre site located at the southern terminus of Burgundy Hill Drive, including the property addressed as 1787 Burlington Pike, east of the Willow Bend Subdivision, north of Perry Lane and west of Oakbrook Road and Gunpowder Creek, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow condominiums.****

Chairman Caddell stated that Agenda Item #3 is recommended for deferral to the March 15, 2006 Business Meeting at 7:00 PM. Mr. McMillian so moved. Mrs. Wilson seconded the motion and it carried unanimously.

**4. Technical Design Review - **I HOP Restaurant  
Houston Road****

Staff Member Patty Bachman presented the Design Review request for I HOP. The site is located in front of the new Wal-Mart (under construction) and across the street from the office condominiums. The building design was approved by the Planning Commission in June 2005. Page 2 of the packet shows the Site Plan and the location of the proposed signage. The monument sign is located on the Houston Road frontage. There is a set of channel letters on the north elevation and signage on the west elevation. When the building design was approved, it did not indicate

**EXHIBIT**

**“B”**

THIS COMMITTEE REPORT WAS READ AT THE MARCH 1, 2005  
BUSINESS MEETING WITH CONDITION NO. 5 BEING AMENDED AS  
STATED IN THIS REPORT

#1

## ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: March 1, 2006

RE: Request of Toebben Ltd. (applicant) for Toebben Ltd. (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS), and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single family residences.

### REMARKS:

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

### FINDINGS OF FACT

1. The Committee has concluded that the proposed Zoning Map Amendment and accompanying Concept Development Plan, which was partially revised through the Zone Change Committee process in response to the issues raised at the 1/18/06 Public Hearing (revision exhibit is attached), are in agreement with the Comprehensive Plan due to the following reasons.
  - A. The 2005 Boone County Comprehensive Plan's Future Land Use Map designates the site for "Suburban Residential" (SR) uses. This designation is described as "single family housing of up to four units per acre. This classification does not preclude low density or estate residential developed as a formal subdivision." The proposal is for a subdivision for detached single family residences with a density of 1.5 units per acre. This is comparable to the neighboring Lassing Green Subdivision, which has a density of 1.34 units per acre.

- B. The text of the Comprehensive Plan acknowledges that the area will see considerable residential growth. The Land Use Element ("4. Union Area," pg. 146) states "in general, this section should experience considerable residential growth due to Union's current residential nature, growth associated with the City of Florence, and improvements to U.S. 42." The "Beaverlick Area" section (pg. 159) of the Land Use Element, as well as the OKI transportation analysis zone data in the Population Element (pp. 24 and 25), also recognize significant growth in the area. These points are generally reinforced by the Housing Element ("Housing Types," pg. 75) which states "most new construction of single-family housing will take place on the outer rings of growth. The Union area has a high percentage of single-family housing."
- C. Several sections of the Comprehensive Plan discuss transitions or progressions of density and compatibility of new residential developments with adjoining rural areas ("Development Layout, Lot Sizes, and Setbacks" section of the Land Use Element, pp. 140 and 141; "Housing Densities" section, pg. 76, "Open Space Subdivision Design" section, pg. 77, and "Conclusion" section, pg. 80, all of the Housing Element). When considering these sections of the Plan, along with the Goals and Objectives, the Committee has concluded that the proposed development will be an appropriate part of an area-wide transition from suburban style development to the planned rural-type development further to the west.

As noted above, the proposed density is comparable to the adjoining Lassing Green Subdivision, and the treatment of the development along Rice Pike through building placement, and the provision of board fencing and trees per the agreed conditions, will continue an established design theme. Additionally, the applicant has agreed to increase the depth of the lots along the west boundary to create more open space, and to retain existing vegetation around the perimeter of the site, which is also consistent with the Goals and Objectives. The site is part of a much larger area designated for "SR" uses that is planned to extend approximately 4,400 feet (approximately 0.83 miles) further to the west along the north side of Rice Pike. Thus, the density will be tapered downward and rural design characteristics will be added as residential growth progresses further west.

- D. The Transportation Element ("Street Connections," pg. 130) advocates the provision of street connections between adjoining properties, and the "Street Connections" section (pp. 130 and 131) also lists specific planned connections described as "north/south and east/west routes between Rice

Pike, Hathaway, Big Bone, and Double Eagle/US 42." The Rice Pike/Hathaway connection is further defined by the Boone County Transportation Plan 2030 with a specific road connection illustrated on an exhibit as running along the west boundary of the subject site and northward along Meiman Lane to Hathaway Road. This connection is described as "Access Controlled."

Through the Committee process and discussion with the County Administration, the applicant has revised the Concept Development Plan to include a Orleans Boulevard style connection through the west part of the development to the property to the north to accomplish this purpose. While this connection would have a limited number of shared access points as indicated on the exhibit, it will serve the essential purpose of an area-wide connector road, as does Orleans Boulevard. The Committee agrees that this design solution is appropriate when considering the small size of the development and the fact that this site is at the southern end of the planned connection. Future sections of the road can be designed as a more formal limited access road where the developing sites are larger and where higher traffic volumes are anticipated.

- E. The Committee has concluded that the proposal is in agreement with the applicable Future Land Use Development Guidelines as described in the Comprehensive Plan and the Goals and Objectives. Specific references to the guidelines and Goals and Objectives are outlined in the staff report for this request.
2. The Committee has concluded that the requested Variances to allow front and rear yard setback modifications for three flag lots fulfill the criteria in Section 251 "Application and Standards for Variances" of the Boone County Zoning Regulations. The Variances do not allow a reduction in yard areas per se, but merely allow the future houses to be rotated on the lots due to a fairly strict definition of yard areas for flag lots per Article 40 of the zoning regulations. The Committee does not believe that the Variances will have any negative effect on adjoining properties but will help vary the building layout in the subdivision.
3. The Committee has concluded that the attached conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2005 Boone County Comprehensive Plan. The Committee has also concluded that the attached conditions are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
COURTROOM 3A  
January 18, 2006  
7:30 P.M.**

**PUBLIC HEARINGS**

**Commission Members Present:** Mrs. Arnett, Mr. Barlow, Mr. Bunger, Mr. Caddell – Chairman, Mr. Carmichael, Mrs. Kegley, Mr. Knock – Temporary Presiding Officer, Mr. McMillian, Mr. Poe, Mrs. Poston - Vice Chairperson, Mr. Rolfsen, Mr. Schwenke, and Mrs. Wilson – Secretary/Treasurer.

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

**Legal Counsel Present:** Mr. Dale Wilson

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:35 PM. Following an explanation of the public hearing process, he introduced the first item on the Agenda:

**Applicant:** Toebben Ltd. for  
Walter Terrell and Karen Terrell (owners)

**Request:** Zoning Map Amendment and Variances

The request of Toebben Ltd. (applicant) for Walter Terrell and Karen Terrell (owners) for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS) and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single-family residences.

Staff Member Kevin Wall presented the Staff Report which included a Power Point presentation (see Staff Report). He stated that the Boone County Transportation Plan has been adopted since the Staff Report was written. In regard to Staff Comment 3.B., he stated that the School Board has indicated that they do not want to pursue a pedestrian link between this development and the school.

The Chairman asked for the applicant's presentation.

