

ZONING MAP AMENDMENT REQUEST BY THE SSC TRUST,
I. DUMONT GOUGE, TRUSTEE, FOR PROPERTY LOCATED ON THE
NORTH SIDE OF OLD TOLL ROAD, APPROXIMATELY 766 FEET
NORTHEAST OF PLEASANT VALLEY ROAD, BOONE COUNTY, KENTUCKY

This request is for a zoning map amendment for a 2.01 acre parcel, presently zoned Industrial One, I-1 and requested to be rezoned to Recreation (R). the site is located on the north side of Old Toll Road, approximately 766 feet northeast of Pleasant Valley Road and approximately 650 feet west of U.S. 42. The current use of the site is parking and storage of dilapidated, heavy duty earth moving and construction equipment.

Surrounding Land Uses and Zoning

Directly north of the subject site is property in the I-1 zone, which is part of a blacktop plant operation. East of the site is a subdivision of single family homes in a Residential One Family (R-1F) and Suburban Residential One (SR-1) zones, the Storer Communications property in a Public Facilities (PF) zone, all of which are in the city limits of Florence. A single family residence, on a 0.58 acre lot in the I-1 zone, is in unincorporated Boone County. South of the subject site is a single family residence, in the City of Florence, zoned Commercial Two/Planned Development Overlay, (C-2/PD). West of the single family residence is a vacant lot in what is currently a Commercial Services (C-3) zone, but will soon be in the C-2/Pd zone, when the 1986 zoning Regulations become effective for unincorporated Boone County.

West of the subject parcel is vacant land in the I-1 zone. The general area of the site is bordered by single family residential on the north and east sides, and generally vacant areas, with a large potential for commercial development, to the south and west.

Soils, Topography and Vegetation

Soils on the site are Jessup Silt Loam and Rossmoyne Silt Loam, which present only moderate limitations to urban development, although they do have severe limitations for sewage septic systems and are highly erodible if not properly managed (Soil Conservation Source, Soil survey of Boone, Campbell, and Kenton Counties, Kentucky, 1973). The site is located on the crest of a hill, and slopes downward toward the north and west. The northward portion of the site slopes more steeply down to a tributary of Gunpowder Creek. This north portion of the site has severely eroded soils. There is very little natural vegetation on the site with the exception of an overgrown fence line along the front of the site at Old Toll Road.

Public Facilities

The closest water service to the site is an 8 inch main that ends on the Storer Cable site to the east. The closest sanitary sewer connection is located north-east of the site behind the Williamsburg West Subdivision.

Access to the site is proposed to be from Old Toll Road, which has a right-of-way (R-O-W) width of 30 feet, and a pavement width of approximately 15 feet. Old Toll Road, in its present condition, is not suitable for two way traffic, and will need to be improved by expanding both the R-O-W and pavement widths.

Relationship to Boone County Comprehensive Plan

At the time this application was accepted by the Commission, the Land Use Element of the 1980 Comprehensive Plan was in effect. At the time of writing of this report, the Fiscal Court had passed the Land Use Element of the 1986 Comprehensive Plan. This zoning map amendment request must be reviewed on the basis of its relationship to both the 1980 and 1986 Boone County Comprehensive Plan. The general area of the request is referred to in a number of ways:

1980 Future Land Use Map - Medium Density Residential and Environmentally Sensitive.

1986 Future Land Use Map - Border-line Medium Density Residential and Commercial.

1980 Comprehensive Plan, Land Use Element

A. UNION

Medium density development is planned in the extreme north corner of the City in transition from the more intensely developed Florence area. This intersection of Gunpowder Road and U.S. 42 is encouraged for Planned Residential Development to allow proper treatment of the drainage area along Gunpowder Road and to allow proper buffering and organization of land uses to complement the character of the rest of Union. (Page 3.12)

B. TRANSITIONAL DEVELOPMENT PATTERNS

There are a number of existing commercial and industrial land uses on specific sites in Boone County which are not in conformance with the land use plan element. It is the intent of this Plan to allow those uses to continue to exist as long as they are

compatible with their surrounding environment. This is necessary to maintain the economic well-being of the community as a transition is made from rural to urban type land use patterns. Any expansion of these existing land uses must be carefully evaluated to determine the long-term effect on existing and proposed surrounding land uses. (Page 3.17)

1986 Comprehensive Plan; Goals and Objectives

Goals and Objectives:

Goal

To ensure that adequate recreation facilities and programs are provided; preserve significant natural features and historic sites; and provide open space for public use.

Objectives

Recreation areas should be centrally located in their service areas and easily and safely accessible to the age groups they are designed to serve.

Land Use Element

The intersection of U.S. 42 and Pleasant Valley Road will eventually become a prime commercial area to serve community needs in this area. (Page L-14)

Business Activity Element

The land surrounding the U.S. 42 area, south of Florence, will experience additional growth towards the City of Union. Any commercial developments in these areas should be limited in scale and clustered to serve growing residential neighborhoods. (Page B-14)

Proposed Concept Development Plan

The proposed Concept Development Plan for the proposed zone change indicates a 21,000 square foot building on a 2.01 acre site. Access to the site is proposed to be through an "entrance only" driveway at the east side of the site. Traffic entering the site would either stop at a drop-off point at the front of the building or proceed to the proposed parking area. The Concept Plan proposes a total of 122 parking spaces for the site.

