

APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

- 1. Name of Project North Bend Square Addition
2. Location of Project South East corner of KY 237 & Cardinal Way, Hebron
3. Total Acreage of Site 3.68
4. Current Zoning of Site RSE
5. Proposed Zoning (Classification being requested) C-2
6. Proposed Uses (please specify each use) Retail Center

- 7. Names of Applicant(s) Tuebben, Ltd.
Phone Number (859) 331-1560 Fax No. (859) 331-9702
8. Address of Applicant(s) 541 Buttermilk Pike, Suite 104
Crescent Springs KY 41017
City State Zip

- 9. Name of Property Owner(s) Same As Applicant
Phone Number Fax No.
10. Address of Property Owner(s)
City State Zip

- 11. Proposed Building Intensities (please specify) 9,189 S.F./Acre

- 12. Are there any existing buildings on the site? yes
How many? 2 Single Family Residences & 3 Outbuildings

- 13. Deed Book Page No. Group No.

- 14. Are you also applying for:
No Conditional Use Permit
No Dimensional Variance

- 15. Have you submitted a Concept Development Plan? Submitted with this Application

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

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

- Boone County Water District
Florence Public Services Dept.
Duke Energy
Sanitation District #1
Cincinnati Bell
Owen Electric Cooperative, Inc.
Boone County Public Works Department
Kentucky Transportation Cabinet
Cincinnati/N. KY International Airport (KY Airport Zoning Commission for height restrictions near the airport)

# EXHIBIT

“A”

## STAFF REPORT

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 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.

March 4, 2009

### PROPOSAL

This request is for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.68 acres to allow a retail center and uses permitted in the C-2 zone. The submitted Concept Development Plan proposes a 34,000 square foot retail development on the 3.6 acres which is a maximum building intensity of 9,444. The C-2 zone allows a maximum intensity of 12,000 square feet/acre. The proposed development would access through the existing North Bend Square (Remke's) that Mr. Toebben developed in 2004.

The submitted colored elevations appear to indicate brick and EIFS materials with similar colors to compliment the adjacent development. There is no outdoor seating proposed and the only access at the rear of the building is for emergency egress for exiting the building. A "Possible Drive-Thru Window" is shown on the southern end of the development. A pedestrian connection is shown near the round-a-bout from the public sidewalk along KY 237 into the proposed development. The proposed parking lot indicates 140 parking spaces. The required landscaping between this development and the adjacent residential subdivision is a Buffer Yard "C" (10 evergreens and 8 large or medium trees and 35 shrubs per 100 linear feet at 60' wide).

### SITE HISTORY

In 2006, a similar request was heard by the Planning Commission and withdrawn. One of the reasons for withdrawing the project at that time was the lack of information regarding the KY 237 road construction schedule.

### ADJACENT ZONING AND LAND USES

North: Across Cardinal Way, single family residences in the Cardinal Cove subdivision zoned Suburban Residential One with an approved Concept Development Plan (SR-1/CD).

- East: Single family residences on Blue Heron Point in the Cardinal Cove subdivision zoned Suburban Residential One with an approved Concept Development Plan (SR-1/CD).
- South: North Bend Square zoned Commercial Two with an approved Concept Development Plan (C-2/CD).
- West: Across North Bend Road (KY 237) Park West International zoned Industrial One with an approved Concept Development Plan (I-1/CD).

### 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.

"Unlike most developing areas of Boone County, the north river area contains only one primary means of access, being North Bend Road. Additional development activity in this corridor should not occur until the North Bend Road reconstruction is complete, and major developments must provide their own access to North Bend Road as opposed to accessing local streets like Stahl Road ("17. Hebron Area," pg. 155)."

The Future Land Use Development Guidelines contain the following statements:

- 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. 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).

- C. Developments in Boone County must recognize the potential impacts of associated traffic on adjoining properties and transportation systems. The need exists to protect the capacity of the existing roadway network, and to plan improvements to accommodate new development and travel patterns. Access management provisions include the coordination of curb cuts, adequate corner clearance and site distance for access points, adequate space between access points, shared access points and parking facilities, 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).
- D. 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. The traditional grid system can provide an alternative to typical suburban design. Parallel and frontage roads should be used to minimize impacts of individual sites on collector and arterial roadways. Appropriate pedestrian networks should be incorporated into the design of developments which will generate or experience significant pedestrian use. These networks should not only provide internal paths, but should provide connections to adjoining uses where appropriate ("Transportation and Pedestrian Network," pg. 142).

The Business Activity Element states the following regarding the general area.

"Commercial development in Hebron will center around the intersection of new KY 237 and KY 20 with a limited amount of convenience and neighborhood commercial uses north of the I-275 interchange to serve the South Park Industrial Park, Park West Industrial Park, and the growing number of residential subdivisions along North Bend Road. With the amount of residential construction expected in the

North River area, larger scale commercial developments, such as drug stores and grocery stores will be needed. Commercial development in this area should be designed to serve the northern part of Boone County. This commercial growth should coordinate with the existing and proposed industrial and residential developments, especially in terms of access ("Recommended Areas of Commercial Activity," pg. 64)."

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. Boone County businesses are developed in appropriate locations and are compatible with their surrounding areas ("Business Activity," Goal).
- K. Compact, efficient development patterns shall be encouraged for business districts (e.g. industrial, commercial and office) with appropriately sized and well maintained buffer spaces between the business use and other land usage. ("Business Activity," Overall Objective).
- L. Commercial uses shall be designed and located to coordinate with the surrounding land uses and shall have safe and effective access and ample parking spaces ("Business Activity," Commercial Objective 1).
- M. The large scale mixing of commercial and non-commercial uses shall occur in planned developments or in areas where consideration has been given to assure compatibility with surrounding land uses. The location of large scale commercial uses shall take into consideration existing or planned infrastructure conditions so as to protect the existing and future population and businesses. Small scale mixing of commercial uses within residential areas shall be carefully assessed and properly placed so as to enhance the neighborhood. Architectural Design Review and consistent sign standards shall be implemented on a corridor by corridor basis, when justified by legitimate land use planning principles ("Business Activity," Commercial Objective 2).
- N. Existing infrastructure and services (e.g. systems and facilities for: water treatment and distribution, wastewater collection and treatment, natural gas distribution, electric power distribution, communication lines, police and fire services and associated municipal buildings, schools, public roads and storm water management) shall be utilized efficiently. The phasing of proposed development shall demonstrate a means of addressing significant impacts on existing infrastructure and services ("Public Services and Facilities," Objective 1).
- O. 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

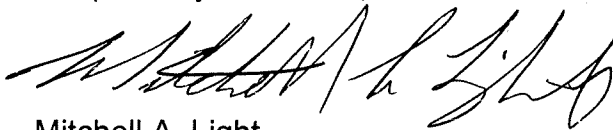
- 1. The northwest corner and west elevation of the building (nearest the round-a-bout) appears to be designed like a typical retail strip shopping center. Has any thought been put into making the west elevation more like a front, instead of treating it like a side, by adding more windows, architectural element, etc.?

2. How is the site lighting being addressed? No specifics have been given regarding the parking lot lights or the security lights on the building.
3. The "Possible Drive-Thru Window" on the southern end of the building needs more explanation and possibly limited uses. Staff has attached a copy of the C-2 text and principally permitted C-1 and O-1 uses.
4. The required landscaping between this development and the adjacent residential is a Buffer Yard "C" (10 evergreens and 8 large or medium trees and 35 shrubs per 100 linear feet at 60' wide). If approved, a thorough site plan review will be conducted by the Boone County Planning Commission Staff as well as the Boone County Project Review Committee.

### CONCLUSION

The request needs to be evaluated by the Boone County Planning Commission and Boone County Fiscal Court in terms of Article 3 of the Boone County Zoning Regulations. The Future Land Use Map would need to be amended if the request is approved.