Mr. John Toeppen, 952 Rosewood Drive, Villa Hills, is Vice President of the Toeppen Companies, a family-owned and operated company that has been developing and building residential real estate in this area for over fifty years. They built County Squire Estates in Villa Hills and it has received national and local attention for excellence in planning and design since 1967. The proposed development will be their first residential community in Boone County. He introduced Jay Bayer with Bayer-Becker Engineers and Bob Calvert, their legal counsel. Mr. Toeppen stated that the proposed development is a nice transition from one community to the next. It is adjacent to the public golf course and the school. The number of homes proposed is well below what the Comprehensive Plan allows and the development blends well with the community to the east. They plan to establish a Homeowners' Association to maintain the amenities in the community. The design works well to preserve the vegetation on the perimeter of the property. They farmed the property themselves until the present time. He stated that in Lassing Green ten homes have the rears facing Rice Pike and they can bring the homes into the community by having them face the internal subdivision. They will work with Staff to coordinate landscape buffers and street trees along Rice Pike. They have a lift station planned and it will be screened. They plan to keep the existing lake and use it to minimize runoff and provide open space for the community. He stated that the development is a nice separation between two different levels of houses and communities. They planned to meet with Boone County Schools on Friday, but may cancel that meeting as the schools do not want the path connection.

Mr. Bob Calvert, General Counsel for the Toeppen Companies, stated that they have concerns over the recent update to the Transportation Plan and the recommendation that a boulevard be constructed along the west property line. They are interpreting that the Toeppen Companies would be required to contribute sufficient right-of-way to construct that roadway. He stated that the Comprehensive Plan states that the Transportation Plan is a guide and that it is being updated for 2005. He stated that the Transportation Plan is a separate document from the Comprehensive Plan and is not an amendment to the Comprehensive Plan. It is one of many planning tools and does not have the same force and effect of the Comprehensive Plan. He stated that the update was adopted last night and there are a number of recommendations, including recommendations concerning collector streets or boulevards, and they have not had sufficient time to digest all of the recommendations. He stated that John Toeppen had at least two meetings with Staff and there was no mention of potentially having to put a boulevard through there or contributing right-of-way for the boulevard. They understood that the Development Plans were consistent with the Comprehensive Plan and thought they were safe to move forward with the project. After they submitted an application for the map amendment, they found out about the Transportation Plan and it was like having new rules thrown

at them at the last minute. They had an option on the property and felt comfortable enough to close the transaction – but if they had known they may have to contribute right-of-way, they may not have made that decision. He stated that this is a fairly small development and the contribution of right-of-way would have a major impact, not only financially, but also on the number, size and value of the lots. They would be underwriting a significant portion of the cost of a boulevard that is not beneficial to the development. The boulevard would be expensive for Toeppen and for the county in terms of construction and maintenance. He stated that emphasis is placed on saving vegetation and there is a row of trees on the western property line that would be removed as a result of the roadway, which affects the aesthetics inside and outside of the development. He stated that boulevards and collector streets are typically part of much larger developments like Triple Crown or Oakbrook. This is not a development of that magnitude. He stated that there is a sight distance problem at Rice Pike and it sounds like it is expensive to correct it. Their consultant does not see a future traffic increase to justify a boulevard between Hathaway Road and Rice Pike, especially considering that it is so close to U.S. 42. The cost of updating Rice Pike at the intersection, the reconstruction of at least two holes of Lassing Green golf course, right-of-way acquisition and the cost of construction and maintenance of the road are considerable. They feel that they have adequately provided for the traffic associated with this development and have stubbed in a road to the Meiman property which would handle the traffic flow that would result from the development. The collector road as it goes towards Hathaway Road passes along the property line of the golf course. He stated that the Comprehensive Plan states that one of the objectives of establishing a connector road is the intent of providing collector roads to side streets and along that stretch they do not have side streets on one side of the road and it is inconsistent with that objective. The Goals and Objectives of the Comprehensive Plan state that with future growth there should be adequate provision for infrastructure. Their plan is consistent with that and other aspects of the Comprehensive Plan. The requested zone is appropriate for the area. He asked for approval of the request.

Mr. Jay Bayer, a civil engineer and land surveyor with Bayer-Becker Landscape Architects, Engineers and Land Planners, stated that the lake in the center of the site will be preserved and used as a stormwater detention basin. They will preserve as much vegetation as possible on the perimeter. They will grade the site down on the east side. The streets will be down below the property line on the east and they will preserve the vegetation on the east side. Along the north side, they will have use of the golf course. Along the west side, they will try to preserve the existing tree line and not extend a roadway along that edge. The lots along the front are larger to improve the view from the perimeter. The sanitary sewer lift station will pump to the east and tie into Lassing Green lift station. They have conceptual approval and there is sufficient capacity in that lift station to receive the flows. There is an 8” water line along Rice Pike and they will extend water through the development. There is potential development to the northwest and they will stub the line in that direction. They have done

preliminary field work and with a slight adjustment to the entrance they can make the sight distance work to the County Engineer's approval. He reviewed Section 251 of the Zoning Regulations in regard to the requested Variances. He stated that it would be a hardship to move the two lots at the upper end of the lake down the hill and would cause more money to be spent on grading and clearing of trees. He stated that they tried to create similar lot sizes to the east towards Lassing Green and on the west side there is a suitable distance to make the transition to a rural area. They do not believe there is a transition issue on the site because they are located in the center of the SR zone. This concluded the applicant's presentation.

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

Mr. Jeff Lawson, 10682 Aspen Place, stated that he is not necessarily opposed to the development, but he has some concerns. He stated that there are two major issues that must be addressed in order for the development to be in line with the Union City Plan and the green space in Union. There are concerns about safety in regard to the additional traffic that will be generated. There is a major blind spot when turning out of Lassing Green onto Rice Pike. There have been accidents and near-accidents there and with the increased flow of traffic, something has to be done. Lot 60 is a flag lot and they are asking for a Variance. He stated that considering the back yards in Lassing Green, the goal is to create space – but the flag lot is as close as can be to the back yards. He stated that the flag lot is not necessary. He asked that the applicant be required to keep the perimeter tree buffer. He stated that the increased traffic is a concern and there are quite a few other developments that will also happen. He is concerned about increased accidents. The intersection of U.S. 42 and Rick Pike needs to be addressed before there are more houses and traffic in the area. The Chairman asked Mr. Lawson to indicate the blind spot on the Power Point slide. Mr. Lawson reviewed the slide and indicated a dip and a hill in relation to the entrance to Lassing Green. He stated that Rice Pike dips down immediately after the entrance to Lassing Green and when people pull out of the subdivision they have to wait because they can see oncoming traffic at the top of the hill and then the road dips down and there is a blind spot.

Mr. Bill Smith, 2355 Rice Pike, speaking for the Smith family, stated that they have lived there for 45 years. He indicated three places on their farm that will be affected by the water runoff. He submitted pictures taken of their property (see Exhibit 1). He does not see that any retention is being provided. He stated that as soon as the vegetation is taken off the property, they will get a lot of new water runoff. He is particularly concerned about an area between his father's house and his house. He will keep pre-development pictures of their property in his safe. He stated that concrete, blacktop, and roofs do not absorb water and he would like the Planning Commission to address the runoff issue. He stated that when school

is getting out and people are go to and from work it is difficult to get off Rice Pike and onto U.S. 42. A traffic light or something needs to be done there. On U.S. 42, especially going south, there is a blind spot and it is a major problem with people coming out on Rice Pike.