The proposed exit to the site would be approximately 115 feet west of the proposed entrance. The Concept Plan indicates that the applicant is purchasing five (5) acres adjacent to the

subject site for possible future development. The only proposed landscaping on the site is retention of some of the existing vegetation located along Old Toll Road.

Special Concerns

Staff's major concern regarding the proposed zone change is the location of the site relative to opportunities for motor vehicle and pedestrian access. Staff believes that the proposed use would attract a primarily youthful constituency, many of which would attempt to reach the site via foot or bicycle. Old Toll Road is accessed from its east and west ends by intersections with U.S. 42 and Pleasant Valley Road, respectively. Neither of these roads provide opportunity for safe pedestrian travel to the general vicinity of the site.

Old Toll Road has a 30 foot right-of-way with an approximately 15 foot pavement width. In order to support traffic created by a business with over 120 parking spaces, this road will need to be improved. Potential improvements include, but are not necessarily limited to: dedication of additional street right-of-way; widening the pavement width to 25 feet minimum; and re-alignment of the intersection of Old Toll Road with U.S. 42.

Conclusion

In conclusion, the major issues concerning this zoning map amendment request are its relationship to the Boone County Comprehensive Plan (particularly the Goals and Objectives), the condition of available access to the site (or necessary improvements), the proposed intensity of use of the site, and...

Should the Planning Commission and Boone County Fiscal Court approve this request, the 1980 and 1986 Comprehensive Plan Land Use map should be amended to indicate recreational land use for the site.



Jim Sturdevant
Plans Examiner/Planner

EXHIBIT "A"

DESCRIPTION OF PROPERTY

ZONE CHANGE

2.0105 Acres

Old Toll Road

Boone County, Kentucky

Group No. 2038 and 2039

A certain tract of land situated on the Northerly most side of Old Toll Road (also known as Old Florence-Union Turnpike) being approximately 766 feet Northeast of Pleasant Valley Road and being bounded on the Easterly most side by the lands of Deters, Storer, and Coyne, on the Northerly most and Westerly most sides by the lands of the Grantor and on the Southerly most side by said Old Toll Road and being a portion of the lands described in Deed Book 210, page 145 of the Boone County Clerk's records at Burlington, Kentucky, and being more particularly described as follows:

BEGINNING at a P.K. nail set in the approximate centerline of said Old Toll Road being the Easterly most corner of the parent tract and being a corner to the lands of said Coyne;

THENCE leaving the line of said Coyne and continuing with the approximate centerline of said Road South $63^{\circ} 21' 00''$ West for a distance of 243.37 feet to a set P.K. nail;

THENCE continuing with the centerline of said Road line South $53^{\circ} 03' 00''$ West for a distance of 50.00 feet to a point;

THENCE leaving said centerline and continuing with a new division line North $44^{\circ} 09' 30''$ West for a distance of 275.00 feet to a point;

THENCE leaving said new division line and continuing with another new division line North $45^{\circ} 50' 30''$ East for a distance of 281.70 feet to a point in the Grantor's Northeasterly most line;

THENCE leaving said new division line and continuing with the line of said Deters, Storer, and Coyne South $44^{\circ} 09' 30''$ East for a distance of 354.49 feet to a set P.K. nail being the said POINT OF BEGINNING;

This tract of land contains 2.0105 acres (87,577 square feet).

BOONE COUNTY PLANNING COMMISSION

PUBLIC HEARING #1

DECEMBER 17, 1986

7:00 P.M.

Chairman Kroger opened the Public Hearing by changing the order of the agenda. Mr. Kroger proceeded to hear the request of James W. Berling (owner by option) for a Zoning Map Amendment on a 550 acre site located north of Richwood Road, south of Frogtown Road and west of I-75, Boone County, Kentucky. The site is currently zoned Rural Suburban, RS, Agricultural Estate, A-2 and Suburban Residential One, SR-1. The request is to rezoned the property Suburban Residential Two/Recreation/Planned Development, SR-2/R/PD.

Mr. James W. Berling, owner by option and applicant, informed the Planning Commission that he was awaiting other individuals, who were affiliated with his request. Mr. Berling asked the Planning Commission if his request could be heard as the second item on the agenda, as this request was originally planned to be the second item on the agenda. Mr. Kroger agreed with this request.

✓ Chairman Kroger opened the Public Hearing on the request of SSC Trust (applicant) for R.C. Durr (owner) for a Zoning Map Amendment located on the north side of Old Toll Road and east of Pleasant Valley Road, Boone County, Kentucky. The two (2) acre site is currently zoned Industrial One, I-1 and the request is to rezone the property Recreation, R, to permit a roller skating rink.

Mr. Jack Gartner of Gartner, Burdick, Bauer-Nilsen described the location of the proposed building and the surrounding zones. Mr. Gartner stated the Storer Communications business presently abutted the proposed site. Mr. Gartner explained that the main entrance to the site was located at the east end of the property with parking immediately in front of the proposed building and traffic would travel through the access drive with the parking off of the access drive. Mr. Gartner noted the trees presently across the front portion of the site would remain. Mr. Gartner stated the zone change being requested was a reasonable use and the proposed facility would enhance Boone County and the City of Florence.

Mr. Gouge, representing the proposed request noted the building would be 100 feet by 200 feet and he described the

architectural design of the building. Mr. Gouge explained that he and his family would be involved in the management of the business on a day to day basis. Mr. Gouge made himself available for any questions.