Respectfully submitted,

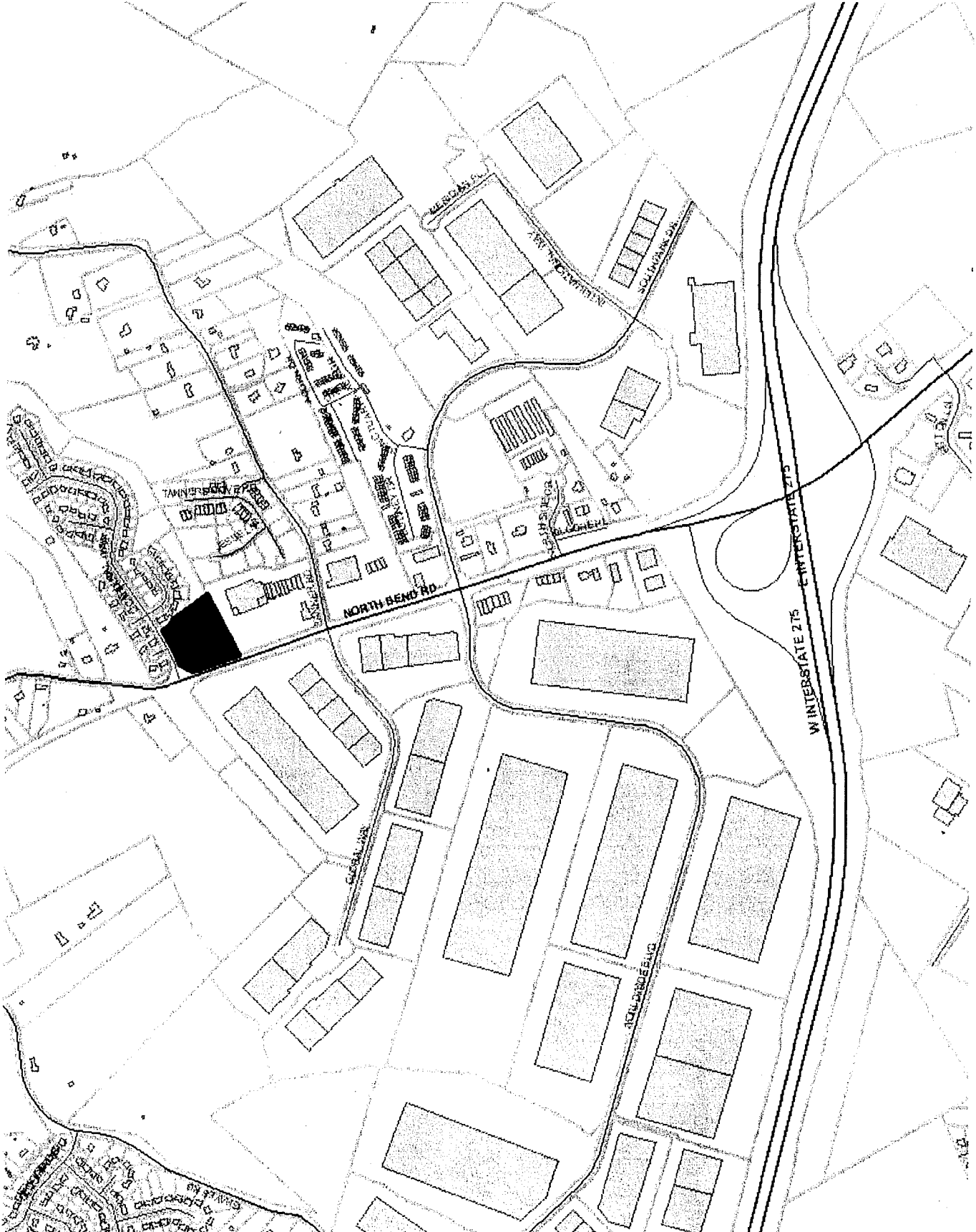


Mitchell A. Light  
Asst. Zoning Administrator/Enforcement Officer

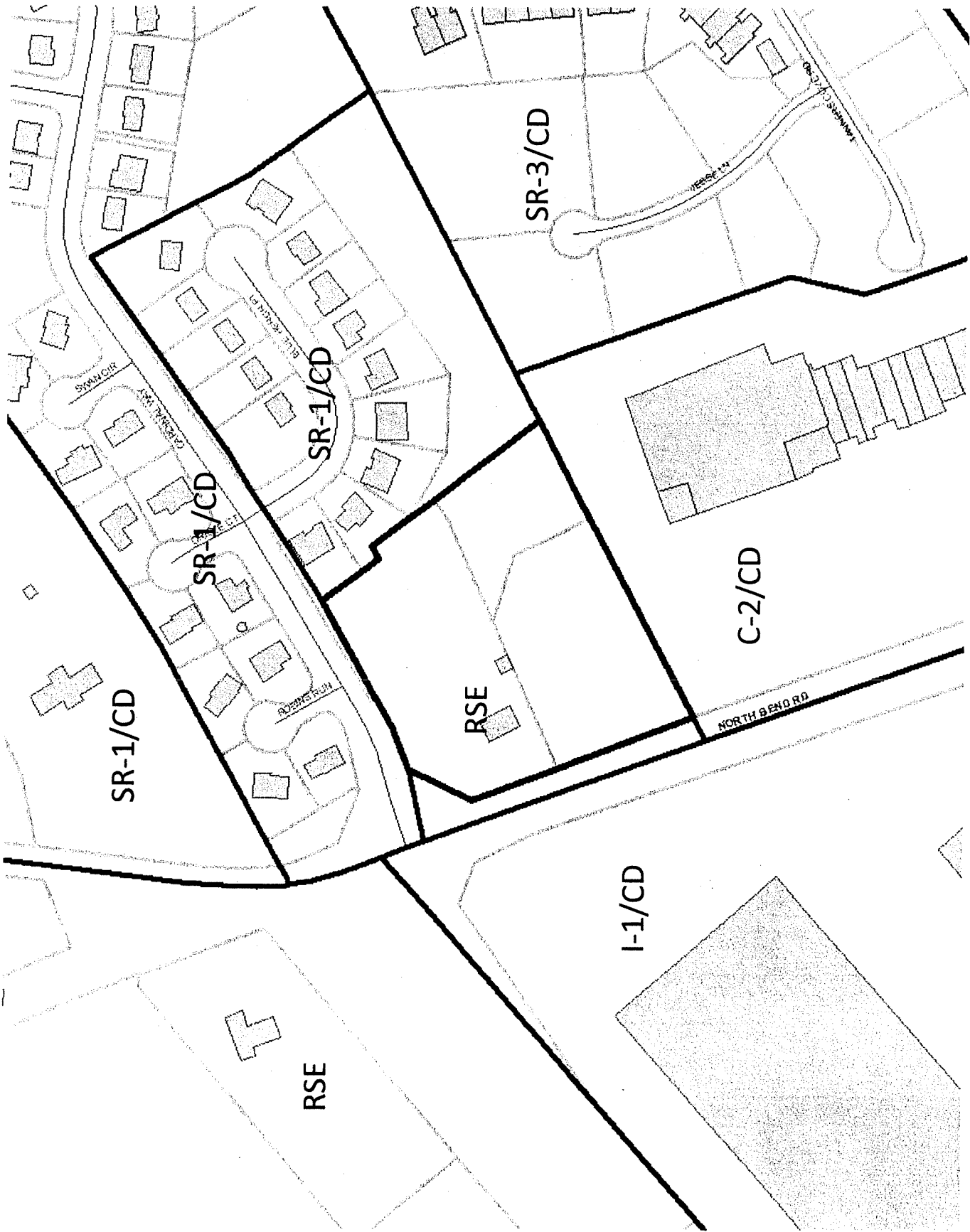
MAL/pr

### attachments:

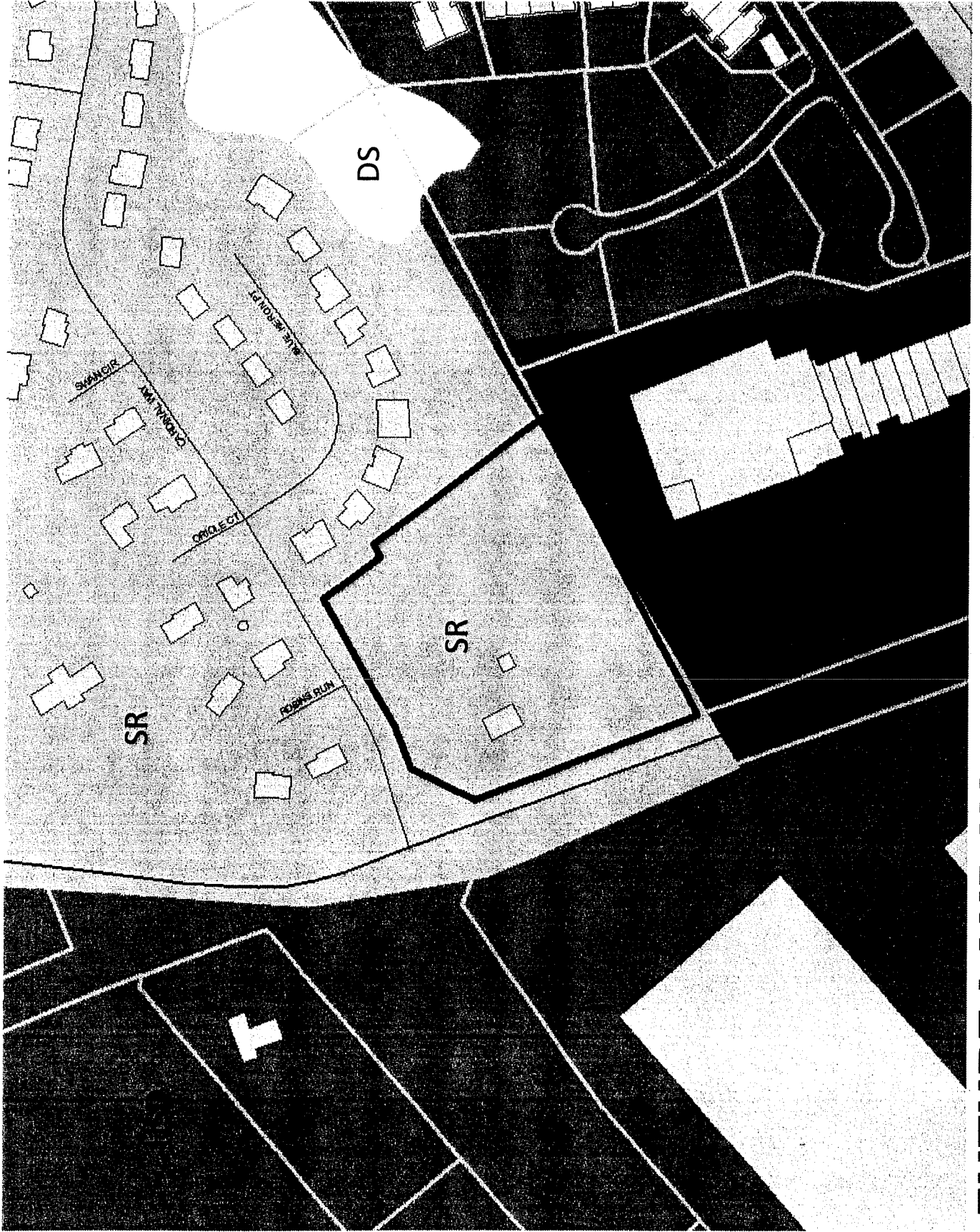
- Vicinity Map
- Zoning Map
- Future Land Use Map
- North Bend Road Improvements
- Concept Development Plan
- Proposed Elevations
- C-2 Uses and Principally Permitted C-1 and O-1 Uses
- Application