Carolyn Sampson, 2274 Rice Pike, west of the proposed development, stated that she does not want the boulevard to come from her property. She agreed with the previous speakers regarding safety. She stated that the Comprehensive Plan says the area is "rural" but she does not see how "rural" relates to a boulevard and 85 houses on 55 acres. She questioned how far the back door of the closest house would be from her house and where the property for the boulevard will come from. She asked that safety be considered.

Mr. Joe Meiman, 10217 Meiman Drive, an adjacent property owner, questioned water retention. He asked if the level of the lake will be raised. He stated that in a heavy rain, the lake currently backs up to the fence. If the lake is maintained as it is or if the water level is raised, the water will back up onto his property. He stated that the Comprehensive Plan talks about a transitional area and he would like to see this property developed less dense than Lassing Green instead of more dense. He indicated his hayfields and the golf course. He stated that the Comprehensive Plan addresses that the development should build an un-climbable fence between the two properties. He stated that in 1991, the golf course put up the fence they agreed on. He is concerned about additional runoff and the fencing, and he wants less density. In response to a request from Mr. Knock, he indicated on the Power Point slide how the lake backs up towards his property in a good rain. He indicated the location of a fence. He stated that the fence is addressed on Page 95 of the Comprehensive Plan.

Chairman Caddell asked Mr. Costello to address the comments made about a potential boulevard. Mr. Costello stated that the county updated the Transportation Plan recently. The Transportation Plan deals with the existing and future roads. The complete document is available on the website and copies are available in the Staff Office. The recommendation is to make Rice Pike a safer road and to widen it in the future (depending on funding). The plan looks at a new road network that takes people north, south, east and west and one of the concepts is a north/south route that would go from Rice Pike up to Hathaway Road. No exact route was selected. He stated that even if a road like that were to be built, the county or whoever builds it, would have to seek the permission of the property owner. He stated that the Transportation Plan indicated a potential road and Staff wanted to discuss that potential with the developer as to how feasible it would be. The road would be dependent on all of the property owners affected by it. He stated that people are focusing on the road, but should be looking as importantly at the proposed use at this time. Chairman Caddell stated that "concept" is a key word. The road is a concept.

Mr. Doug DeLander, 10694 Aspen Place, supported the comments made by Mr. Lawson. He supports preserving the tree line on the east side between Lassing Green and this development. He questioned the impact on the water pressure in Lassing Green, the value of the proposed homes, and deed restrictions. He asked if Toebben would be the builder or if the homes will be subcontracted out to other builders. He asked if Toebben will sell lots to other builders. Chairman Caddell stated that the developer may not be in a position to answer some of Mr. DeLander's questions and they may not have a lot of bearing on a decision regarding the zoning of the property.

Mr. Brian Schlucter, 10690 Aspen Place, stated that Lots 50 – 60 on the east side facing Lassing Green are not consistent with Lassing Green. He is concerned about traffic and safety at U.S. 42 and Rice Pike. He stated that the Transportation Plan, working paper #5, prioritizes inexpensive improvements in the county. At Rice Pike and U.S. 42 it references a \$2,200 construction cost to remove an embankment (it was #1 in the 1 –3 Year Plan).

Mr. John Mefford, 10710 Aspen Place, stated that coming here this evening it was almost impossible to see lights coming up in the blind spot. He questioned a stop sign at Rice Pike and Mt. Laurel to slow down the traffic. He stated that it is difficult to get in and out on Rice Pike. The 35 MPH speed limit is seldom observed and a stop sign would increase safety at the intersection. Chairman Caddell responded that the Planning Commission has no authority in regard to the installation of stop signs, but will pass that information along.

Terry Curry, 2292 Rice Pike, stated that his property looks at the back of Lots 8 – 14. He agreed with Mr. Meiman about the runoff. When it rains, there is runoff going over the top of his driveway and it will be increased with this subdivision. There is also runoff onto the Smith property when the water goes across the road. He is concerned about the traffic and has statistics about the accidents there. He does not want to stop the development, but wants the lots to be more comparable in size to Lassing Point. Towards his property the lots are about one-third of an acre. He has an issue with the fact that the property is laid out around the lake. He stated that a boulevard from Rice Pike to Hathaway Road would give the option of not having to get on Rice Pike from U.S. 42. He stated that people can only see about 100 yards to the left and if people are coming from Hathaway Road, it is even more difficult. He would support a boulevard there for access. A boulevard would also supply access to Union, which would be advantageous to Union. Mr. Curry stated that he has 11.25 acres.

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

Mr. Bunker questioned the letter from John Collett (attached to the Staff Report). Mr. Wall indicated the Smith, Meiman and Collett properties on the Power Point

slide. He noted that people on three sides of the subject property have expressed concerns about water runoff.

Mr. Knock asked if Toeppen is now the applicant for themselves instead of the Terrells since they have purchased the property. Mr. Toeppen responded that at the time they made the application, it was not Toeppen property but it is now. Mr. Knock asked that the record be corrected. Mr. Costello stated that they will have to revise the application.

Mr. Carmichael stated that he thought SR zoning was one unit per acre. Mr. Wall indicated the RS zone, the RSE zone and the SR-1 zone. He stated that they are zoning tools. The RSE is just less than one acre lot size. RS is 12,000 square feet lot size. If the development were in an unregulated zone, it would be three units per acre. He stated that they are asking for a Concept Plan. He stated that SR is uniquely tied to the Comprehensive Plan and it is up to four units per acre.

Mr. Carmichael commented that the boulevard could happen in the long term and it would be irresponsible for the Staff not to inform the developer that it could happen.

Mr. Schwenke asked the Committee to strongly look into the runoff issue. He stated that the existing lake is at full capacity now and might have to be lowered to be used for retention. He noted A-2 on the west side and stated that there are small lots on the back corner and there should be larger lots there to transition to the A-2. He asked the Committee to also look at this.

Mr. Knock questioned the distance to the major watershed stream from the lake. Mr. Wall responded that he did not know the actual distance, but the lake runs into a tributary of Dark Hollow Branch, which is a tributary of Big Bone Creek. The lake drains to the south.

Mrs. Poston questioned what the applicant means by transition. She stated that there were several comments about accidents on the road and asked Staff to get information on the accidents that have occurred there. Staff will provide the information to the Committee.

Mr. McMillian asked if the roads in the development are large enough for buses to turnaround. Mr. Wall responded that the streets are standard residential cul-de-sacs. He stated that when they get up to 900 feet long, they would be at commercial or industrial standards and a bus would be able to turn around, but he does not believe that are that long. Mr. McMillian asked if there is public transportation in Lassing Green. Mr. Wall responded "no".

Chairman Caddell asked the applicant to respond to the questions raised.

Mr. Toebben stated that he cannot comment in regard to the water pressure in Lassing Green. The Water Department indicates that there is sufficient water pressure in the area. He stated that the lake currently spills over at will, which may cause problems now, and they can improve that with the dam embankment and the retaining structure. If they have the ability to retain additional water, they would like to do that. He cannot speak to whether Toebben would build the homes or the value of the homes. In regard to transition of density, he stated that on the street where the lots transition down slightly in size they average 85 feet wide and 180 feet deep. He stated that there is an existing gravel driveway at the rear of the lots and they are not sure what will occur there. It is an unimproved road and it will connect to the Meiman property, but they do not know his intentions. He stated that once they have the community accepted by Fiscal Court, they will be in a position to finalize deed restrictions. He asked people to judge them by their track record. He stated that in their existing communities, trees cannot be cut down without approval and residents are on the approval board. He stated that it is premature to address the HOA documents at this point.