Mr. Gartner stated the parking ratio was designed on the basis of the floor area of the rink itself which was approximately 12,000 square feet.

Chairman Kroger stated the Staff Report would be incorporated into the Minutes and he requested the last page of the Staff Report, noting some special concerns, be addressed by staff member Jim Sturdevant. Mr. Sturdevant addressed the "Special Concerns" within the Staff Report. (See Staff Report)

Chairman Kroger inquired of audience's support, opposition or comments on the proposed request.

Mr. Dan Riegler, representing Riegler's property located directly north of the proposed site, stated that the proposed site drains onto his property and he inquired (1) what kind of septic or storm sewer system would be put in to handle all the water runoff and he noted all the access to the city sewer ran through his property which no one had approached him about and (2) stated his family had recently purchased their property and they would eventually like to develop it into industrial metal buildings or possibly an asphalt plant and inquired if the proposed zone request, if approved, would affect or injure the rest of the surrounding property.

Mr. Richard Coyne, resident of Old Toll Road, inquired if in order for the request to be legal was he to have received a registered letter notifying him of the public hearing. Atty. Dale Wilson stated that the names and addresses of adjacent property owners were given to the Planning Commission's staff for notification and the preparation of the list was the responsibility of the applicant. Mr. Coyne noted he had not received notification by a registered letter. Mr. Coyne inquired what was proposed for all the traffic the rink would create. Mr. Coyne noted the widest place in Old Toll Road was only 10 - 12 feet wide and not ample space for two-way traffic. Mr. Coyne stated the road would have to be widened.

Mr. Gartner stated there was a sewer behind Mr. Coyne's property which ran in behind the Storer Communication's property which was northeast of the site. Mr. Gartner noted the storm water drainage would have to be retained and meet the requirements of the County. Mr. Gartner referred to the traffic and stated it was also a concern of the applicant. Mr. Gartner stated he believed the road was wider than 10 - 12 feet. Mr. Gartner stated the Staff Report had expressed concern of safe pedestrian travel (children) to the general vicinity of the site and noted

he did not feel that most children rode their bicycles at night nor would there be many pedestrians walking because most of the population that would be patrons of the facility did not live in the immediate area. Therefore, the children would be driven to the facility and dropped off. Mr. Gartner agreed though that most of the patrons of the facility would be children. Mr. Gartner stated he would check with their attorney regarding the adjoining property owner's listing and informed Mr. Coyne the matter had not been intentional.

Chairman Kroger referred to the Commission for discussion.

Mr. Neltner referred to the old equipment located on the property and inquired it would be moved to the next five acres. Mr. Gouge stated it was in his agreement when purchasing the property to move most of the old equipment from the property or move it completely to the adjacent other end of the property.

Mr. Neltner noted future developments in the immediate area and agreed there would be people that would get to the site by walking or riding a bike. Mr. Neltner agreed Old Toll Road was very narrow and he inquired of any plans by the developer to improve the road. Mr. Gartner stated he did not know if the developer would be able to improve a County road.

Mr. Barnett noted it would be interesting to see the Kentucky Department of Highway's maps showing what Old Toll Road would look like when completed. Mr. Gartner stated the road would basically remain the same with the exception of a "T" intersection at Old Toll Road and U.S. 42. Mr. Barnett stated he had not heard whether the proposed zone change request agreed to the Comprehensive Plan. Mr. Gartner noted the adjoining business, Storer Communications was applicable to the use of the rink and Mr. Riegler had stated that he possibly intended to build metal buildings on his property or some type of industrial use. Mr. Barnett stated he felt the area should not be industrial but preferred to see commercial along the highway.

After further discussion, Chairman Kroger noted the proposed request would be placed on the Agenda for the Business Meeting of January 7, 1987 at 8:00 P.M. Hearing no further questions or comments, Chairman Kroger closed the Public Hearing.

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BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

FEBRUARY 4, 1987

8:00 P.M.

Chairman Kroger called the Business Meeting to order. Roll call was taken by staff member Barbara Reffitt. 12 members were present. Absent: Messrs. Burch, Martin and Slusher. All staff members were present. Atty. Dale Wilson was also present.

Minutes of the January 21, 1987 Business Meeting and the January 28, 1987 Public Hearing were considered. Mr. Rector Jones made a motion that the minutes be approved. Mr. William Viox seconded the motion. There being no further discussion, the motion carried unanimously.

Administration

Chairman Kroger inquired of bills to be paid. Mrs. Reffitt read bills to be paid: Staff Salaries and Benefits, \$2,334.53; Greg Sketch (engineer), \$332.50; Skees and Wilson, \$1,666.66; Tower Services Corp. (Harvey Pelley), \$500.00; County Employee Retirement System, \$915.84; Kentucky State Treasurer, \$490.10; Mileage, \$218.28; The Boone County Recorder (Legal Notices), \$863.65; Univ. of Kentucky - Ky. Geo. Survey (maps), \$71.25; Dixie Vending, \$9.00; American Planning Association, \$97.00; American Planning Association, \$87.00; Pflum, Klausmeier, & Wagner, \$1,420.00; GRW Engineers, Inc., \$500.00; EDM Business Interiors (office supplies), \$11.20; Jerry Rouse, County Clerk (recording fees), \$163.00; American Assoc. for State & Local History, \$195.60; H-Q Services & Offices (zone regs diskette), \$22.00; Ohio Blue Print, \$96.90; for a total of bills to be paid \$9,994.51. The bills paid were; Ky. State Treasurer (1-21-87), \$1,663.54; Ky. State Treasurer (1-21-87), \$40.03; Huntington Bank (People's Deposit), \$1,608.64; Huntington Bank, \$1,848.58; Staff Salaries (1-12-87 through 1-30-87), \$7,129.27; Joy Hacker (reimburse for gift for M. Cox), \$32.93; Mathis, Dallas, Frohlich (refund fees), \$167.00; Boone Co. Fiscal Court (Ordinance #19), \$311.86, for a grand total of \$22,796.36. Mr. Jones moved that all bills be paid as presented. The motion was seconded by Mr. Viox. The motion carried unanimously.