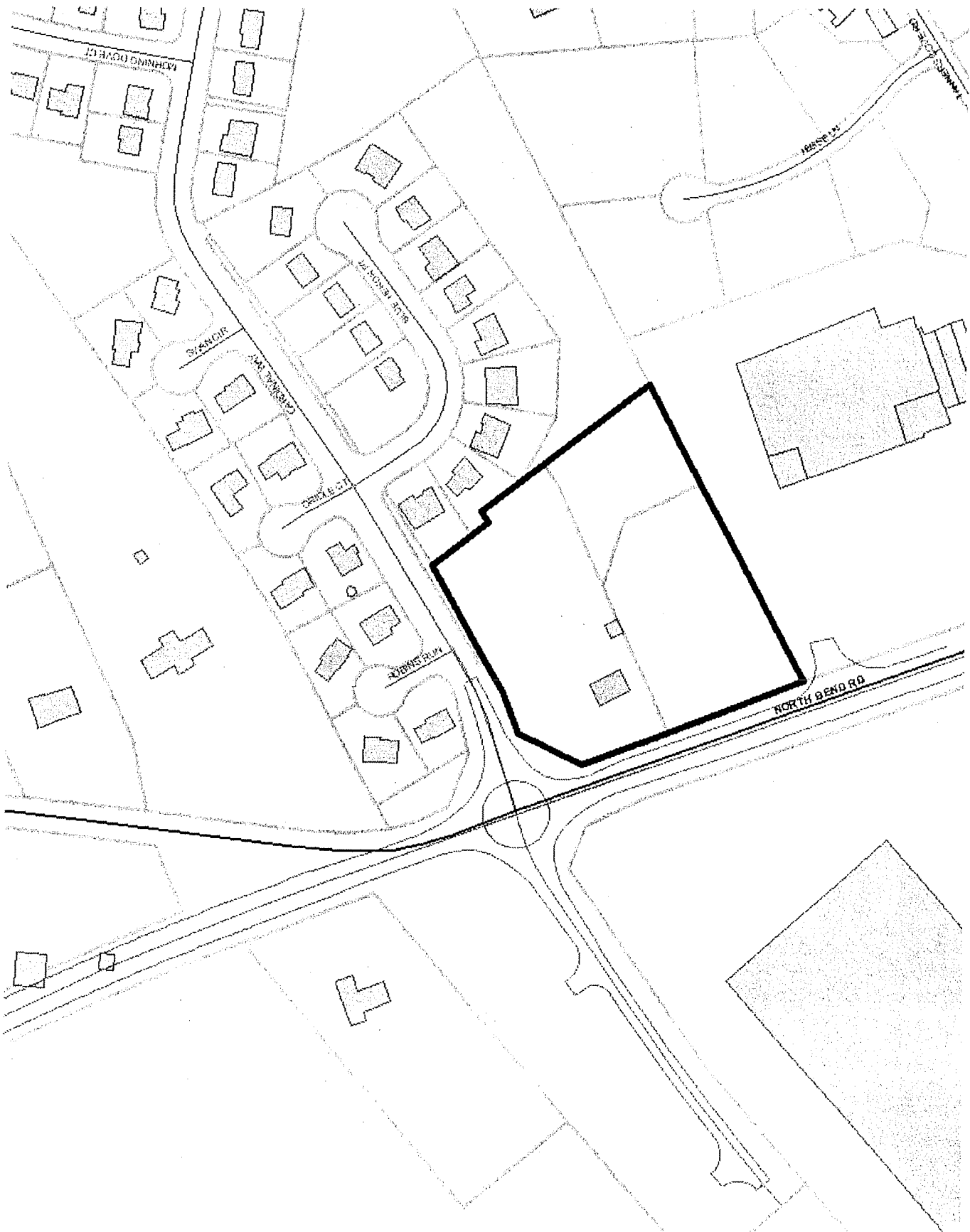
**VICINITY MAP**



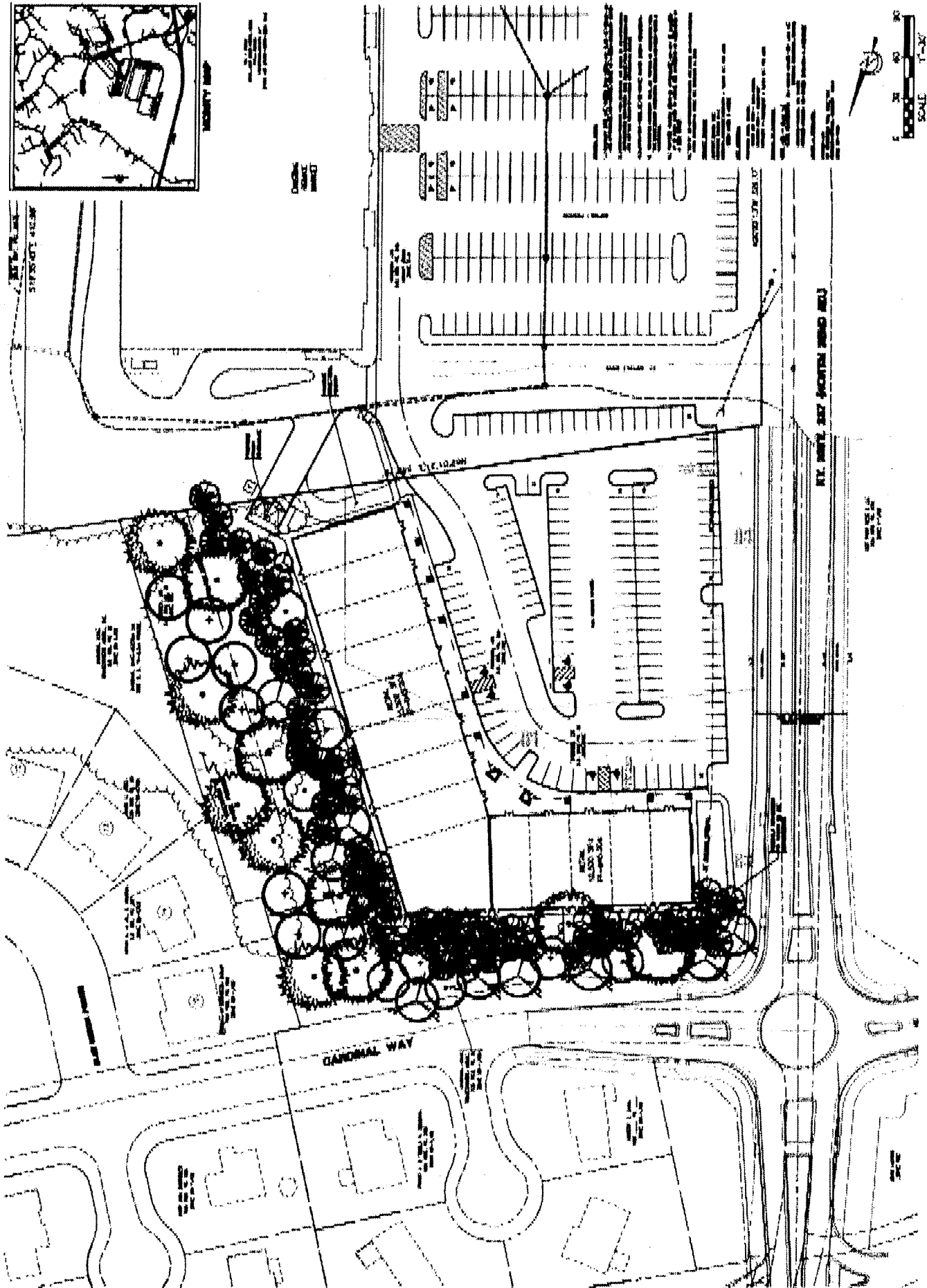
**ZONING MAP**



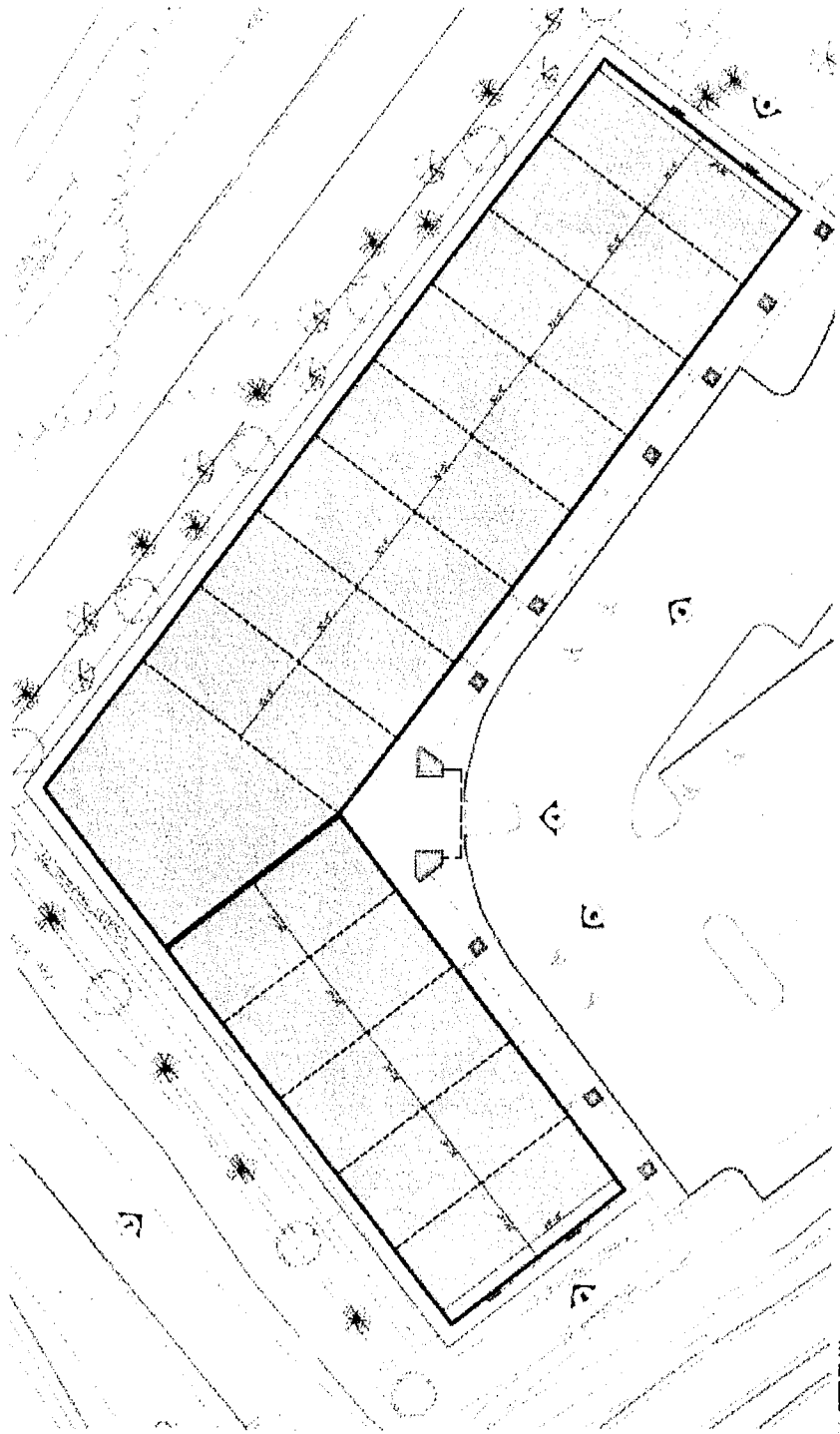
**FUTURE LAND USE MAP**



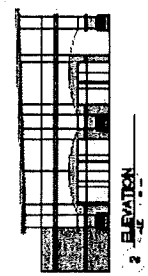
**NORTH BEND ROAD IMPROVEMENTS**



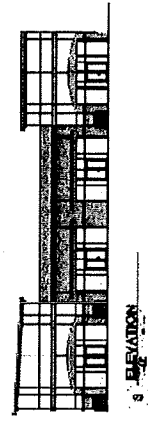
**CONCEPT DEVELOPMENT PLAN**



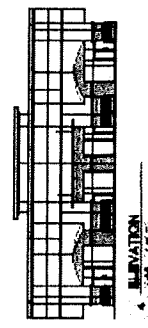
1 SITE PLAN



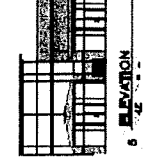
2 ELEVATION



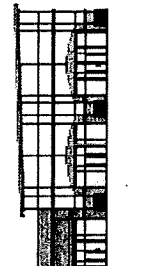
3 ELEVATION



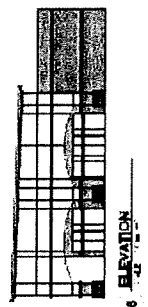
4 ELEVATION



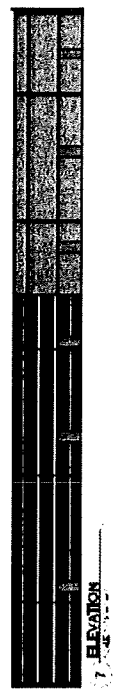
5 ELEVATION



6 ELEVATION



7 ELEVATION



8 ELEVATION



**NORTH BEND SQUARE**  
 CONCEPTUAL ELEVATION DRAWINGS  
 OCTOBER 20, 2008



## **SECTION 1020**

### **COMMERCIAL TWO (C-2)**

The purpose of the Commercial Two district is to provide comparable shopping goods, personal and professional services, and some convenience goods required for normal living needs as well as major purchase opportunities. Districts will be located on suitable lands primarily central to regional trade areas and to some extent the community as a whole and such districts have access from expressways or arterial roads. District facilities and plans will be organized to provide central and convenient collection of vehicles, pedestrians and multi-modal forms of transportation within the district's facilities and major shopping spaces.

## **SECTION 1021**

### **Principally Permitted Uses**

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;
2. All the principally permitted uses in an Office One (O-1) district; with the exception of principally permitted use #27 in Section 1111.
3. Eating and drinking establishments including alcoholic beverages; **(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF WALTON CITY LIMITS ONLY)** Eating and drinking establishments including alcoholic beverages and accessory drive-in facilities;
4. Department stores, mail order houses, direct retail selling organizations of general merchandise;
5. Furniture, home furnishings including specialty and floor coverings;
6. Specialized upholstery and furniture repair or refinishing services;
7. Apparel stores;
8. Household appliances, china, glassware and metal ware;
9. Radio, t.v., watch, clock, and jewelry repair;
10. Photographic, stenographic and other duplicating and mailing services;
11. Legal services, engineering and architectural services;
12. Security brokers, dealers and flotation services;
13. Title abstracting services; holding and investment services;
14. Advertising services including direct mail;
15. Business and management consulting services;
16. Employment services;
17. Consumer and mercantile credit reporting, adjustment and collection services;
18. Travel arranging, transportation ticket and public event or promotional booking agencies;

19. Radio and television broadcasting studios excluding transmitting stations and towers;
20. Art, music and dancing schools, libraries and museums;
21. Medical and dental laboratory services;
22. Medical clinics, out-patient services;
23. Welfare and charitable services;
24. Business associations and professional membership organizations including civic, social and fraternal organizations;
25. Art and craft galleries and similar exhibit space;
26. Aquariums, botanical gardens and other natural exhibitions;
27. Arcades and other amusement centers;
28. Motion picture theaters (indoor);
29. Bowling alley, skating rinks, roller skating rinks, miniature golf courses, golf driving ranges, and skateboard facilities;
30. Recreation centers, gymnasiums, clubs and similar athletic uses;
31. Motorcycle sales or bike shops excluding outside storage;
32. Churches, synagogues, temples and other places or religious assembly for worship;
33. Hotels and motels including convention facilities;
34. Pawn shops (**Not Applicable within the City of Florence**);
35. Auto parts and accessories stores;
36. Gasoline filling station;

**SECTION 1022**

**Accessory Uses**

Accessory uses, buildings and structures customarily incidental and subordinate to any of the permitted uses including:

1. Recreation uses or spaces of integral relation to the developed portions of the district defined to be:
  - a. Stages and similar assembly areas;
  - b. Auditoriums, exhibition halls and other public assembly spaces;
  - c. Billiards;
  - d. Play lots and tot lots;
  - e. General, leisure, ornamental and other parks, spaces, trails bikeway systems, malls and urban pedestrian networks;

2. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
  - a. Private garage and parking;
  - b. Structures such as fences and walls;
  - c. Buildings such as storage sheds;
  - d. The keeping and use of appropriate household pets;
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Temporary buildings incidental to construction ;
6. Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use and do not create outside spaces which will tend to enlarge or overpower the activities of permitted uses, and which are conducted in accordance with Section 3154;
7. Drive-up photo finishing services and automatic teller services;
8. Indoor target ranges and similar athletic uses;
9. Recycling collection points (See Article 31);
10. Garment and Furniture centers (See Article 31);
11. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);
12. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155;
13. Recycling collection containers.

## **SECTION 1023**

### **Conditional Uses and Criteria**

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use, professional or personal service; or b) the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center; and c) the arrangement of uses, buildings or structures will be mutually compatible with the organization of permitted and accessory uses to be protected in the district:

1. Garden and landscape sales including florist greenhouses, lawn furniture and the like;
2. Automotive repair facility and wash services for vehicles;
3. Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises (**Does not apply in the City of Florence**);
4. Small scale sales or leasing of new and used recreational vehicles requiring the storage of no more than fifty (50) vehicles on the premises (**Does not apply in the City of Florence**);

5. Mini-warehouses or storage facilities (**Does not apply in the City of Florence**);
6. Horse related uses, including riding and boarding stables, as defined by KRS 100.111 (2)(c).
7. Indoor kennels for household pets; except in the City of Florence where indoor kennels for household pets are only allowed when not adjoining a residential zoned property.

#### **SECTION 1024**

##### **Intensity**

The intensity of use in a Commercial Two district of under four (4) acres, including all the contiguous private property so designated, shall not exceed 12,000 square feet of gross floor area per acre of land. In a commercial two district of over four (4) acres, the intensity of use shall not exceed 15,000 square feet of gross floor area per acre of land.