Mr. Bayer reviewed the topographical map in regard to the runoff. He stated that the lake in the center of the site drains to the south and he indicated the drainage course. He stated that Mr. Meiman is concerned about the high side of the lake. He stated that they are looking at lowering the lake to provide additional stormwater capacity and will grade the site to drain primarily into the lake. They will construct a new dam or rework the existing dam to control the water. Sanitation District No. 1 requires a detailed and thorough analysis. He indicated the lower left corner of the development and stated that they will provide detention there or direct the water into the lake. They will limit the water in the area indicated to existing peak flows.

There being no further comments, the Chairman stated that the Committee Meeting for this item will be on February 1, 2006 at 4:30 PM in this room. This item will be on the Agenda for the Business Meeting on February 15, 2006 at 7:00 PM. The public is invited to attend the Committee Meeting, but no additional testimony will be taken. The Chairman closed this Public Hearing.

**APPROVED:**



**Arnold Caddell, Chairman**

**Attest:**



**Jan Hancock, Recording Secretary**

**Exhibit 1 – binder of pictures submitted by Bill Smith**

## ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: February 15, 2006

RE: Request of Toebben Ltd. (applicant) for Toebben Ltd. (owner) for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS), and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single family residences.

### REMARKS:

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

**Toebben Ltd./Rice Pike**

February 15, 2006

*Susan Poston*  
 \_\_\_\_\_  
**Susan Poston, Chairwoman**

For Project  Absent \_\_\_\_\_  
 Against Project \_\_\_\_\_  
 Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

\_\_\_\_\_

**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 \_\_\_\_\_

*Janet Kegley*  
 \_\_\_\_\_  
**Janet Kegley**

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 \_\_\_\_\_

\_\_\_\_\_

**Lisa Wilson (Alternate)**

For Project \_\_\_\_\_ Absent \_\_\_\_\_  
 Against Project \_\_\_\_\_  
 Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

**TOTAL:** \_\_\_\_\_ DEFERRED 4 FOR PROJECT \_\_\_\_\_ ABSENT \_\_\_\_\_  
 \_\_\_\_\_ AGAINST PROJECT \_\_\_\_\_ ABSTAIN \_\_\_\_\_

## ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Susan Poston, Chairwoman

DATE: February 1, 2006

RE: Request of **Toebben Ltd. (applicant)** for **Toebben Ltd. (owner)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Rural Suburban (RS), and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre tract located at 2188 Rice Pike, Boone County, Kentucky. The request is for a Zoning Map Amendment and Variances to allow a subdivision for detached, single family residences.

### REMARKS:

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

**Toebben Ltd./Rice Pike**

February 1, 2006

*Susan Poston*  
 \_\_\_\_\_  
**Susan Poston, Chairwoman**

For Project \_\_\_\_ Absent \_\_\_\_  
 Against Project \_\_\_\_  
 Abstain \_\_\_\_ Deferred

\_\_\_\_\_  
**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

*Janet Kegley*  
 \_\_\_\_\_  
**Janet Kegley**

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 \_\_\_\_

\_\_\_\_\_  
**Lisa Wilson (Alternate)**

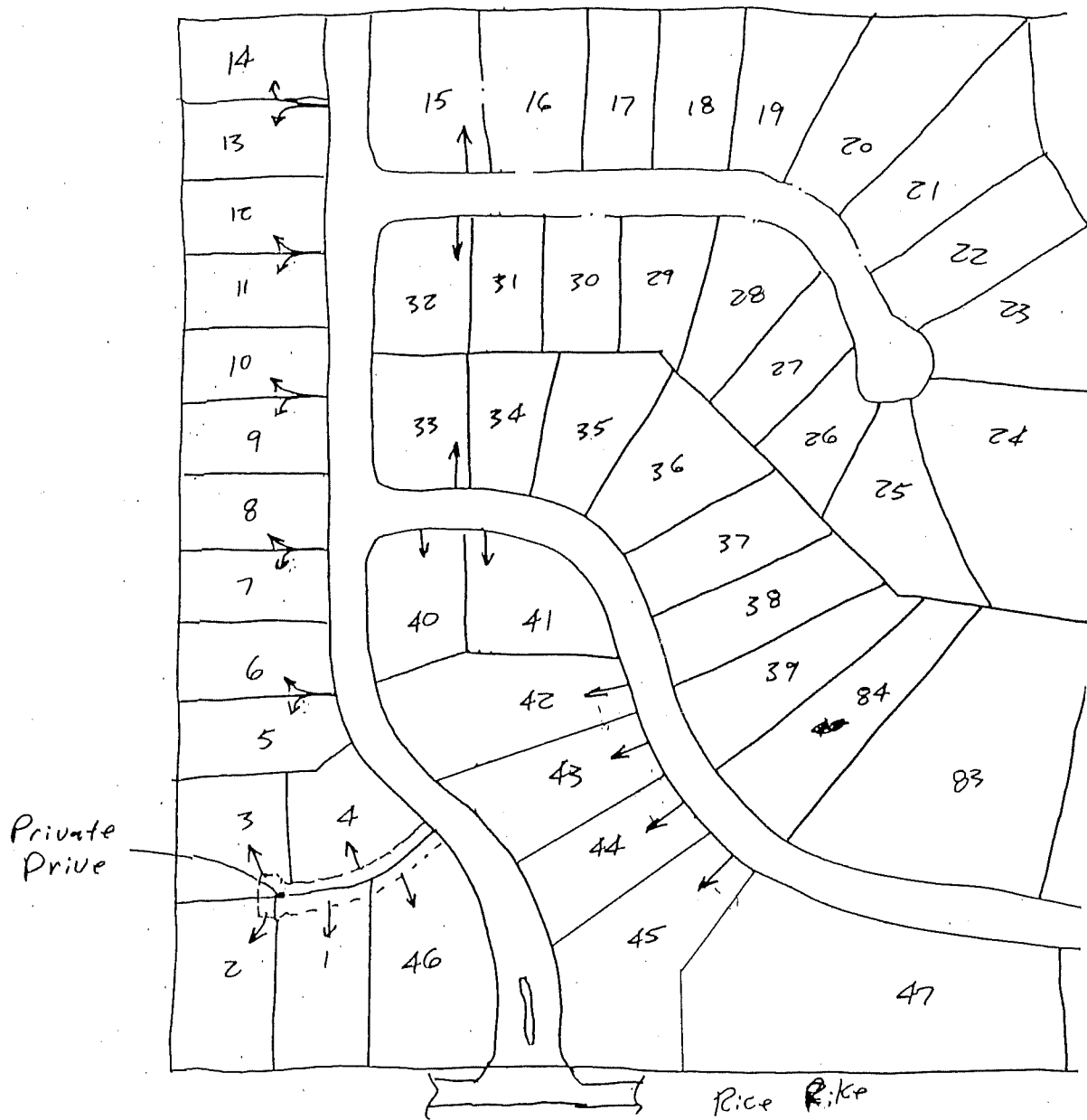
For Project \_\_\_\_ Absent \_\_\_\_  
 Against Project \_\_\_\_  
 Abstain \_\_\_\_ Deferred \_\_\_\_