Chairman Kroger noted the Zoning Officer's Report; the Convenience Plat Report; and Building Permits for the Commission's review and comment. Hearing no questions or comments

on the above noted reports, Chairman Kroger proceeded with the meeting.

Chairman Kroger noted under communications received, there was a statement from Skees and Wilson regarding the Loomis Enterprise Case. He stated the Commission had heard from Atty. Dale Wilson both formerly and informally relative to this case. Chairman Kroger stated this information would be in the Planning Commission office's file for record. He also stated there was correspondence from Mayor Roger Rolfes on the appointment to various boards. One of the appointments was Raymond Ashcraft to the Florence Board of Adjustments, Larry Barnett's appointment to the Planning Commission along with Melvin DeLong to the Planning Commission. Chairman Kroger stated that the Boone County Solid Waste Management Plan was received in the office and stated anyone wanting to read this document can review it in the Planning Commission's office.

Hearing no further comments or discussions on the above noted correspondence Chairman Kroger proceeded with the items on the agenda.

Unfinished Business

Zoning Map Amendment - Melvin DeLong, Chairman; Jim Sturdevant, Staff

A request of SSC Trust (applicant) for R. C. Durr (owner) for a Zoning Map Amendment located on the north side of Old Toll Road and east of Pleasant Valley Road, Boone County, Kentucky. The two (2) acre site is currently zoned Industrial One (I-1) and the request is to rezone the property Recreation (R) to permit a roller skating rink.

Director Gerald Newton read the Committee Report recommending denial of the Zoning Map Amendment request based upon the following findings of fact:

1. The requested zone change is not in conformance with the 1986 Boone County Comprehensive Plan, Goals and Objectives, which state:

Recreation areas should be centrally located in their service areas and easily and safely accessible to the age groups they are designed to serve. (p. G-5)

The Committee believes that a use such as the one proposed should be more centrally located to an established residential or commercial district with greater opportunity for safe access.

2. The requested zone change is not in conformance with the 1980 or 1986 Comprehensive Plan, Future Land Use Map, which

indicate medium density residential and borderline medium density residential/commercial, respectively, for the subject site.

3. While the applicant has presented the argument that the existing Industrial One (I-1) zoning of the site is inappropriate, he has failed to show that the proposed zoning is appropriate for the subject site.

If the Zoning Map Amendment for the two acre site were to be approved, the property in the immediate vicinity could still be developed for uses permitted in the I-1 zone, many of which could present an unsafe environment, or an attractive nuisance, for large concentrations of young people.

4. There have been no major changes of an economic, physical, or social nature not anticipated in the adopted comprehensive plan that substantially alter the area's character.

Chairman Kroger asked if there was anyone to represent SSC Trust.

Mr. Jerry Dusing, representing SSC Trust, stated he was disappointed in the recommendation of the Committee. He stated he would like to point out some factual information and other solutions to recommend the zone change. He referred to the Committee Report where it stated as the basis for recommendation for denial that the 1986 Comprehensive Plan recreation areas should be centrally located and safely accessible to the patronage, and the Committee felt that this site was neither. He stated that as a matter of geography, the site was centrally located and that was the reason why the site was so attractive to SSC Trust. He noted there was no central Boone County and the site was on the borderline of Florence and the residential areas of Union or the more densely populated areas of Boone County. He thought the site was exactly centrally located. He stated the issue of safe access was wrong and wanted to point out that there is no Commercial Recreation land use in the Comprehensive Plan. He also noted the zone had to be a commercial compatible zone under the Commission's criteria. He noted in order to meet the criteria of centrally located and easily accessible, he submitted one fact which was lost in the Committee meeting and he felt this was not presented to staff. He stated that surveys showed that 98% of all patrons of these roller rinks are parental drop off and pick up by automobile and not pedestrian traffic. Also, the reality in 1987 was that U.S. 42 was scheduled to be widened with curbs, sidewalks, etc. He felt that the fact that Old Toll Road was narrow and the concern for increased traffic was legitimate. He stated that he had addressed this concern to the staff and also to the Fiscal Court. He stated he would like approval on the condition that there is satisfactory access to Old Toll Road to the satisfaction of Fiscal Court. He felt that he should point out that property presently zoned I-1 would allow a variety

of light industrial uses and abuts some of the finest residential areas in the City of Florence. The proposed Recreation Zone would be a step down from Residential to Industrial. He pointed out something frustrating to him was the fact that as an allowable use of I-1 Industrial zone was a manufacturing plant which would meet the conformity of the zoning of the site and we are allowed to have recreational centers along with roller rinks and other athletic services as an accessory use to permitted industrial uses.

Chairman Kroger asked if there were any further comments or questions.