#### **SECTION 1025**

##### **Minimum Size**

The minimum size and extent of a Commercial Two district, including all the contiguous private property so designated, shall not be less than two (2) acres.

#### **SECTION 1026**

##### **Minimum Standards**

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

**COMMERCIAL ONE (C-1)  
SECTION 1011**

**Principally Permitted Uses**

The following uses are permitted:

1. Hardware stores;
2. Eating and drinking establishments including alcoholic beverages;
3. Grocery stores and supermarkets;
4. Stores with retail sales of meat, fish, seafood, dairy and poultry products;
5. Fruit and vegetable stores; bakeries, candy, nut and confectionery stores;
6. Convenience stores;
7. Liquor, beverage, drug and proprietary stores;
8. Banking services, savings and loan associations, credit unions and other credit services;  
**(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF FLORENCE CITY LIMITS ONLY)** The business of cashing checks or accepting deferred deposit transactions as regulated by KRS 368.010 to 368.120 shall not be included in this permitted use.
9. Insurance carriers and agents;
10. Real estate operators, agents, lessors and real estate sub-dividing and developing services, operative builders and related services;
11. Accounting, auditing and bookkeeping services;
12. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
13. Physician, dental, optical goods and services;
14. Veterinary services and pet grooming services but not including the boarding of animals;
15. Beauty and barber services and tanning salons;
16. Nursery and day care centers;
17. Laundering, dry cleaning and dyeing services including self-service;
18. Alteration and garment repair and custom tailoring;
19. Shoe repair, shoe shining and hat cleaning services;
20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
21. Jewelry stores;
22. Radio, t.v., music supplies, cameras, photographic supplies and specialty household appliances;
23. Art, craft and hobby supplies and products, gifts and novelties;
24. Antiques and used merchandise;

25. Books, stationery, newspapers and magazines;
26. Florists excluding greenhouses;
27. Sporting goods including bicycles;
28. Draperies, curtains, upholstery and floor coverings;
29. Paint, glass and wallpaper stores;
30. Photo finishing services;
31. Recreation centers, gymnasiums, clubs and similar athletic uses;
32. Video stores;
33. Funeral homes and crematoriums excluding cemeteries or mausoleums.

**OFFICE ONE (O-1)**

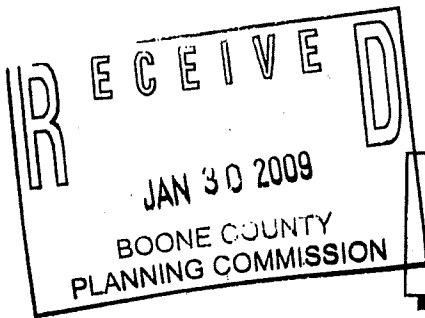
**SECTION 1111**

**Principally Permitted Uses**

The following uses are permitted:

1. Bank related services or credit unions;
2. Business and personal credit services and title services;
3. Security brokers, investment services and finance companies;
4. Insurance agents, brokers and services;
5. Real estate agents, brokers and management services;
6. Real estate management services and builders offices excluding any outside storage equipment and the like;
7. Photographic services;
8. Eating and drinking establishments including alcoholic beverages;
9. Direct mail and advertising services;
10. Stenographic services and other duplicating and mailing services;
11. News syndicate services and employment services;
12. Research, development and testing services of an office nature;
13. Business and management consulting services and associations;
14. Motion picture, audio-visual and similar media production and distribution services;
15. Physician and dental services including medical, dental laboratories and clinics;
16. Legal, engineering, architectural, education and scientific research services;
17. Accounting, auditing and bookkeeping services;
18. Charitable and social services administration offices;
19. Professional membership organizations and labor organizations and civic associations;
20. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
21. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;
22. Veterinary services not including the boarding of animals;

23. Business colleges or schools;
24. Recreation centers, gymnasiums and other related recreational facilities;
25. The retail sale of office supplies and equipment;
26. Funeral homes and crematoriums excluding cemeteries or mausoleums.
27. Sexually Oriented Business as defined in Article 40 and applicable standards in Article 31.



APPLICATION FORM

ZONING MAP AMENDMENT
BOONE COUNTY PLANNING COMMISSION

(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

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Kentucky Transportation Cabinet
Cincinnati/N. KY International Airport (KY Airport Zoning Commission for height restrictions near the airport)

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM**

**March 4, 2009  
7:30 P.M.**

**PUBLIC HEARINGS**

**Commission Members Present:** Mr. Brandstetter, Mr. Breetz, Mr. Carmichael, Mr. Hicks, Mr. Longano, Mr. McMillian, Mrs. Poston - Chairwoman, Mr. Charlie Reynolds, Mr. Rolfsen – Vice Chairman, and Mr. Schwenke – Temporary Presiding Officer.

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

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

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:32 PM and introduced the first item on the Agenda:

**Applicant:** Toebben, Ltd. for  
Toebben, Ltd. (owner)

**Request:** 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 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.**

Following an explanation of the Public Hearing process, Mrs. Poston asked for the Staff presentation.

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

Mrs. Poston asked for the applicant's presentation.

Mr. Gil Whitacre with Bayer Becker Engineers, 209 Grandview Drive, Fort Mitchell, KY and Mr. Bill Toebben with the Toebben Company were present on behalf of the request.

Mr. Whitacre stated that the Toebben Company has been developing commercial, residential and industrial properties throughout the Northern Kentucky region for about forty years. He stated that they were before the Planning Commission in 2006 with a similar plan and, at that time, there was a concern about what would happen with the KY 237 alignment and when the road improvement would be started and completed. He stated that the road improvement is under construction now and the roundabout will be included in the design. A good portion of the roadway will be completed later this year. He stated that the initial zone change request for Remke's Market and Phase I of North Bend Square occurred in 2003 and, at that time, the Planning Commission found that the existing zoning was inappropriate and the proposed commercial zoning was appropriate due to the pending widening of KY 237, the volume of traffic at Tanner Lane and KY 237, and the industrial park directly across the street – and those reasons are still appropriate to the current request. He stated that this is not a stand-alone site -- it is an extension of the existing North Bend Square development. There are no additional anchors and it is all retail shops 60' - 80' in depth. The site will be accessed from the existing North Bend Square project. There will be no new access points along KY 237 or Cardinal Way. He stated that the L-shaped building will frame the commercial activity and act as a screen between the commercial activity to the north and the residences in Cardinal Cove. He stated that there is a fair amount of buffering for the residential area. He indicated the 50-foot green space buffer on the Power Point slide. He stated that a mound will be constructed between the building and the roadway. The new commercial building will be 132 feet from the first house in Cardinal Cove and over 150 feet from the homes on Blue Heron Point which abut the development. He stated that the roundabout will slow the traffic down, which will help to reduce the traffic noise, and the L-shaped building will help to further screen the residential area from the traffic noise. He stated that no vehicular access is proposed along the rear of the building. There are sidewalks along the back of the building to the access doors. There is no lighting at the back of the building other than the security lights at the access points. Mr. Whitacre presented and reviewed the building elevations. The building will be brick and EIFS with glass door fronts similar to the existing Remke's Market. The back of the building will be split-faced block. He stated that a pedestrian connection is proposed in the front corner area. The side of the building will look like the front, which invites pedestrian traffic into the project. He stated that residential zoning is not appropriate for this site because it is immediately adjacent to an upgraded arterial roadway and across the street from an industrial park. A high-density multi-family development could work on the site, except that there is not enough room for the amenities needed to make it a good project. He stated that the proposed development is an extension of the North Bend Square project and it is a good terminus point for the commercial activity. He reviewed the Goals and Objectives Business Activity

Element which says that *businesses should be developed in appropriate locations and be compatible with the surrounding areas*. They feel that they meet that requirement with the buffer they propose. He quoted that *commercial uses shall be designed and located to coordinate with surrounding land use and have safe and effective access and ample parking*, which they have accomplished. He quoted from the Comprehensive Plan in regard to additional commercial development in the Hebron area. He stated that the proposal addresses the Business Activity Element and the retail shops will serve the northern part of the Hebron area and supplement the existing Remke's Market development. He stated that the roundabout is a significant design element that will signify the end of the commercial/industrial area. He presented pictures of the site and adjacent areas. He stated that residential development on the site is not appropriate and commercial development as proposed is appropriate. In response to Staff Comment #1 he stated that they thought they had accomplished making the northwest corner and west elevation of the building look like the front of the building, but they will fine tune the design if necessary. In response to Staff Comment #2, he stated that the lights in the front of the building will be lower than the building and in the back there will be security lights along the sidewalks and at the access points. They will bring the lighting details to the Committee Meeting. They will discuss Staff Comment #3 at the Committee Meeting. In regard to Staff Comment #4, he stated that the landscaping shown is preliminary and shows about the number of plantings required. He stated that there will be a detailed Site Plan Review. Mr. Whitacre offered to answer any questions. This concluded the applicant's presentation.

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

Mr. Daniel Knapp, 1906 Robins Run, Hebron and Mr. Mike Perdon, 1888 Morning Dove Court were present. Mr. Knapp stated that his home is the first house on the cul-de-sac and he has a view of the site. He stated that the request made three years ago was turned down by the Committee largely due to the impact that a commercial development would have on the residences - including the closeness of the building to their street and that they would have to look at the back of it with the utilities and dumpsters. At that time, a Committee member commented that there was another residential property in Boone County that adjoined commercial property and this was not any different and, in a meeting with their subdivision, Bill Toebben pointed out a commercial property that adjoins a residential property and said that it is not a problem. Mr. Knapp stated that he toured three different commercial properties in Boone County that adjoin residential properties. He presented Power Point slides of properties on Pleasant Valley Road and at the Shoppes at Oakbrook. He presented a picture of a bank on Pleasant Valley Road and noted the line of trees/buffering, the driveway behind the building, and that it had a residential look with a shingle roof - all of which was done for the benefit of the residential properties. He presented a slide

showing the opposite end of the building and noted the drainage buffer equivalent to one or two buildings lots (a distance of 50 - 200 feet). He noted the architectural block used on the building. He presented pictures taken of a property at Plantation Pointe and stated that he had difficulty seeing where Plantation Pointe adjoins commercial property due to the buffers. He noted the location of an elementary school and a daycare center with a residential style roof. He stated that these uses are not fourteen shopping sites and a parking lot – they are a residential-friendly daycare center and a bank. He presented a picture of the Shops at Taylor Mill, which Mr. Toebben gave them as an example of a commercial property fitting nicely in a residential setting. He stated that the development has residential roof lines and the building is brick, but there are unsightly dumpsters. The back of the building is block, but there is a deep wooded area between the commercial building and the homes. He stated that reference was made to commercial property across the road from the subject site. He has lived in his home for ten years. When he moved in, there was only commercial development north of I-275 and the industrial parks, which have not been a problem. He stated that the industrial park on KY 237 is a busy Gap Outlet, but it is not a disturbance in regard to noise or sight because it sits down lower. It is not a problem because of the lay of the land. He stated that he is opposed to the request because the property was purchased four years ago at a residential price and a similar sized property in a commercial area would cost three or four times the price. He stated that the request encroaches on their residential space and goes against the Comprehensive Plan. He stated that the property should stay residential and it could be added to Cardinal Cove. It could be used as a transitional property with a single-story residential looking office building, a church, the new library, or a park. He stated that there is a rise up to the existing commercial property of ten feet or more. He asked that the residents' rights be protected and the request denied.

Mr. Frank Dichlara, 1910 Robins Run in Cardinal Cove, stated that he has lived in his home for about fifteen years. When he bought his property, there was a lake there and the area was quiet. He planned to retire there and live in a country atmosphere. He presented a video of the back of Remke's Market. He stated that Mr. Toebben is proposing that they look at a dumpster, trash, rats, shoebox lights shining in his yard, gas mains and emergency power generators that will be tested on a regular basis – all things that go along with commercial development. He is opposed to the request because the site has been a residential property and it is right up against residential properties. He is opposed to this type of commercial development next to a residential development.