**TOTAL: 4 DEFERRED \_\_\_\_ FOR PROJECT 1 ABSENT**  
**\_\_\_\_ AGAINST PROJECT \_\_\_\_ ABSTAIN**

CONDITIONS

1. The development shall follow the Concept Development Plan that was originally submitted with this application and presented at the Public Hearing except where modified by the partial revision for the western part of the site that was presented to the Zone Change Committee on 2/15/06 (revision exhibit is attached). The development shall also follow the revision exhibit which illustrates a Orleans Boulevard style road connection from Rice Pike to the property to the north, a modified lot arrangement, and access points to the individual lots where indicated with arrows; these access points are shared along the west side of the connector road. The connector road shall have box curbs, a 25 foot pavement width, and no parking on either side.
2. The lots on the west side of the connector road shall have 85 foot minimum frontages. The depth of the lots along the west boundary of the site shall be increased by 10 foot from the depth shown on the revision exhibit. The front yard setback for lots 5 through 14 on the revision exhibit shall be a minimum of 50 feet.
3. All healthy, existing trees around the perimeter of the site shall be retained.
4. Board fencing and street trees comparable to those existing along Rice Pike by Lassing Green Subdivision shall be installed along this site's Rice Pike frontage. Additionally, vegetative screening shall be provided around all sides of the proposed pump station.
5. A 5 foot high chain link fence shall be installed by the developer along the north property line where it adjoins the Meiman property.
6. Storm water shall be managed in accordance with the requirements of Sanitation District #1 and Boone County. In particular, the post-development peak flow from any point discharge shall not exceed the pre-development peak rate.

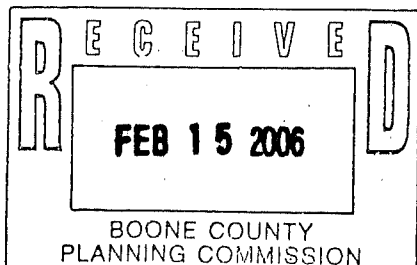
A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request. Attached is the signature page for the Zone Change Committee Vote.



05K044

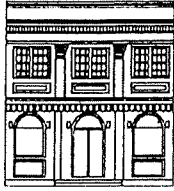
1" = 100'

2/15/06 JFB



# **SUPPORTING INFORMATION**

# BOONE COUNTY PLANNING COMMISSION



2995 Washington Street • Burlington, KY 41005

www.boonecountyky.org

Phone: (859) 334-2196

Fax: (859) 334-2264

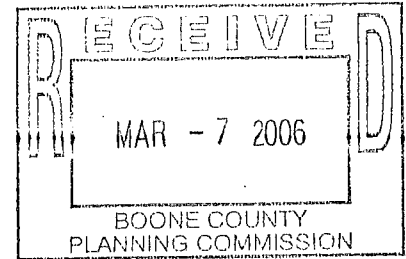
E-mail: plancom@boonecountyky.org

March 2, 2006

RECEIVED  
MAR 03 2006

Mr. John Toebben  
Toebben Ltd.  
541 Buttermilk Pike  
Suite 104  
Crescent Springs, KY 41017

FAX: 331-9702



RE: Recommended Conditions of Approval for 56 Acre Toebben Ltd. (Former Terrell Property) Zone Change Request from A-2 to RS and Variances for 2188 Rice Pike, Boone County, Kentucky

Dear Mr. Toebben:

The following represents the conditions of approval for the above referenced application as adopted by the Planning Commission at their 3/1/06 Business Meeting. As you are aware, condition #5 was modified at that meeting. If you, as the property owner's authorized representative, agree to these conditions, please so indicate by signing in the space provided at the end of this letter and return the original letter to the Planning Commission's office by Friday, March 10, 2006.

## CONDITIONS

1. The development shall follow the Concept Development Plan that was originally submitted with this application and presented at the Public Hearing except where modified by the partial revision for the western part of the site that was presented to the Zone Change Committee on 2/15/06 (revision exhibit is attached). The development shall also follow the revision exhibit which illustrates a Orleans Boulevard style road connection from Rice Pike to the property to the north, a modified lot arrangement, and access points to the individual lots where indicated with arrows; these access points are shared along the west side of the connector road. The connector road shall have box curbs, a 25 foot pavement width, and no parking on either side.
2. The lots on the west side of the connector road shall have 85 foot minimum frontages. The depth of the lots along the west boundary of the site shall be increased by 10 foot from the depth shown on the revision exhibit. The front yard setback for lots 5 through 14 on the revision exhibit shall be a minimum of 50 feet.

Mr. John Toebben  
March 2, 2006  
Page 2

3. All healthy, existing trees around the perimeter of the site shall be retained.
4. Board fencing and street trees comparable to those existing along Rice Pike by Lassing Green Subdivision shall be installed along this site's Rice Pike frontage. Additionally, vegetative screening shall be provided around all sides of the proposed pump station.
5. A 5 foot high chain link fence shall be installed by the developer along the north property line where it adjoins the Meiman property.
6. Storm water shall be managed in accordance with the requirements of Sanitation District #1 and Boone County. In particular, the post-development peak flow from any point discharge shall not exceed the pre-development peak rate.

Sincerely,



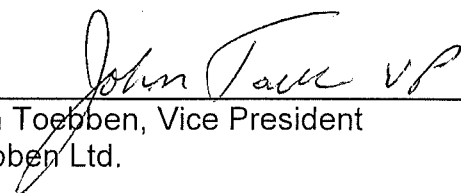
Kevin T. Wall, AICP CDT  
Director, Zoning Services