Ms. Brenda ^{Shaw} ~~Shaw~~, a resident in the area of Old Toll Road, discussed the location of an existing asphalt company next to her property along with truck services. She felt there was no further need for industry in this area and liked the idea of a roller rink.

Chairman Kroger asked if there were any further comments, and referred to the Commission for review.

Mr. McMillian moved that the request be granted based on the fact that there was industry in that area already. Chairman Kroger stated the zone change request and a motion would require a statement of fact based upon the motion. Mr. McMillian stated this would be by Resolution to the Boone County Fiscal Court and they would be notified, and asked for recommendation for approval to this request.

Mr. Greene seconded the motion.

Mr. Viox asked if the information and request Mr. Dusing presented was allowed in the current zone. Mr. Newton stated the application which was submitted was for a recreational use and the property is currently located in an Industrial One Zone. Mr. Newton read the zoning ordinance regarding this request.

Mr. Viox wanted to know if the Staff was still of the opinion it is not a permitted use in this zone. Mr. Newton stated he could get the information regarding this.

Chairman Kroger asked if there was any further discussion.

Mr. Greene concurred with Mr. McMillian and feels the community is better off with the roller rink than another industry being built.

Mr. DeLong stated that the Planning Commission may want to adopt some contingencies such as the improved roadway under the approval of Fiscal Court. Mr. Kroger stated you can make any stipulation to improve Old Toll Road. Mr. Don McMillian felt the

Fiscal Court would take care of their part of the request. Chairman Kroger suggested that Fiscal Court work with them on safe roadway and the contingency of roadway would be placed before Fiscal Court.

Chairman Kroger stated he did not want to try to interpret what Mr. DeLong was saying, but felt he was illuding to Mr. Dusing's statement that at least if we could recommend favorably on this request to stipulate in that recommendation that it be on the basis that Fiscal Court work with them on a development of a safe roadway between U.S. 42 and the stated property. Chairman Kroger stated to Mr. McMillian that the motion has a contingency attached to it that the roadway be developed in conformance with the request to the Fiscal Court.

Mr. Greene stated he had seconded the motion to approve the request.

Chairman Kroger stated that the motion had been amended to include the widening of the road and the seconded as amended. Chairman Kroger asked if there was any further discussion.

Mr. Hemmer asked if the Fiscal Court had recommended widening Old Toll Road or not paving it is at this time. Chairman Kroger stated any stipulation could be made as long as it is legal.

Atty. Dale Wilson stated any part of the recommendation is made part of approval and has to be agreed upon by the applicant.

Mr. Neltner stated he felt a little confused regarding this since the original recommendation was for denial. Chairman Kroger stated the Committee Report was for denial and the motion on the floor is for approval. Chairman Kroger stated if he did understand Mr. McMillian's motion, it stipulated approval based on the Fiscal Court approval of the roadway, and stated Mr. McMillian was not placing any particular restrictions as to the size and the condition of that roadway. Mr. McMillian stated he was not.

Chairman Kroger asked Mr. Hemmer and Mr. DeLong if they understood this and they both said yes.

Mr. Newton stated in view of the zoning regulation the roller rink would not come under that broad category in the I-1 zone even though some of the recreational uses are identified. The roller skating rink or ice skating rink has been pulled out of a general category and exists in three other zones and are identified as principally permitted in the Recreation Zone, conditional in the Commercial Two Zone, and an accessory use in an Office Two Zone. If it was not broad enough, it could have been categorized in that same grouping of recreational activities

if it were termed to be appropriate.

Atty. Dale Wilson stated that if this particular use is not an accessory use allowed in this zone, there are obviously some recreational kinds of uses that are allowed in this I-1 zone.

Chairman Kroger asked for any further comments.

Mr. Neltner wanted to make a statement that he did agree with the applicant that it was a central location, but he disagreed in regard to the safety of this site. He stated there was little room for two cars to pass on Old Toll Road and disagreed with the applicant's statistics about automobile traffic and he felt there were a lot of parents who will not be bothered with driving their children to the roller rink if they live within walking distance. He also stated his concern was for the safety on this road. He did agree that there is a need for future recreational uses in this area, but did have a problem with it at the present time. Mr. Neltner also stated that Old Toll Road in the vicinity of U.S. 42 is not much more than a gravel road at the present time.

Mr. Davis concurred with the statements made by Mr. Neltner. He felt at this time he could not recommend approval due the roadway size.

Chairman Kroger asked if there were any further comments.

Mr. McMillian stated that we had a motion to approve the request and for the roadway to be improved. He also stated he had several telephone calls from neighbors in this surrounding area who were interested in the roller rink being built in this particular area and thought it was a good opportunity.

Chairman Kroger asked for any further comments.

Mr. Hemmer stated he felt Old Toll Road should be improved before the roller rink is built.

Chairman Kroger asked if there was any further comments.

Mr. Barnett felt having the roller rink would increase the traffic problem on Old Toll Road and Pleasant Valley Road with there being no sidewalks. He felt that commercial land uses should be located near major highways or roads like U.S. 42 and not Old Toll Road. Mr. Barnett stated that the proposed request is inappropriate in this area. He would like to see the area residential in the future.

Chairman Kroger asked for any further discussion.