Ms. Nelda Perdon, 1888 Morning Dove Court, Treasurer of the Homeowners Association, submitted signed petitions and letters (see Exhibit 1). She moved to Boone County in 1996 and she loved the area at that time, but she does not like where she is living now. She stated that 63% of the 75 homes in the subdivision responded to the petitions and 96% were opposed to the zone change to Commercial. She stated that currently there are 45 occupied stores on North Bend

Road up to I-275. She believes Remke's may close now that Kroger has come in, and Flick's has already closed. There are eight vacant stores on KY 237 up to the interstate. She stated that she sat through eight traffic light cycles between Cardinal Cove and Tanner Lane. She stated that they have only one way in and one way out of their subdivision and going down to Graves Road and over to KY 20 takes another 30 minutes. She stated that there are currently 1,453 single-family homes and 14 multi-family homes in the Hebron area on or off of North Bend Road and at two cars per residence, that is 2,934 cars. There are 2,805 planned single-family homes, which is another 5,610 cars. There are 1,202 multi-family units planned, which is another 2,404 cars. Right now with the planned and built homes, there are 10,948 cars on North Bend Road. She has requested information from the Transportation Department on the current road project. She stated that from Graves Road to the main entrance of Remke's the new construction is still two lanes. At the main entrance to Remke's, there is a turn lane off of North Bend Road. She questioned where all the cars will go – they do not fit on the road now. In the morning, there are people going to work and school buses. She asked the Commissioners to come out and look. She stated the buildings they already have are not filled. She would welcome single-family homes on the subject property. This development in front of their subdivision would be an eyesore and they do not want it. She is opposed to the request.

Ms. Terri Iacobucci, 1877 Falcon Crest in Cardinal Cove, stated that the entrance to their neighborhood has been decimated. When she refinanced her house in 2007, her house value had declined in part due to the entranceway and what people have to drive through to get to her house. There was a beautiful pond at the entranceway, but it was drained and the wildlife left to die. The pond was then filled with questionable landfill. The entrance has gone from a beautiful pond to a dumpsite. Their neighborhood has already suffered beyond repair.

Ms. Leslie Ast, 1876 Morning Dove Court, read a prepared statement saying that she opposes the Zone Change request because it is not in agreement with the Comprehensive Plan. She agreed with her neighbors as to why the property should be kept residential. She stated that the zone change would increase traffic congestion and decrease traffic flow. Traffic congestion is already a problem on this section of North Bend Road. Cardinal Cove is a landlocked neighborhood with only one way in and one way out. She is concerned about emergency services being able to access Cardinal Cove. Property values are already declining and would be further diminished by the zone change. The zone change is not in the public interest and would alter the image of their neighborhood. There are many retail spaces available along KY 237 and there is no need for this site to be used for retail.

Mr. Brian Huston, 1977 Blue Heron Point, stated that his property backs directly up to the subject property. He agreed with his neighbors. He stated that there are a number of commercial properties available north of I-275, with a prime example being the Flick's store. He stated that the Business Activity Element says that

*commercial development in Hebron will center around the intersection of KY 237 and KY 20 with a limited amount of convenience and neighborhood commercial uses north of the I-275 interchange.* He stated that if there are open retail spaces then it is not limited and there is already a glut. He stated that his property value would be diminished by the zone change. Their master bedroom is on the second floor and at the rear of the house and he is concerned about the parking lighting. It is at most 120 feet from his back door to the rear of the building and there will be commercial dumpsters and possibly grease traps if there are bars and restaurants. There will be noise when the dumpsters are emptied and odor from the grease trap. He appreciates the additional trees and shrubs on the plan, but they will not mature quickly and he will have a view of the back of the commercial building. He wants to enjoy the deck on the back of his house and not look at commercial dumpsters. He and his wife are opposed to the request.

Mr. Fred Adams, 1870 Cardinal Cove, stated that it is a hassle to get onto KY 237. It sometimes takes 45 minutes to get from his house to I-275. He is opposed to the request.

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

Mr. Rolfsen asked if there is any proposal from the state for a traffic signal at this location. He questioned people trying to make a left turn out of the development.

Mr. Bill Toebben, President of Toebben Company, stated that he lives at 1302 North Bend Road, and this is his neighborhood, too. He stated that there are currently four access points into the existing North Bend Square – two off KY 237 and two off Tanner Road. Those access points will remain and that is how the traffic will get into the proposed development. The main drive in front of the existing retail center will connect to the proposed driveway. He stated that they will make an effort to keep the dumpsters against the existing retail. They propose a sidewalk in the back. There is no proposal for a driveway across the rear of the building – it is just an emergency access to meet the building code.

Mr. Rolfsen asked if there would be one main dumpster for the entire development. Mr. Toebben indicated the location at the back of the building where they propose a brick enclosed dumpster.

Mr. Rolfsen asked if their proposal would coordinate with North Bend Road being completed. Mr. Toebben responded that the state would like to have the road done in October 2009 and he does not see the development occurring until spring 2010. He stated that he has to drive through the traffic everyday too.

Mr. Schwenke questioned the location of the heating and air-conditioning units. Mr. Toebben responded that they will be on the roof behind the parapet and they

will not be visible. The brick parapet continues to the north end of the building where they are also proposing a 10-foot high landscape berm along Cardinal Way.

Mr. Breetz stated that the site looks trashy. Mr. Light responded that it is a staging lot for the state. He stated that there were two houses on the lot owned by the Reeves brothers. The pond belonged to one of the brothers. He stated that there were siltation issues with the pond when Cardinal Cove was built and it was dredged. Mr. Reeves subsequently drained the pond. After Mr. Toebben purchased the property, he got a permit to fill the hole. Mr. Light stated that he talked to Mr. Toebben about the possibility of questionable fill material and Mr. Toebben told him that they still have to do a geotech. Some of the materials may have to be removed.

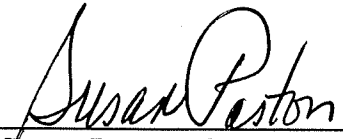
Mr. Breetz asked if the state had to go through an approval process to use this lot for staging. He stated that the lot is an eyesore. Mr. Costello responded that the state has a construction easement and the state is causing the eyesore -- the Planning Commission has no control over the state. He stated that Mr. Toebben should know if there is a construction easement. In response to a question from Mrs. Poston, he stated that the state would have to return the property to its original condition (grade, clean and seed the property). Staff will look into these issues and advise the Committee.

Mr. Longano asked for more information about the proposed ten-foot berm and plant materials. He asked what other options there are for screening beside the buffer yard. Mr. Whitacre stated that the berm will basically run the length of the building and he indicated its proposed location on the Power Point slide. He will provide a cross-section of the elevation to the Committee. He stated that there will be landscaping on the top of and around the berm. Mr. Light stated that there are other options for buffering, but a berm with landscaping is the most popular.

There being no further comments from the applicant, Mrs. Poston allowed comments from a spokesperson for the opposition. The President of Cardinal Cove subdivision stated that there is a 15-foot wide strip of land that belongs to Cardinal Cove that is adjacent to the subject site, and the applicant is showing development on that strip. Mr. Whitacre responded that the strip of land is labeled on their plan as "Cardinal Cove Homeowners Property" and they know that Cardinal Cove owns that strip of land. They are not showing any development on that strip of land.

There being no further comments, Mrs. Poston stated that the Committee Meeting for this item will be on March 18, 2009 at 5:00 PM in this room. The public is welcome to attend the Committee Meeting, but new information will not be accepted. This item will be on the Agenda for the Business Meeting on April 1, 2009 at 7:00 PM. Mrs. Poston closed this Public Hearing.

**APPROVED:**

  
Susan Poston  
Susan Poston, Chairwoman

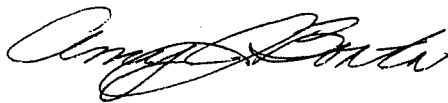
**Attest:**

  
Jan Hancock  
Jan Hancock, Recording Secretary

**Exhibit 1 - Signed petitions and letters, housing data, and a list of current retail uses on KY 237, submitted by Nelda Perdon**

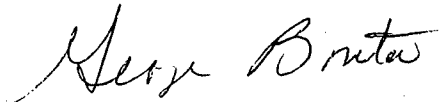
## Petition to Stop the Zoning Change

We, the residents of Cardinal Cove Subdivision, oppose the change in zoning from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.7 acres located at 1922 and 1932 North Bend Road. The zoning change would allow for more commercial retail stores to open along with additional parking for more cars on an already heavily traveled and congested road. Currently State Route 237 or North Bend Road a two lane road. Once road construction is complete, starting from Tanner heading North on North Bend Road will be a three lane road. One lane will be a turn lane. This will still not alleviate the traffic problems we already experience due to the industry, retail stores and homes that have been built in the past several years. We have one main entrance and exit on Cardinal Cove and that is onto State Route 237. We do not want the additional traffic that more retail stores would generate. We are also concerned about the loss of property value, the noise, the smells, the lights and the overall visual aesthetics. Please do not change the zoning at this site. See attached sheet for signatures.



2/27/2009

OWNERS OF



2/27/2009

1904 Swan Circle

586-4009

## Petition to Stop the Zoning Change

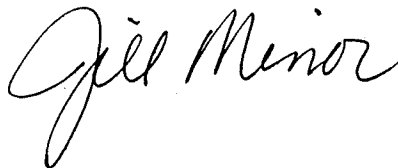
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Chad L MINOR



1961 BLUE HERON PT.

Jill R minor



1961 Blue Heron Ct.

On Wednesday, February 25, 2009, the Cardinal Cove Home Owner's Association had a meeting to discuss the Zoning Change Application filed by Toebben, Ltd. for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.

I am writing to express my opposition to this.

By far, the most important reasons against the zone change are these safety issues:

- The requested zone change would increase traffic congestion on the public streets and decrease traffic flow. Traffic congestion is already great on this section of North Bend Rd.
- Cardinal Cove is a "land-locked" neighborhood, as North Bend Rd is the only access road to the neighborhood. Already, at peak traffic times, traffic is backed up. Additional traffic may prohibit entry to the homes and may even further prevent police, fire, and other emergency vehicles from gaining access to the citizens in the event of an emergency.

It is vital that the property remain as it is currently zoned for many additional reasons:

- A zone change to the property is in direct conflict with Boone County's Comprehensive Plan for Development (Boone County's long-range plan is to keep the property zoned residential).
- Adjoining property values would be diminished by zone change - It would not be in the public interest, but instead would be solely in the interest of the applicant.
- The property is at the main entrance to Cardinal Cove. Changing the property to be zoned for a commercial use would alter the image of and undermine the character of our neighborhood - particularly since C-2 permitted uses include bars, pawn shops and gasoline filling stations.
- There are already many retail spaces available along 237. Therefore, there is no need for this space to be used for this purpose.

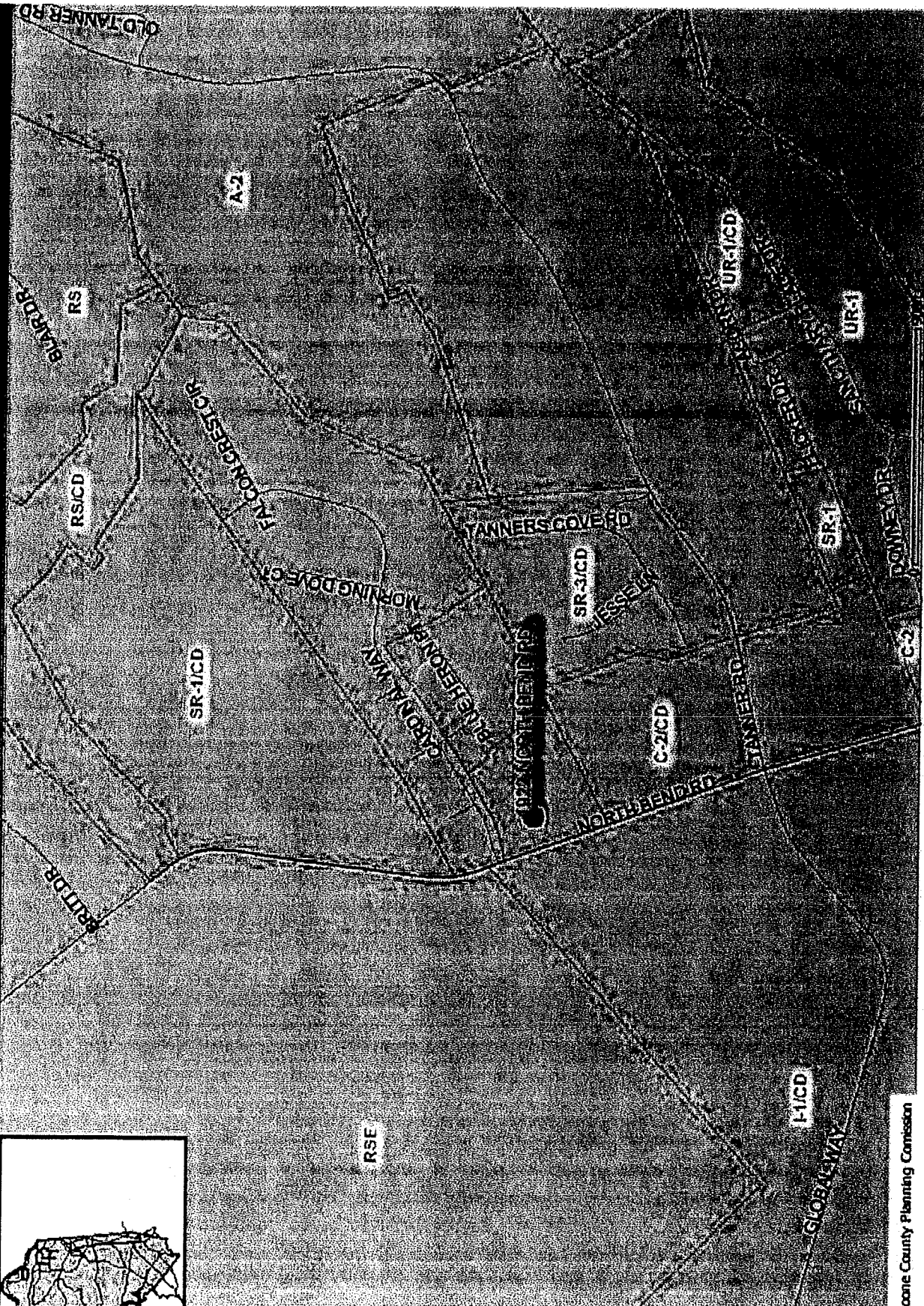
I would completely support a business at the location, if through due process, the zoning were legally changed, and it were found to be in the best interest of the community.