KTW/vlm

Enclosure

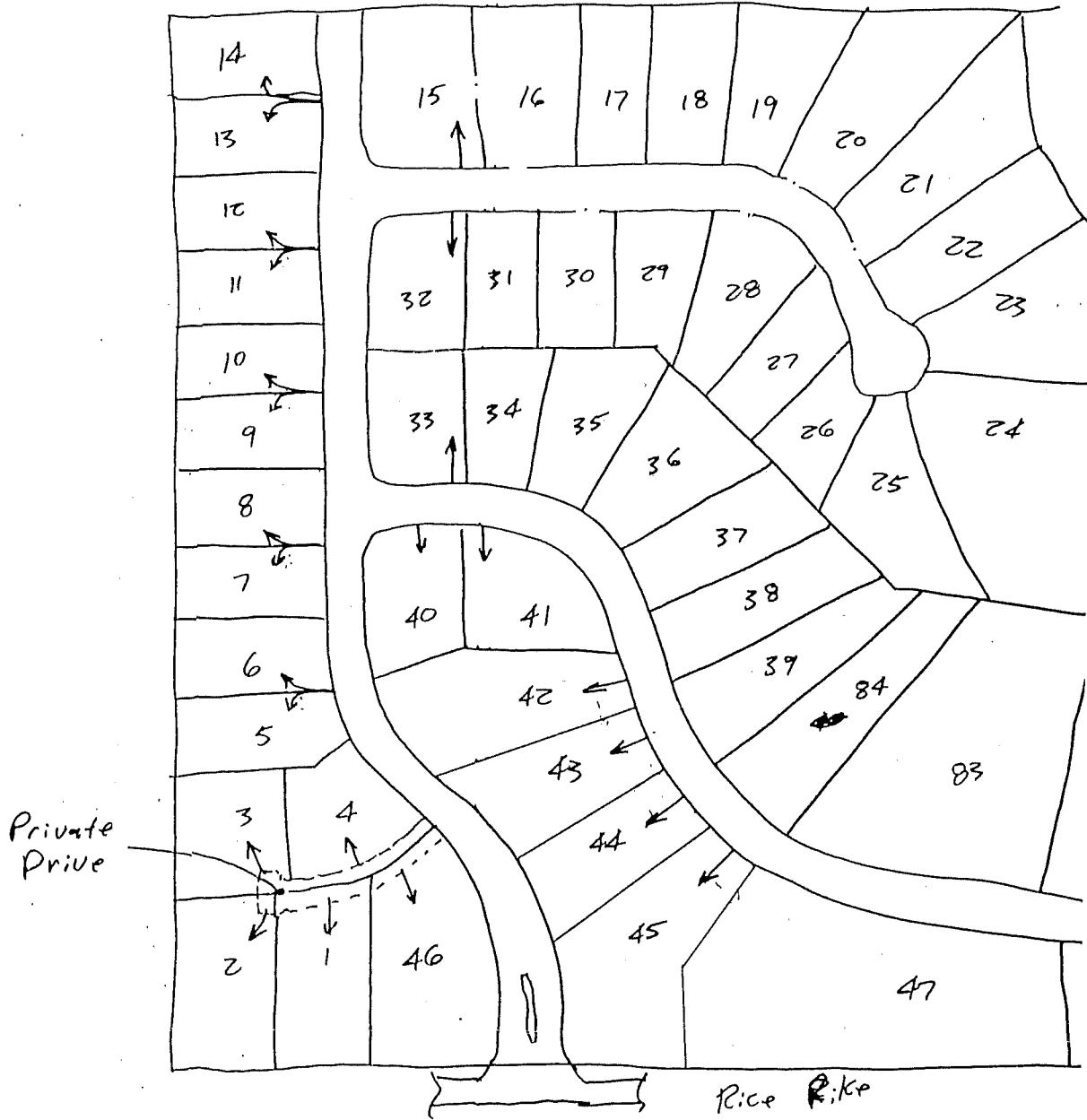
AGREEMENT

I, the authorized representative for the owner of the approximate 56 acre tract located at 2188 Rice Pike, Boone County, Kentucky, agree to the conditions listed herein for the above referenced Zoning Map Amendment and Variance application.



John Toebben, Vice President  
Toebben Ltd.

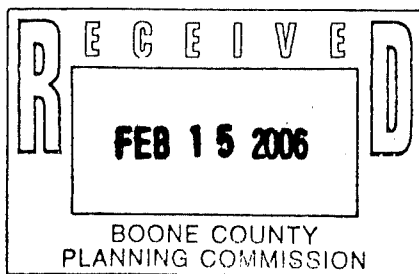
3/03/06  
Date



05K044

1" = 100'

2/15/06 JFB



my

RETURN TO:

This instrument prepared  
by Ziegler & Schneider, P.S.C.  
Attorneys at Law  
541 Buttermilk Pike, Suite 500  
P.O. Box 175710  
Covington, Kentucky 41017-5710  
by Lori Fields-Lee, Attorney.  
Lori Fields-Lee

**DEED**

KNOW ALL PERSONS BY THIS INSTRUMENT:

That WALTER TERRELL and KAREN TERRELL, husband and wife,

the GRANTOR(S), for and in consideration of One (\$1.00) Dollar and other good and valuable consideration as certified to below, paid to the GRANTOR(S) by the GRANTEE(S) herein, the receipt of which is hereby acknowledged, do(es) bargain, sell and convey to the following named GRANTEE(S),

TOEBBEN, LTD., a Kentucky limited partnership,

its successors and assigns forever, the following described real estate, in the county of Boone, state of Kentucky, to wit:

Street Address: 2188 RICE PIKE, UNION, KY 41091

Grantor(s) Address: 2188 Rice Pike, Union, Kentucky, KY 41091

Grantee(s) Address: 541 Buttermilk Pike, Crescent Springs, KY 41017

Group No.: 2055

PIDN:

Plat No.:

TOEBBEN - RICE

Being the same property conveyed to the Grantor(s) herein by deed from Brenda D. Seltman, a single person, dated May 15, 1990, and recorded in Deed Book 428, page 179, of the Boone County Clerk's records at Burlington, Kentucky.

SEE LEGAL DESCRIPTION ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

SUBJECT to conditions, restrictions and easements contained in deeds and instruments of record.

BOONE COUNTY  
D908 PG 227

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Together with all the privileges and appurtenances to the same belonging. To have and to hold forever the same to the GRANTEE(S), in the fashion and manner stated above in the conveying clause, with covenants of general warranty, except all taxes and assessments due and payable in the year 2005 which are to be reasonably prorated as of the date of closing and which the GRANTEE(S) assume(s) and agree(s) to pay.

GRANTOR and GRANTEE both certify, under oath, that the consideration of \$1,650,000.00 is the full consideration paid for the property and GRANTEE joins in this deed for the sole purpose of making this certificate about the consideration.

Dated this 14 day of DECEMBER, 2005.

GRANTOR:

Walter Terrell  
WALTER TERRELL  
Karen Terrell  
KAREN TERRELL

GRANTEE:

TOEBBEN, LTD., A KENTUCKY LIMITED PARTNERSHIP

BY: MATTH. TOEBBEN COMPANIES, INC. A KENTUCKY CORPORATION

BY:

William Toebben  
WILLIAM TOEBBEN, PRESIDENT

STATE OF KENTUCKY, COUNTY OF KENTON (GRANTOR)

The foregoing instrument was sworn to and acknowledged before me this 14 day of DECEMBER, 2005 by WALTER TERRELL and KAREN TERRELL, husband and wife.

Cheryl DeLoe  
Notary Public  
My commission expires: 9-25-09  
My jurisdiction is: STATE AT LARGE

STATE OF KENTUCKY, COUNTY OF KENTON (GRANTEE)

The statement about consideration in the foregoing instrument was sworn to and acknowledged before me this 14 day of DECEMBER, 2005, by TOEBBEN, LTD., a Kentucky limited partnership, by Matth. Toebben Companies, Inc., a Kentucky corporation, by William Toebben, as President for and on behalf of said corporation.

Cheryl DeLoe  
Notary Public  
My commission expires: 9-25-09  
My jurisdiction is: STATE AT LARGE

BOONE COUNTY  
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DOCUMENT NO: 334949  
 RECORDED ON: DECEMBER 15, 2005 02:12:52PM  
 TOTAL FEES: \$12.00  
 TRANSFER TAX: \$1650.00  
 GROUP : 2855  
 COUNTY CLERK: MARILYN K ROUSE  
 COUNTY: BOONE COUNTY CLERK  
 DEPUTY CLERK: DONNA COLLINS

## EXHIBIT A

BOOK D908 PAGES 227 - 229

## TRACT 1

PARCEL 1: LOCATED GENERALLY ON THE NORTH SIDE OF THE RICE PIKE (A COUNTY ROAD ABOUT .5 MILES WEST OF ITS INTERSECTION WITH U.S. 42 AT NEW HAVEN) AND DESCRIBED MORE PARTICULARLY THUS: BEGINNING AT A POINT IN THE CENTER OF RICE PIKE AT A CORNER WITH MARTHA HUEY, SAID CORNER ALSO BEING THE SOUTHEAST CORNER OF THE .100 ACRE TRACT CONVEYED TO MARTIN BY ROBERT DICKERSON; THENCE ALONG THE CENTER LINE OF SAID PIKE N 87-45 W. 796 FEET TO A POINT A CORNER WITH A TRACT OF 25.05 ACRES OF SAID 100 ACRE TRACT; THENCE WITH THE LINES OF SAID TRACT N 4-15 E 880.2 FEET TO A POINT; N 16 W. 367 FEET TO A POINT AT THE END OF A HEDGEROW A CORNER WITH THE BAKER FARM; THENCE WITH A LINE OF SAID FARM S 86 E 895.6 FEET TO A POINT A CORNER WITH MARTHA HUEY; THENCE WITH HER LINE S 3 W 1195.9 FEET TO THE PLACE OF BEGINNING, CONTAINING 22.23 ACRES.