Mr. Viox asked Mr. Dusing how far Old Toll Road would be widened at this time. He also asked if he was willing to commit to widening Old Toll Road and put this in the Committee Report, and asked if this road would be improved beyond the roller rink site. Mr. Viox stated he felt 20 ft. would not be sufficient to widen the road. Mr. Dusing stated he was willing to work with the Fiscal Court as far as the width of Old Toll Road from U.S. 42 to the driveway of their site, but he thought the right of way was only 30 feet. Mr. Viox asked if in the event that U.S. 42 doesn't happen, would he be willing to widen all the way from old U.S. 42 to the site.

Chairman Kroger asked Mr. Sturdevant to specify on the map where exactly the new entrance of Old Toll Road and to U.S. 42 would be relative to the existing intersection of Old Toll Road and U.S. 42. Mr. Sturdevant stated it was approximately 100 ft west of the existing intersection of U.S. 42 and Old Toll Road. Certain of the exact distance along Old Toll Road between the subject site and the present intersection of Old Toll Road and U.S. 42. design of the new entrance of U.S. 42 was on the site of Old Toll Road and the entrance to Old Toll Road from U.S. 42.

Chairman Kroger referred to the Commission and the motion on the floor and asked Mr. Dusing if he agreed with everything in the motion as for the stipulations added. He stated yes.

Mr. McMillian moved the request be granted by Resolution to the Fiscal Court. Mr. Greene seconded. Chairman Kroger stated there was a motion made by Mr. McMillian and seconded by Mr. Greene which was for the approval of the request with the stipulations, and asked that a roll call be taken. He stated this would be by Resolution to the Boone County Fiscal Court for approval of a zone change.

AYES: Messrs. Greene, McMillian.

NAYS: Messrs. Barnett, Collins, David, DeLong, Hemmer, Jones, Kroger, Neltner, Viox, and Mrs. Smith.

The motion was denied by 2 Ayes to 10 Nays

A motion was made by Mr. Viox to deny the Zone Change Request based upon the written Committee Report. The motion was seconded by Carol Smith.

Mr. Neltner stated that he was not particularly in agreement with the portion of the Committee Report that stated the subject site was not in a central location; Mr. Neltner moved to amend the motion on the floor to delete the portion of the Committee Report which stated that the subject site was not centrally located. The motion to amend the motion on the floor was seconded by Mr. Jones. A roll call vote to approve the motion to amend

the motion for denial of the request was defeated by the following vote:

AYES: Messrs. Collins, Davis, DeLong, Hemmer, Neltner

NAYS: Messrs. Barnett, Greene, Jones, Kroger, McMillian, Viox, and Mrs. Smith.

Motion for Amended Committee Report denied by 5 Ayes to 7 Nays.

Chairman Kroger called for a vote to approve the motion for denial of the request via Resolution to the Boone County Fiscal Court based upon the findings of fact within the Committee Report. The motion was seconded by Mr. McMillian. The motion carried unanimously.

Hearing no further discussion, Chairman referred to the next item on the agenda.

Zoning Map Amendment - William Viox, Chairman; Kevin Costello and Jim Sturdevant, Staff

Request of Dan Fay (applicant) for Corporex Companies, Inc. and Cracker Barrel Restaurant (owners) for a Zoning Map Amendment to establish a Special Sign District on a 16 acre site located west of I-75, south of Turfway Road, east of Houston Road and north of I-75 southbound exit ramp, Florence, Kentucky. The site is currently zoned Office Two/Planned Development (O-2/PD).

Mr. Gerald Newton read the Committee Report and stated there was documentation with the Committee Report which recommended approval of the Zoning Map Amendment Request for the Special Sign District, based upon the following findings of fact and with the following conditions.

Findings of Fact

1. The proposed Commonwealth Park Special Sign District is in conformance with the 1986 Boone County Comprehensive Plan. "Goals and Objectives", in that it helps provide for an integrated design of the commercial development.

2. The proposed Special Sign District is in conformance with the Land Use Study I-75 Turfway Road Interchange, in that the proposed District is in equivalence a "Planned Development" approach to providing an imaginative signage plan to address the specific needs of the parcel and its neighbors.

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Melvin DeLong, Chairman

DATE: February 4, 1987

RE: Request of SSC Trust (applicant) for R.C. Durr (owner) for a Zoning Map Amendment located on the north side of Old Toll Road and east of Pleasant Valley Road, Boone County, Kentucky. The Two (2) acre site is currently zoned Industrial One (I-1) and the request is to rezone the property Recreation (R) to permit a roller skating rink.

REMARKS:

The Committee wishes to express that it is wholly in favor of providing a diversity of recreational opportunities for persons of all ages. However, these opportunities, especially when oriented to a youthful constituency, must be centrally located to the persons intended to be served by the activity; must be situated in a safe environment conducive to such activities; and must be safely accessible by automobile, pedestrian, and other forms of public transportation.

As a result, the Committee recommends denial of the Zoning Map Amendment request based upon the following findings of fact:

1. The requested zone change is not in conformance with the 1986 Boone County Comprehensive Plan, Goals and Objectives, which state:

Recreation areas should be centrally located in their service areas and easily and safely accessible to the age groups they are designed to serve. (p. G-5)

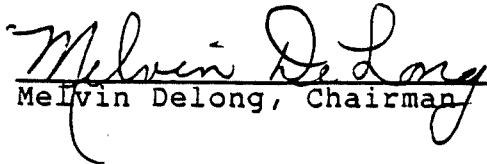
The Committee believes that a use such as the one proposed should be more centrally located to an established residential or commercial district with greater opportunity for safe access.