However, as I have demonstrated, there are absolutely no compelling reasons to consider a zoning change to the property. In fact, there is substantial evidence that to rezone the property would not be in the public interest.

I strongly urge you to do what is best for the citizens of Cardinal Cove, by opposing the rezoning of this property, thus preserving the character of our neighborhood and the safety of our residents. Thank you very much for your time.

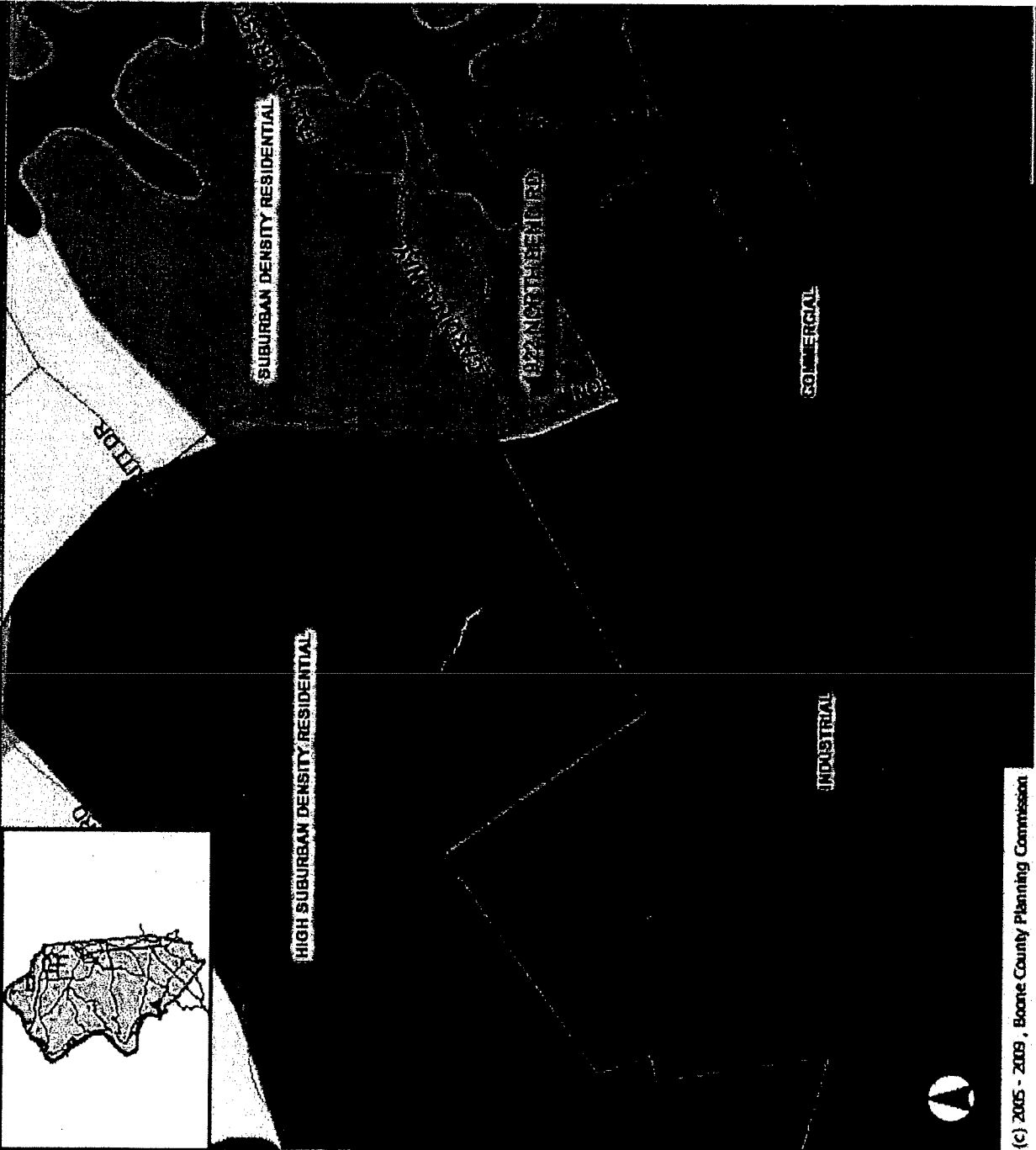


# COUNTY ZONING BOUNDARIES :: Boone County GIS



# 2030 FUTURE LAND USE :: Boone County GIS

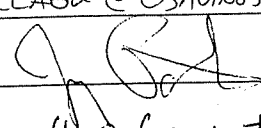
LOCATE ADDRESS									



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See attached sheet for signatures.

Name	Addr.	Phone @R Email
Frank Delucchi	1910 Robins Run	fdichicava@fuse.net
Jeanne Krapp	1906 Robins Run	danielandjeanie@juno.com
Conrad Walk	1903 Robins Run	hiswill@fuse.net
Robert Lank	1907 Robins Run	RLANK@USASAVINGSBANK.COM
Joy Patrick	1905 Oriole Ct	
Rex Graft	1903 Swan Circle	rgraft@fuse.net
Mary Ann Engwerli	1909 Oriole Court	Engweiler4@aol
Doug Van Winkle	1908 Oriole Court	
Al E/E Banczak	1905 Swan Circle	586-4113

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See attached sheet for signatures.

1981 Blue Heron Pointe  
Tony Champ - tchamp@fuse.net 859-760-1841

1958 Blue Heron Pointe 859-586-0641  
David King

1969 Blue Heron Pointe 859-384-3115  
Ron Miller

1977 Blue Heron Pointe 859-586-4773  
bhouston@fuse.net  
Ben Houston

1977 Blue Heron Pointe 859 802 7297  
Jim Hunter

## **Petition to Stop the Zoning Change**

We, the residents of Cardinal Cove Subdivision, oppose the change in zoning from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.7 acres located at 1922 and 1932 North Bend Road. The zoning change would allow for more commercial retail stores to open along with additional parking for more cars on an already heavily traveled and congested road. Currently State Route 237 or North Bend Road a two lane road. Once road construction is complete, starting from Tanner heading North on North Bend Road will be a three lane road. One lane will be a turn lane. This will still not alleviate the traffic problems we already experience due to the industry, retail stores and homes that have been built in the past several years. We have one main entrance and exit on Cardinal Cove and that is onto State Route 237. We do not want the additional traffic that more retail stores would generate. We are also concerned about the loss of property value, the noise, the smells, the lights and the overall visual aesthetics. Please do not change the zoning at this site. See attached sheet for signatures.

Petition to Stop Zoning Change on 1922 and 1932 North Bend Road

Signature:	Address:
Nelder Pardon	1888 Morning Dove Ct.
Nelder Pardon	1888 Morning Dove Ct.
John & William Mason	1901 Falcon Crest Cir
[Signature]	1881 Cardinal Way
Marilyn Cann	1889 Cardinal way
Blondie Knuff	1899 Cardinal Way
John Farnham	1911 Cardinal way
[Signature]	1923 cardinal way
[Signature]	1881 Falcon Crest Cir
[Signature]	1887 Falconcrest
[Signature]	1865 Cardinal Way
Hayley Hill	1865 Cardinal Way
[Signature]	1903 Cardinal Way
[Signature]	1885 CARDINAL WAY
[Signature]	1885 CARDINAL WAY
Marilyn + Dean Gura	1866 Cardinal way

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**Date:** Wednesday, February 25, 2009 10:41 AM  
**From:** Stephenson, Troy <Troy.Stephenson@FMR.COM>  
**To:** swnyadams@aol.com, purdon@fuse.net  
**cc:** Warken, Stephanie <Stephanie.Warken@FMR.com>  
**Subject:** Zoning Change Application

---

Hello Fred & Nelda,

While I will not be able to attend the meeting this evening due to prior engagements. I do regret the filed application for zoning. Some of us along Blue Heron Point already have Remke somewhat in our backyard with a small amount of woods in between. I'm very much against any new zoning that would create new building sites at the front of our subdivision. If I can sign a petition please let me know.

On another note something's that need to be addressed by the Home Owner's Association are as follows.

A. Fix the entrance to our subdivision. I mean it's been nearly one year and I'm sure everyone is a little tired of the potholes. I agree they tossed a little blacktop in them at times but as you can tell that didn't last long. I think it's been long enough and I pay my taxes to Boone County just like everyone else. Sorry, If this one comes off as loud but it's not something I enjoy when coming home to see nothing has changed.

B. Blue Heron Pointe - I can't speak for the entire subdivision but my street has some big offenders of leaving the adds that get tossed at the drive to sit and collect water and pile up 5 and 10 deep in the front yards. This isn't anyone's issue but the homeowner. It only take a minute to pick it up and throw it away. I know that we have some folks that are renters which I didn't expect when I moved in but the homeowners need to be respectful of the properties they are renting. I pay my dues every year just like the next guy or gal and not really happy as you can see.

Thanks,

Troy Stephenson 1953 Blue Heron Pointe

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The parcel in question has been designated "transitional" on zoning maps for some time now.

While it would be nice to stop the zoning change, it is probably unlikely that it can be prevented. The State has already been somewhat complicit by providing all that fill dirt to the developer so that development into commercial activities is easier and cheaper.

Hopefully there can be a restriction limiting any businesses to offices or physician offices, or the like.

So, here are some things you may want to ask for in any negotiations...

Restriction on signage in terms of light, and height.

Building of sound/privacy walls on the rear and north side of the property. These walls should be tall enough to prevent headlights from shining into windows of houses.

No outside loudspeakers, bells, alarms (outside of security alarms) or "music" noise.

Lighting restrictions – no outside lighting except for reasonable, minimal parking lot lighting.

Restrictions against business that cause odors.

A good example of the bad stuff that you may be trying to avoid, but certainly not to be limited to...

While some of the following businesses are not likely to be on the parcel, you can think of them as examples of "worst practices" BAD NEIGHBORS in terms of invading residential space.

Offensive outside noise and music(?) causing noise pollution...

- Best Buy
- O'charleys, Fridays – style restaurants
- Speedway style gasoline stations
- Drive through restaurants
- Dumpsters being emptied at 0300 hours
- Dog and animal barking
- Muffler repair shops

Excessive lighting

- Best Buy
- Speedway style gasoline stations
- Car lots
- Overzealous parking lot designers
- Doctor Wing Eyecare signage
- Mercury vapor security lights or other high brilliance lighting in the rear of the buildings.