PARCEL 2: ALSO THE FOLLOWING TRACT OF LAND LOCATED GENERALLY IN BOONE COUNTY, KENTUCKY, ABOUT 400 FEET NORTH OF RICE PIKE, NEAR ITS INTERSECTION WITH U.S. HIGHWAY #42 AND DESCRIBED PARTICULARLY THUS: BEGINNING AT A POINT IN THE WEST LINE OF THE 105 ACRE TRACT CONVEYED TO MARTHA HUEY IN DEED BOOK 59, PAGE 430, OF THE BOONE COUNTY CLERK'S RECORDS, 254 FEET N 1-30 E FROM THE SOUTH CORNER OF SAID TRACT IN THE CENTER OF RICE PIKE; THENCE ON A LINE DIVIDING SAID TRACT N 25-30 E 1460 FEET, PLUS OR MINUS, N 8-26 E 135 FEET, PLUS OR MINUS, TO A POINT IN THE NORTH LINE OF SAID 105 ACRE TRACT; THENCE WITH SAID NORTH LINE DUE WEST 613.7 FEET TO A POINT AND STONE A CORNER WITH ROBERT DICKERSON; THENCE WITH THE WEST LINE OF SAID 105 ACRE TRACT S 1-30 W 1328.7 FEET TO THE PLACE OF BEGINNING, CONTAINING 10.94 ACRES.

PARCEL 3: LYING AND BEING IN THE COUNTY OF BOONE, STATE OF KENTUCKY, LOCATED ON THE NORTH SIDE OF RICE PIKE APPROXIMATELY 1/2 MILE WEST OF ITS INTERSECTION WITH U.S. HIGHWAY 42 NEAR NEW HAVEN SCHOOL AND IS DESCRIBED THUS: BEGINNING AT A POINT IN THE CENTER OF RICE PIKE IN THE SOUTHWEST CORNER OF THE 22.23 ACRE TRACT CONVEYED BY R.P. COLEMAN TO JOS. A. HUEY RECORDED IN DEED BOOK 88, PAGE 111; THENCE WITH THE CENTER OF SAID PIKE N 87-30 W 173.6 FEET TO A POINT THENCE WITH THE REMAINING LAND OF THE 25 ACRE TRACT N 1-33 E 1230.6 FEET TO A STAKE; THENCE S 86-03 E 104.5 FEET TO A POST; THENCE WITH THE WEST LINE OF THE 22.23 ACRE TRACT (NOW ASHCRAFT) S 16 E 367 FEET TO A POINT; THENCE S 4-15 E 880.2 FEET TO THE BEGINNING AND CONTAINING 5.2 ACRES, AND BEING PART OF THE 25.02 ACRE TRACT CONVEYED TO G.C. ELY BY R.P. COLEMAN.

## TRACT 2

LYING AND BEING IN THE STATE OF KENTUCKY AND COUNTY OF BOONE LOCATED ON THE NORTH SIDE OF RICE PIKE APPROXIMATELY 1/2 MILE WEST OF ITS INTERSECTION WITH U.S. HIGHWAY 42 AND IS DESCRIBED THUS: BEGINNING AT A POINT IN THE CENTER OF RICE PIKE THE SOUTHWEST CORNER OF THE 5.2 ACRE TRACT CONVEYED TO ASHCRAFT; THENCE WITH THE CENTER OF SAID PIKE N 86-34 W 700 FEET; THENCE N 1-30 E 1239.4 FEET; THENCE S 87-48 E 333.0 FEET; THENCE S 88-03 E 387.0 FEET; THENCE S 1-30 09 W 1243.4 FEET TO THE BEGINNING AND CONTAINING 18.98 ACRES SUBJECT TO LEGAL RIGHT-OF-WAY, CONDITIONS, RESTRICTIONS AND EASEMENTS OF RECORD.

BEING THE SAME PROPERTY CONVEYED BY DEED RECORDED IN VOLUME 428, PAGE 178, OF THE BOONE COUNTY, KENTUCKY CLERK'S RECORDS.

## LESS AND EXCEPT:

A PARCEL OF LAND LYING ADJACENT TO THE SOUTHERLY SIDE AND EASTERLY SIDE OF THE BOONE COUNTY GOLF COURSE PARCEL AND NEAR THE RYLE HIGH SCHOOL, BOONE COUNTY, KENTUCKY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT, SAID POINT BEING A COMMON CORNER OF BOONE COUNTY SCHOOL DISTRICT FINANCIAL CORPORATION (D.B. 457, PG. 127) AND COUNTY OF BOONE PARCEL NO. 3-158.11 ACRES (D.B. 476, PG. 82) AND IN THE NORTHERLY LINE OF WALTER AND KAREN TERRELL PARCEL 2 (D.B. 420, PG. 179), ALL DEEDS RECORDED IN BOONE COUNTY CLERK'S RECORDS, BURLINGTON, AND RUNNING THENCE: S 43-29-23 W, A DISTANCE OF 330.47 FEET, TO A POINT, THENCE N 86-45-20 W, A DISTANCE OF 148.49 FEET, TO A POINT, THENCE S 59-10-38 W, A DISTANCE OF 87.70 FEET, TO A POINT, THENCE N 4-40-58 E, A DISTANCE OF 301.88 FEET, TO A POINT, THENCE S 86-42-52 E, A DISTANCE OF 425 FEET, TO THE PLACE OF BEGINNING, AND CONTAINING 1.90 ACRES MORE OR LESS.