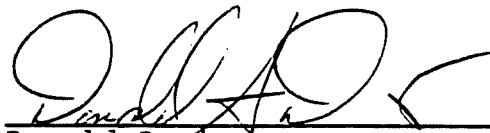
2. The requested zone change is not in conformance with the 1980 or 1986 Comprehensive Plan, Future Land Use Map, which indicate medium density residential and borderline medium density residential/commercial, respectively, for the subject site.

3. While the applicant has presented the argument that the existing Industrial One (I-1) zoning of the site is inappropriate, he has failed to show that the proposed zoning is appropriate for the subject site.


If the Zoning Map Amendment for the two acre site were to be approved, the property in the immediate vicinity could still be developed for uses permitted in the I-1 zone, many of which could present an unsafe environment, or an attractive nuisance, for large concentrations of young people.

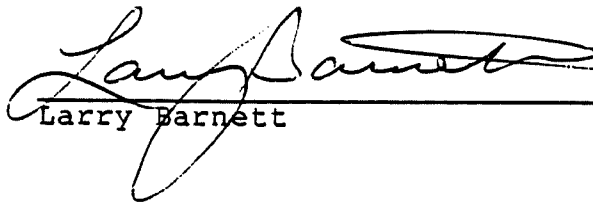
4. There have been no major changes of an economic, physical, or social nature not anticipated in the adopted comprehensive plan that substantially alter the area's character.

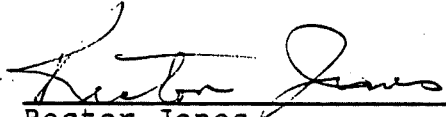

Melvin DeLong, Chairman


Donald Davis


William Viox


Fred Burch


Larry Barnett


Rector Jones

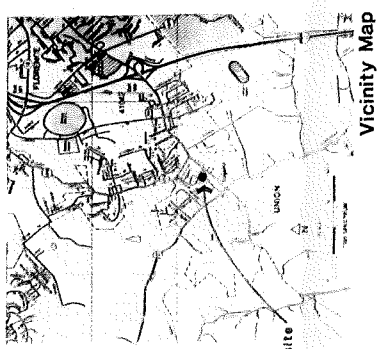
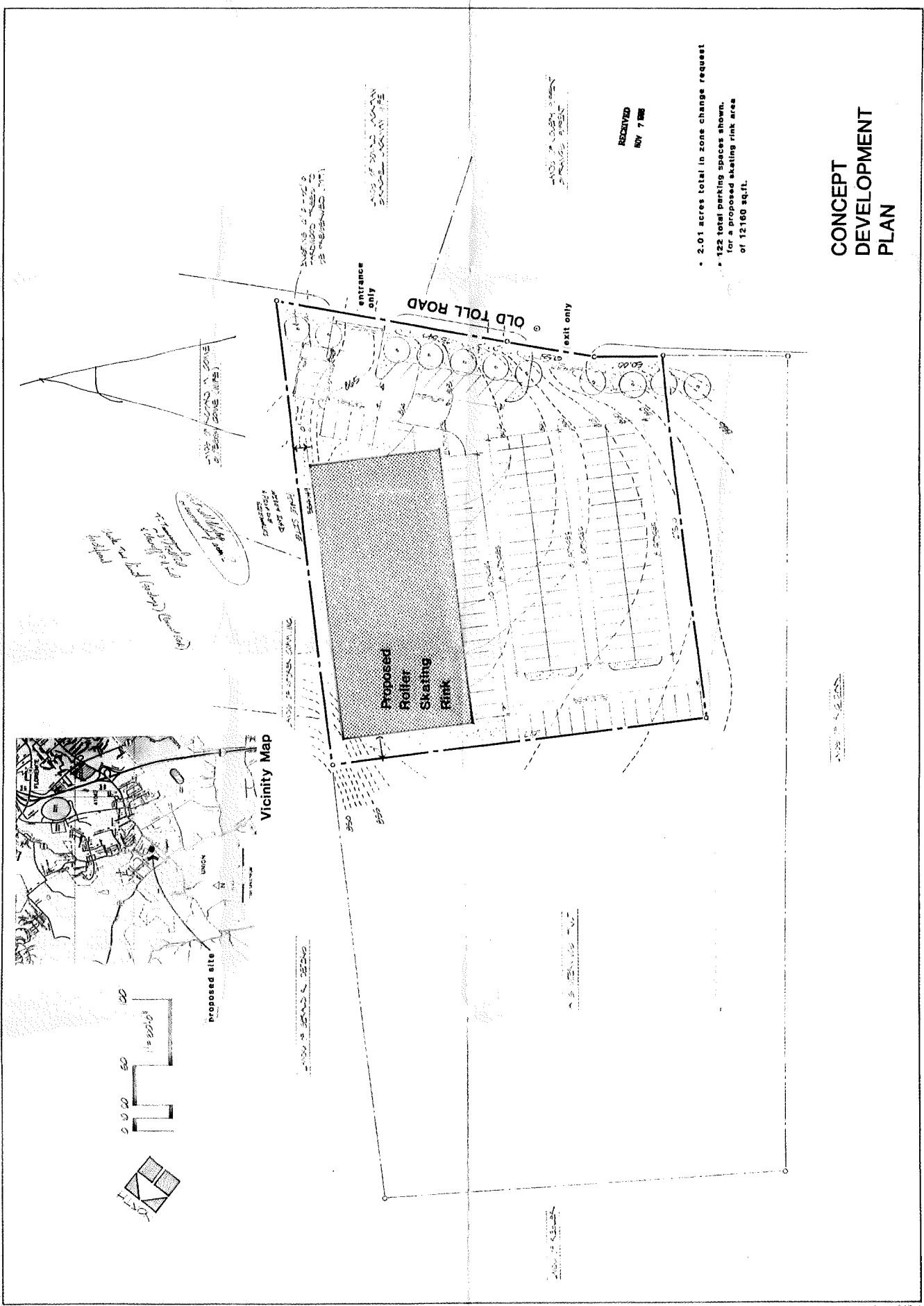
CONCEPT DEVELOPMENT PLAN