Odors

- Most fast food restaurants. – cooking
- Fast food restaurants - dumpsters
  - I love the smell of Skyline chili, but I'd hate to have to live with it.
- Wild Flavors

George and Amy Bonta  
Owners – 1904 Swan Circle  
586-4009

# ACTIVE BOONE COUNTY RESIDENTIAL SUBDIVISIONS

AREA CODE	SUBDIVISION	SINGLE FAMILY		MULTI FAMILY		TOTAL	
		TOTAL BUILT*	TOTAL PLANNED	TOTAL BUILT*	TOTAL PLANNED	TOTAL BUILT*	TOTAL PLANNED
UN	Alson Place		51			-	51
WV	Aosta Valley	7	162			7	162
BU	Arborwood Estates	119	130			119	130
WV	Bearcat Crossing	8	48			8	48
	Blackberry Hill Estates	14	32			14	32
BU	Burlington Woods	78	85			78	85
PV	Carters Mill	161	177			161	177
	Castle Bluff Estates	6	10			6	10
WV	Cauthen Run	42	146			42	146
UN	Cheshire Ridge	113	124			113	124
WV	Ciarra Ridge Estates	10	16			10	16
UN	Cool Springs	173	247			173	247
HE	Cornerstone Estates	6	42			6	42
PV	Creekside	62	96			62	96
BU	Dartmouth Woods	102	120			102	120
UN	Dublin Green Estates	76	81			76	81
	Eagle Oak Estates	6	46			6	46
	Estates at Union Reserve	19	24			19	24
RW	Estates of Richwood	0	11			-	11
BU	Fairways at Meadowood			111	313	111	313
PV	Farmview (Meadows)			69	242	69	242
WV	Francis Court	11	20			11	20
BU	Griesser Farm			12	178	12	178
UN	Gunpowder Pointe	18	51			18	51
PV	Gunpowder Trails	234	520			234	520
UN	Hampshire	134	176			134	176
BU	Hanover Park	723	740			723	740
UN	Harmony	52	206	21	612	73	818
PV	Hearthstone	316	409			316	409
HE	Hebron Gardens	88	92			88	92
RW	Heritage Trails	198	221			198	221
BU	Hidden Creek	90	92			90	92
BU	Hidden Creek II	129	210			129	210
WF	Hopeful Trails	44	52			44	52
BU	Hunter's Ridge	25	700			25	700
UN	Kilbelin		886		401	-	1,287
NH	Kingsley Chase	16	28			16	28
UN	Lassing Green	94	108			94	108
HE	Lauren Meadows	63	64			63	64
BU	Morgan's Crossing	126	130			126	130
NH	North Bend Woods		115			-	115
WV	North Walton Pointe	4	216			4	216
NH	Northpointe	220	525		750	220	1,275
PV	Oakbrook (Highlands)	126	129			126	129
BU	Oakmont Run	21	24			21	24
HE	Orchard Estates	199	373			199	373
UN	Orleans (North)	422	494			422	494
UN	Orleans (South)	285	357			285	357
	Oxford Hills	8	12			8	12
PV	Paragon Mills			23	290	23	290
PV	Pebble Creek	457	492			457	492
UN	Plantation Pointe (Antebellum)	75	109			75	109
UN	Plantation Pointe (Arbor Springs)	203	279			203	279
UN	Plantation Pointe (Preston)			72	194	72	194
UN	Plantation Pointe (Savannah)	133	148			133	148
UN	Plantation Pointe (Tara)			314	605	314	605
PV	Pleasant Hill	30	51			30	51
PV	Pleasant Valley Meadows	466	506			466	506
	Porter Plantation	19	76			19	76
WF	Powder Creek	194	235			194	235

Single Built 1453 X 2 Cars = 2906

Multi Family Built 14 X 2 Cars = 28

Total 2934

Planned Single  
2805 X 2 Cars = 5610

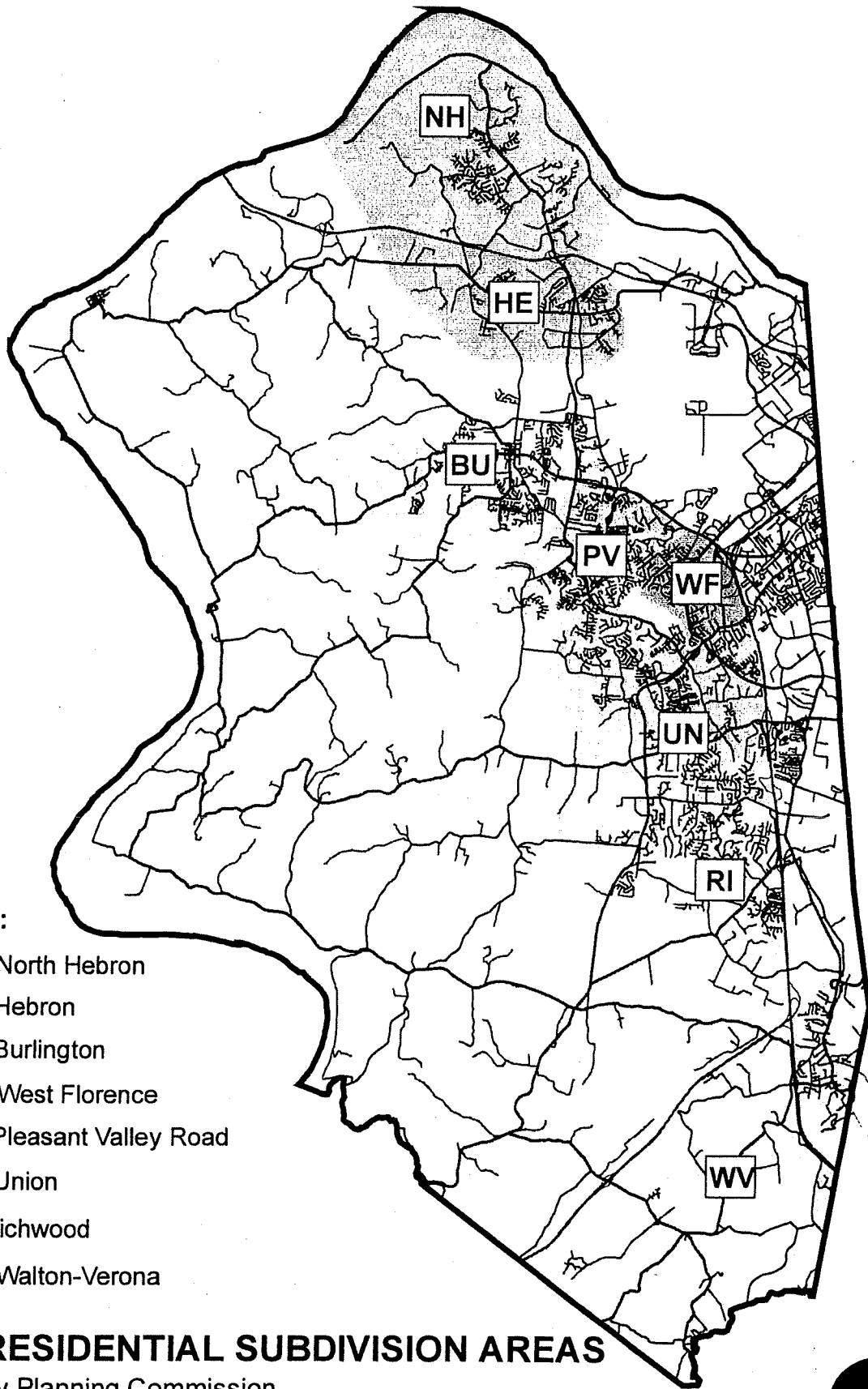
Planned Multiple Homes 1202 X 2 = 2404

Total 8014









AREA CODE	SUBDIVISION	SINGLE FAMILY		MULTI FAMILY		TOTAL	
		TOTAL BUILT*	TOTAL PLANNED	TOTAL BUILT*	TOTAL PLANNED	TOTAL BUILT*	TOTAL PLANNED
UN	Red Stone Village	21	84			21	84
	River Vista	7	12			7	12
NH	Rivershore Farms	105	126			105	126
WV	Salem Country Estates	10	40			10	40
HE	Sawgrass		225				225
NH	Settler's Pointe	68	111			68	111
PV	Shaker Run	124	141			124	141
	Sherwood Lakes			359	576	359	576
	Shores	1	9			1	9
WV	Showalter Green	46	54			46	54
RW	Steeplechase	243	333			243	333
RW	Steeplechase (Cantoring Hills)			38	227	38	227
RW	Steeplechase (Legends)			261	380	261	380
RW	Steeplechase (Tracts)		217			-	217
WV	Stephenson Manor	8	12			8	12
	Stephenson Reserves	17	34			17	34
	Stoney Ridge Farms	14	22			14	22
UN	Stratford	42	52			42	52
HE	Sunchase Meadows	23	43			23	43
HE	Sundance Estates	26	57			26	57
UN	Sunnybrook Farms	13	48			13	48
	Sussex Condos			0	84	-	84
BU	Tall Trees	32	44	48	144	80	188
NH	Tanners Cove	2	2	14	88	16	90
	Tayman Estates	15	18			15	18
	Teutonia Estates	15	9			15	9
NH	Thornwilde	525	673		364	525	1,037
WF	Three Fountains (Anhofer)				344	-	344
NH	Tree Top Estates	84	302			84	302
UN	Trellises			50	301	50	301
RW	Triple Crown	704	1,659	442	442	1,146	2,101
FL	Turning Leaf Apartments			0	36	-	36
UN	Union Pointe			6	42	6	42
WV	Verona Commons	29	42			29	42
UN	Village of Brigadoon	116	170			116	170
UN	Village Terrace			17	38	17	38
UN	Villas of Fowler Creek			40	78	40	78
BU	Vinyard Park		40			-	40
UN	Westbrook Estates	0	350			-	350
	Whitehorse Farm	4	7			4	7
	Whitestone Links			16	90	16	90
WV	Wildcat Run	143	393			143	393
	Wysteria Village	6	68			6	68
		8,668	15,891	1,913	6,819	10,581	22,710
<b>TOTAL</b>		<b>TOTAL</b>	<b>TOTAL</b>	<b>TOTAL</b>	<b>TOTAL</b>	<b>TOTAL</b>	<b>TOTAL</b>
		<b>BUILT*</b>	<b>PLANNED</b>	<b>BUILT*</b>	<b>PLANNED</b>	<b>BUILT*</b>	<b>PLANNED</b>
		<b>SINGLE FAMILY</b>		<b>MULTI FAMILY</b>		<b>TOTAL</b>	

NH = North Hebron  
 BU = Burlington  
 HE = Hebron  
 PV = Pleasant Valley Rd  
 WF = West Florence  
 UN = Union    RW = Richwood  
 WV = Walton-Verona

\*through December 31, 2008

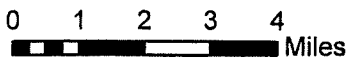


**Area Code:**

-  NH - North Hebron
-  HE - Hebron
-  BU - Burlington
-  WF - West Florence
-  PV - Pleasant Valley Road
-  UN - Union
-  RI - Richwood
-  WV - Walton-Verona

**ACTIVE RESIDENTIAL SUBDIVISION AREAS**

Boone County Planning Commission



NELOA Purin

Current Retail on KY 237/North Bend Road Up to 1-275

Rempke  
Dentist  
Home Flooring & Sleep Center  
All That Jazz Consignment  
Super Cuts  
Mando's Optical  
Pretty Spa & Nail  
Vacant Store  
Spherion Recruiting @ Staffing  
Vacant Store  
J. Minella Jewelers  
Island Palm Bistro & Bar  
National City Bank

8 Vacant Stores  
46 Occupied Stores  
Park West Inter.  
South Park -  
Industry + Apts

Flick's Grocery- Vacant Building  
Liquor Cabinet  
Baja Hair & Nails  
Perpetual Fitness  
Take 5 Bar & Grill

South Park - Industry & Apartments

New Complex  
El Mariachi Mexican Restaurant (Coming Soon)  
Vacant Store  
Vacant Store  
Cincinnati Tan  
Vacant Store  
Penn Station

UDF plus UDF Gas Station

Wendy's  
Bank of KY  
BP Gas Station  
Dairy Queen  
Hebron Soft Car Wash  
Hebron Self Storage  
Braxton's Cleaners  
State Farm Insurance  
Hebron Chiropractic  
China Wok  
Environmental Risk Corporation  
Vacant Building  
Stone Oven Pizzeria

New Building - 10,000 square feet left for offices/retail  
Children's Place on Wheels  
Eat At Bob's  
Arby's  
US Bank  
Gino's East Coast Grill  
All Star Cleaner  
Wings on Wheels  
Vacant Store

Movie Gallery  
Discount Liquor & Tobacco  
Nicky's Pizzeria  
Big-League Haircuts  
Allstate Insurance  
El Mariachi Mexican restaurant (moving across the street)

Park West International Warehouses/Businesses

Carl Zeiss Vision

Park West International Second Entrance

Warehouses/businesses

Gap Outlet

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM  
BUSINESS MEETING  
APRIL 1, 2009  
7:00 P.M.**

---

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:00 P.M.