BOONE COUNTY  
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DEC 20 2005

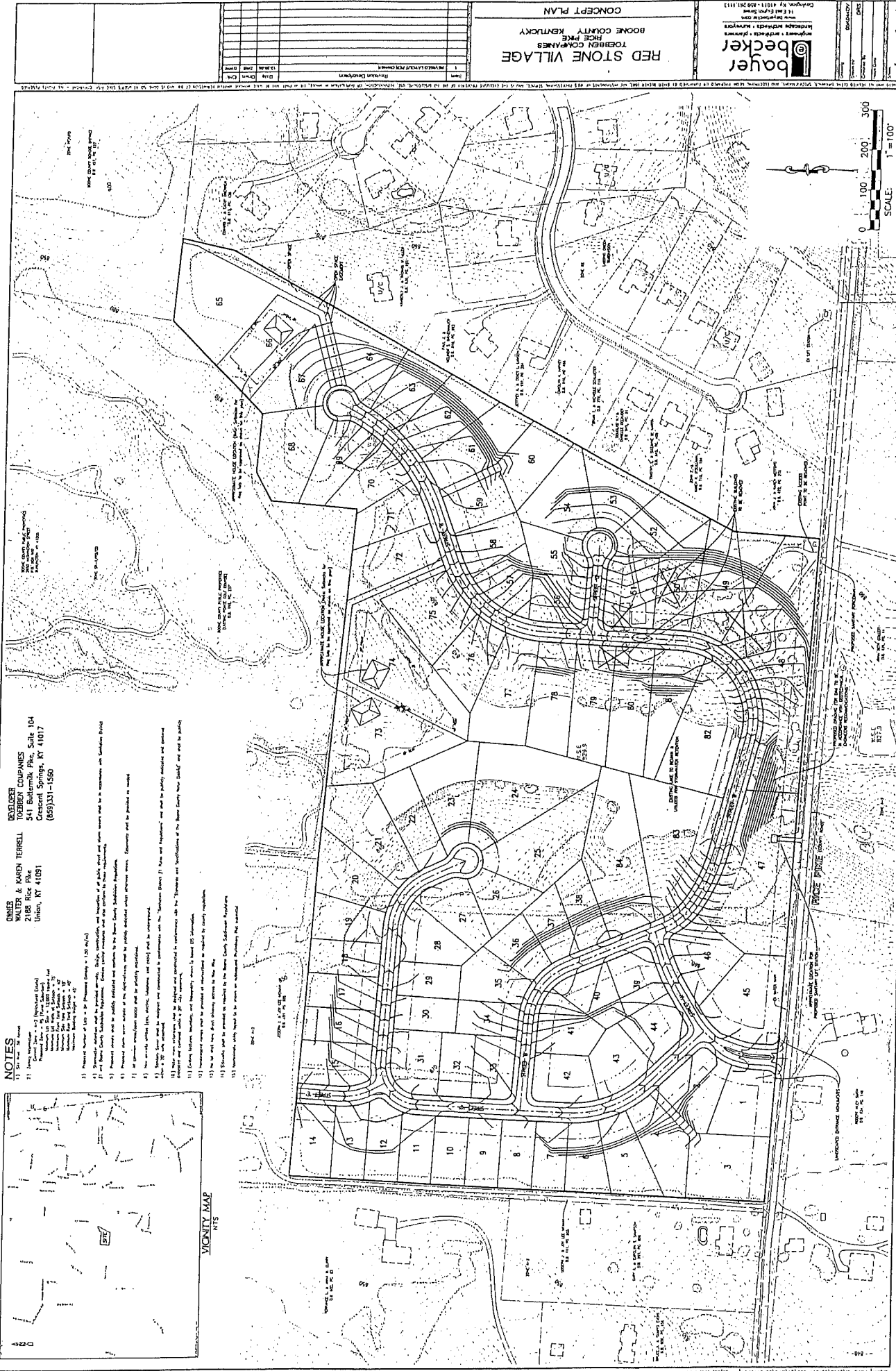
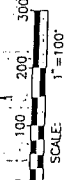
BOONE COUNTY  
PLANNING DEPARTMENT

1 of 1

**bayer**  
 engineering • architecture • planning  
 111 East Century Street  
 Lexington, KY 40502-4011  
 Telephone: 606-259-1113

**RED STONE VILLAGE**  
 TOBBERN COMPANIES  
 BOONE COUNTY, KENTUCKY  
 CONCEPT PLAN

DATE	DESCRIPTION
12/20/05	PRELIMINARY CONCEPT PLAN
12/20/05	REVISIONS
12/20/05	REVISIONS
12/20/05	REVISIONS
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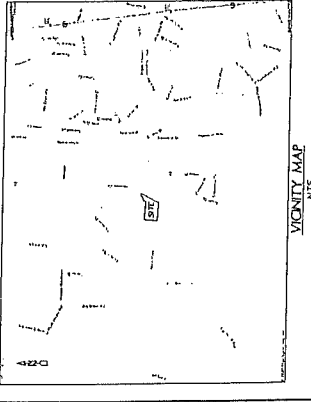


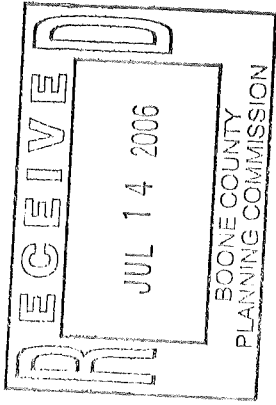
**OWNER:**  
 WALTER & KAREN TERRELL  
 218E Rice Pike  
 Union, KY 41081

**DEVELOPER:**  
 TOBBERN COMPANIES  
 541 Buttermilk Pike, Suite 104  
 Crescent Springs, KY 41017  
 (859)331-1580

**NOTES**

- 1) Site area is 50 acres.
- 2) All proposed lots are 1.5 to 2.0 acres.
- 3) All proposed lots are 1.5 to 2.0 acres.
- 4) All proposed lots are 1.5 to 2.0 acres.
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**ORDINANCE 06-04**

**AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT RECOMMENDING APPROVAL, WITH CONDITIONS, FOR A REQUEST OF TOEBBEN LTD. (APPLICANT) FOR TOEBBEN LTD. (OWNER) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM AGRICULTURAL ESTATE (A-2) TO RURAL SUBURBAN (RS), AND VARIANCES TO ALLOW THE FRONT AND REAR SETBACKS FOR CERTAIN PROPOSED FLAG LOTS TO BE REDUCED FROM 40 FEET TO 10 FEET, BOTH FOR A 55.966 ACRE SITE LOCATED AT 2188 RICE PIKE, BOONE COUNTY, KENTUCKY.**

**WHEREAS**, the Boone County Planning Commission received a request for a Zoning Map Amendment to the Boone County Zoning Map, and such Zoning Map Amendment being a zone change from Agricultural Estate (A-2) to Rural Suburban (RS), and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 feet to 10 feet, both for a 55.966 acre site located at 2188 Rice Pike, Boone County, Kentucky, which is more particularly described below; and,

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

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

**SECTION I**

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and hereby is approved with conditions, this Zoning Map Amendment being a zone change from Agricultural Estate (A-2) to Rural Suburban (RS), and Variances to allow the front and rear setbacks for certain proposed flag lots to be reduced from 40 to 10 feet, both for a 55.966 acre site located at 2188 Rice Pike, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in a an Agricultural Estate (A-2) zone and Variance is more particularly described in DEED BOOK 428, PAGE NO. 179 (as supplied by applicant) as recorded in the Boone County Clerk's office.

**SECTION II**

That as a basis for approval of this Zoning Map Amendment request and Variances are the findings of fact and conditions of the Boone County Planning Commission as set forth in its minutes and official records for this request shall be and are hereby incorporated by reference as if fully set out in this Ordinance marked as "Exhibit A."

06-04  
ORDINANCE 06-03

The Committee recommended approval of the request based on the findings of fact and conditions as set forth in the Committee Report and the Boone County Planning Commission Business Meeting minutes and marked as "Exhibit B."

*Correct page  
Per Louis  
Kelly  
7-14-06*

SECTION III

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

Introduced and given First Reading on the 28<sup>th</sup> day of March, 2006.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the ~~28<sup>th</sup>~~<sup>6<sup>th</sup></sup> day of ~~May~~<sup>July</sup>, 2006, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.

*Gary W. Moore*  
GARY W. MOORE  
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:

*Louis Kelly*  
LOUIS KELLY  
FISCAL COURT CLERK

*James R. Schrand II*  
JAMES R. SCHRAND II  
BOONE COUNTY ATTORNEY

6-~~8~~<sup>15</sup>-06  
DATE PUBLISHED