- 2.01 acres total in zone change request
- 122 total parking spaces shown for a proposed skating rink area of 12,100 sq.ft.

RECEIVED
MAY 7 1988

Job Number: _____
 Drawing: **Proposed Roller Skating Rink**
 Boone County, Ky.
 Date: _____
 Title: _____

City of Boone County, Kentucky 40306-325-8700
GBN
 G. B. N. Engineers, Inc.
 1015 S. 10th Street, Boone, KY 40306-325-8700



Handwritten notes:
 1. 122 parking spaces shown for a proposed skating rink area of 12,100 sq.ft.
 2. 2.01 acres total in zone change request

ADAMS, BROOKING, STEPNER, WOLTERMANN & DUSING

Attorneys and Counselors at Law

CHARLES S. ADAMS
1906-1971

C. GORDON WALKER
1911-1967

JOHN R. S. BROOKING *

DONALD L. STEPNER

JAMES G. WOLTERMANN

GERALD F. DUSING

DENNIS R. WILLIAMS

MARC D. DIETZ *

MICHAEL M. SKETCH *

JAMES R. KRUEER *

DANIEL L. DICKERSON *

April 9, 1987

421 GARRARD STREET

P. O. BOX 861

COVINGTON, KENTUCKY 41012-0861

AREA CODE 606-291-7270

8100 BURLINGTON PIKE-SUITE 400

P. O. BOX 576

FLORENCE, KENTUCKY 41042-0576

AREA CODE 606-371-6220

* ALSO ADMITTED IN OHIO

PLEASE REPLY TO:

FLORENCE

Hon. Bruce Ferguson
Judge Executive
Boone County Courthouse
Burlington, Kentucky 41005

Mr. Pat Raverty
Commissioner
8326 Lower River Road
Burlington, Kentucky 41005

Mr. Ronald Robinson
Commissioner
34 Katherine Drive
Florence, Kentucky 41042

Ernestine Miller
Commissioner
7773 Anchor Way
P.O. Box 64
Florence, Kentucky 41042

Mr. Scott Kimmich
Executive Assistant
Fiscal Court
Boone County Courthouse
Burlington, Kentucky 41005

Mr. Charles Martin
Administrative Assistant
Fiscal Court
Boone County Courthouse
Burlington, Kentucky 41005

RE: SSC Trust (Dumont Gouge)
Zone Change Application for
Roller Rink on Old Toll Road

Ladies and Gentlemen:

I write on behalf of my client noted above to advise the Honorable Fiscal Court that I was dismayed by the article in the Kentucky Post of April 8, 1987 where it was reported the

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above zone change application was on the agenda for the April 7 Fiscal Court meeting and was formally voted upon by the Fiscal Court. Neither myself, who has been attorney of record for applicant since the inception, nor the applicant himself, was notified by anyone, the Honorable Court or the Planning Commission, that this matter was to be on the Court's agenda of April 7.

In fact, after telephone conversations with the staff of the Planning Commission several weeks back inquiring as to the status of the final recommendation of the Planning Commission and its forwarding to the Fiscal Court to be placed on its agenda, I talked to Charles Martin by telephone who informed me that the next Fiscal Court dates were April 7 and April 21. I advised him that we would like to be on the April 21 agenda and he advised that he requires a letter from us requesting to be put on the agenda before any action would be taken on the matter, so that it would formally trigger him to put us on that agenda. The day after that telephone conversation, I was advised by my client, Mr. Gouge, that he did not want to pursue the matter with the Fiscal Court and instructed that I not respond in writing to the Fiscal Court to put it on the Court's agenda for action, and I acted accordingly.

Thus, when it was reported in the newspaper yesterday that you took action on this matter on April 7 with no prior notice to us, I was dismayed.

I request that this letter be addressed at your next Fiscal Court meeting and placed with the minutes thereof.

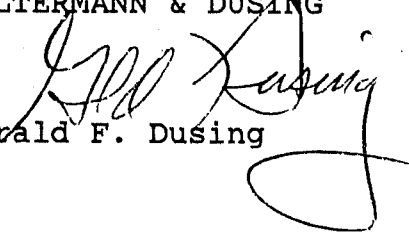
I further request that the zone change application be considered withdrawn by the applicant, and not denied. A denial prejudices the owner's rights to apply for another zone change prior to the minimum re-application waiting period as per the terms of the text of the zoning ordinance. In my opinion, a withdrawal does not.

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April 9, 1987

Your consideration would be appreciated.

Very truly yours,

ADAMS, BROOKING, STEPNER,
WOLTERMANN & DUSING


Gerald F. Dusing

GFD/mjs

cc: Dumont Gouge