**COMMISSION MEMBERS PRESENT:**

Ms. Judy Arnett, Secretary/Treasurer  
Mr. Ben Brandstetter  
Mr. Greg Breetz  
Mr. Kim Bungler  
Mr. Jim Carmichael  
Mr. Mark Hicks  
Ms. Janet Kegley  
Mr. Jim Longano  
Mr. Don McMillian  
Mrs. Susan Poston, Chairwoman  
Mr. Charlie Reynolds  
Mr. Charlie Rolfsen, Vice Chairman  
Mr. Bob Schwenke, Temporary Presiding Officer

**COMMISSION MEMBERS NOT PRESENT:**

Mr. Mike Ford  
Ms. Linda Herald

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Mitchell A. Light, Assistant Zoning Administrator/ZEO  
Mr. Todd K. Morgan, AICP, Senior Planner

**Approval of the Minutes:**

Mrs. Poston stated that the Commissioners received copies of the Minutes of the March 4, 2009 Business Meeting. She asked if there were any comments or corrections. There being no changes to the minutes, Mr. Rolfsen moved that the minutes be approved as written. Mr. Reynolds seconded the motion and it carried unanimously.

**ACTION ON PLAN REVIEWS:**

**ZONING MAP AMENDMENT**

1. **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 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.**

Staff member Mitch Light presented the Committee Report, which recommended approval of the request based on the Findings of Fact, but subject to Conditions (See Committee Report). Mr. Light noted that the property owner has signed the letter agreeing to the conditions and referred to a number of slides based upon changes to the submitted Concept Development and as a result of items stated at the Public Hearing. The slides included one less store bay, a larger landscaped buffer, street frontage trees, revised building elevations and a revised photometric plan. Mr. Light noted that the Committee vote was 3 in favor, 1 against and 1 absent.

Mrs. Poston asked if the applicant wanted to make a summary statement in regard to items raised at the Public Hearing or discussed at the Committee Meeting before the Planning Commission takes action on this request.

Mr. Gil Whitacre, Bayer-Becker, Engineers stated that his client agrees with the Committee's Findings of Fact and conditions and is available to answer any questions.

At this time, Mrs. Poston allowed a total of five minutes for summary comments by the opposition.

Ms. Leslie Ast, 1896 Morning Dove Court, stated that she is representing the residents of Cardinal Cove. She referred to an exhibit on the easel outlining the three criteria for approving or denying a Zoning Map Amendment. She noted that according to the 2005 Comprehensive Plan, the land in question is clearly to be kept as residential so the applicant's request cannot be approved based upon the first criteria. In terms of the third criteria, she stated that the character of the area exists exactly as it did under the 2005 Comprehensive Plan - a mix of residential with a limited amount of commercial uses. In addition, the Plan's recommendation did account for the reconstruction of North Bend Road. Thus, it can't be asserted that it was not anticipated to be a major change in the Comprehensive Plan. There is nothing that has substantially altered the character of the area and the applicant has not offered any evidence that there was a major change that was not anticipated in the Comprehensive Plan, thus the applicant's request cannot be approved on the basis of the third criteria.

With regard to the second criteria, the applicant has argued that the current zoning is inappropriate because the land exists adjacent to an upgraded arterial roadway and across from an industrial park. She rejects this argument for a number of reasons. First, even if we assume that the improvements to the road will be made by 2010, the applicant has missed the point of the improvements. According to the Kentucky Department of Highways, the reconstruction is being made for congestion reduction and safety improvements. The upgrades are being made for the traffic and safety problems that exist today and not for the additional traffic and safety problems

that the applicant's request would bring. There is no way even after the reconstruction that this roadway could handle additional traffic of another retail center with an additional 14 stores. It is the highest volume of stores in a single shopping center outside Florence. It is far too many to exist adjoining a residential neighborhood with no real buffer. In addition, all of the traffic exiting from the development must turn right, which would be directly on top of the roundabout, thus effecting negatively the advantages of the roundabout. Further, the industrial park across the street has existed for over 10 years. The Planning Commission still saw fit to keep the site in question residential in the 2005 Comprehensive Plan. The industrial park, across the street includes the Gap Outlet store. It sits lower and is not a disturbance to the residents. We reject the notion that just because the land exists across from the Gap Outlet that it automatically deems the site inappropriate as residential. Residential is and always has been appropriate for the residents, who live across from the Gap Outlet now. The applicant has not provided an argument that the C-2 zoning is appropriate. In 2006, the Planning Commission rejected this same request on the basis that it was inappropriate because there was a need to widen North Bend Road. North Bend Road will still need to be widened because the Kentucky Department of Transportation changed its plans as the road will only be a two-lane road with a concrete divider. There will be no widening of the road in front of the development. In addition, the applicant has asserted that the reasoning for approving the Remke request should apply to this project. We disagree as this request is not the same due to the fact that it is located immediately adjacent to a residential community.

**There being no further comments, Mr. Rolfsen moved by resolution to the Boone County Fiscal Court that the request be approved based upon the Committee Report with conditions. Mr. Hicks seconded the motion.**

Mr. Schwenke asked about the right turning movements and roundabout traffic.

Mr. Light responded that the primary access is right in and right out off North Bend Road. As a way of turning left, one would have to turn right and travel north through the roundabout to go south or go through the Remke development to Tanner Road to the traffic light. There will be a divided median to prevent a left turn from the development.

Mr. Breetz stated that he voted against the application because of the project's close proximity to residential and too many stores. The project is in the middle of the subdivision. This project is a further extension of commercial beyond Tanner Road, just like the previous Remke request. The Findings of Fact #2 refers to the Business Activity Element of the 2005 Comprehensive Plan, which states that the commercial development of Hebron will center around the intersection of the new KY 237 and KY 20 where Kroger is located. This request is way beyond what is described in the Business Activity Element. There is more commercial development occurring now in Hebron than in Florence. There are a lot of stores in the area. The proposed building will overshadow the houses near by and block the sunlight. The road plans include bike paths for residents living in the area and not a viewscape of commercial.

Mrs. Kegley felt that the site is appropriate for commercial. With the last Zoning Update, the site was recommended to be residential because of the two existing houses. However, with the industrial across the street, it is not desirable for residential. The proposed uses are for small businesses that cater to the residential. It would be the type of businesses in mixed use developments and not pull traffic from other areas. One doesn't go across town to a dry cleaner or a video store on a neighborhood basis. Our landscaping requirements are better and the applicant's landscaping plan includes a 10-foot tall berm with a significant amount of trees. The berm will help screen the commercial center already in place.

Mrs. Poston stated that the 2005 Comprehensive Plan did include areas that were residential at the time and then planned for commercial in the future. The site was not one of them as intended by the Comprehensive Plan. The commercial has encroached far enough down North Bend Road. I envisioned that the present Toebben commercial development would be the end of the commercial zoning. Any further extension would encroach on the residential zoning. There have been no changes that would warrant this change from residential to commercial, thus, I will be voting no on the project.

Mr. Breetz referred to Mrs. Kegley's comments about video stores and dry cleaners in the vicinity. Both types of businesses are currently located in the area. There are over 50 store locations in this area as there is adequate commercial space between I-275 and Tanner Road.

Mr. Hicks agreed with Mrs. Kegley's comment about the project being neighborhood type uses. Also, he stated that we should have competition of businesses. No matter what would happen on the site, you will have commercial next to residential. He questioned what would be built there if the project wasn't approved. It could be apartments since SR-1 zoning wouldn't work. The applicant did a lot to address the concerns. This is a good project for the economy today.

Mr. Bunger stated that he voted in favor of the request and thought it was an appropriate use for the site. It is a continuation of the Remke development. It continues to be commercial next to residential. He felt there was a change since 2005 with the site being filled along with the plans for the road. The final reasons he supported the project was the reduction in the size of the building and the enhanced entranceway planting.

Mr. Rolfsen also voted in favor of the request, as he felt that they addressed the neighbor's concerns with more green space as a gateway to the residential and one dumpster at the far end. Also, there is no new curb cut because it is the same owner. He thought people would visit the retail center on the way home from work taking additional traffic off the main road. He stated that the current zoning of RSE (1 dwelling unit per acre) was not appropriate on this 3.68 acre parcel.

Mr. Breetz stated he was not against commercial but is against the density and scale of it and where it is located. He thought a more appropriate use was a restaurant and not 14 stores. This center sits much closer to the road than the existing Remke store front. He also asserted that we should not be concerned about tax dollars but zoning and land use. Also, he felt that the neighbors didn't necessarily agree with the concessions and conditions from the project.

**There being no further comments, Mrs. Poston asked for a motion made by Mr. Rolfsen which found Mr. Bunger, Mr. Carmichael, Mr. Hicks, Mrs. Kegley and Mr. Rolfsen in favor. Mrs. Arnett, Mr. Brandstetter, Mr. Breetz, Mr. Longano, Mr. McMillian, Mrs. Poston and Mr. Schwenke were opposed. Mr. Reynolds abstained from voting. Mr. Wilson stated that Mr. Reynolds abstained vote without a reason is counted with the majority. The motion to approve by a vote of 8 to 5 is denied.**

Mr. Wilson stated that the motion to approve the request did not pass and the Board will need another motion to deny the request with findings.

Mrs. Poston asked if staff had drafted Findings for Denial. Mr. Light distributed the Findings of Fact for Denial. At this time, Mr. Light read the Findings of Fact for Denial (see attached copy). Mr. Wilson asked a question about the existing zoning being a moot issue. Mr. Light responded that the existing zoning was a moot issue.

Mr. Carmichael asked about the number of parking spaces. Mr. Light responded 140 spaces and the project has shared parking with the existing center.

At this time, Mrs. Poston asked if the applicant wanted to make a 5 minute summary statement based upon Findings of Fact for Denial.

Mr. Whitacre, Bayer Becker Engineers, stated he disagreed with the Findings of Face for Denial. He noted they presented good evidence that the existing zoning classification was inappropriate and the proposed zoning classification is appropriate. This had a lot to do with how the project was designed.

Ms. Leslie Ast, 1896 Morning Dove Court, referred to the Goals and Objectives of the Comprehensive Plan, which state that land use and zoning decisions shall strive to balance the rights of landowners with the rights of the general public. She believes that the existing zoning does not infringe on the rights of the general public but to approve the zone change would unfairly infringe upon the rights of the neighboring land owners.

At this time, Mrs. Poston asked for a motion. Mr. Breetz moved to approve the Findings of Fact for Denial as read. Mrs. Arnett seconded the motion. Mrs. Poston then asked for any comments or discussion from the Board.

Mr. Carmichael stated that the current zoning of RSE is completely inappropriate as it could allow 14 houses based on the Future Land Use. This is not feasible on this site or wanted. He questioned what else could go there? The proposed zoning of commercial is appropriate although the density may not be ideal. A multi-family development is also not wanted by the neighbors. There has been a balance between the rights of the land owners and the general public.

Mrs. Kegley restated that the commercial is appropriate as it serves residents living in the area and isn't a restaurant like an Olive Garden, which would draw people outside the area. This is what the residents don't want. The Comprehensive Plan allows for convenience and neighborhood commercial uses to the north. All the commercial is protected by the building walls and landscaping is located on the other side of the wall. This separates commercial from residential.

Mr. Rolfsen questioned the existing zoning of the property - one dwelling unit per acre versus the Future Land Use Map. Mr. Light stated that the Future Land Use Map (or what it may be zoned) indicates 4 dwelling units per acre for the site.

Mr. Breetz stated that the site could be either residential or commercial but it was the scale of the project - 14 stores that concerned him. The location of the building is in front of Remkes and is being placed on 20 foot of fill material and is 15 foot tall.

Mr. Brandstetter questioned whether any vote either yes or no on the Findings of Fact for Denial would preclude any future change for commercial?

Mr. Wilson stated no as any applicant could come in and request another rezoning whether it be commercial for a different project or a different zone. Nothing tonight would preclude a future rezoning application.

Mr. Hicks asked whether if the Finding of Fact for Denial were denied, would the request go back to the Zone Change Committee?

Mr. Wilson stated that the full Planning Commission could continue deliberating to see if there is another motion for approval or denial with different findings. In the past, the Zone Change Committee has primarily dealt with items that may have been overlooked.

Mr. Carmichael stated he is very familiar with the site as he has visited it several times. He questioned the L-shaped building location to close off the commercial from the residential. Driving down the road you would see commercial and green space entering the subdivision. A stand alone building would not be appropriate. With the submitted design, there is some closure between the commercial and residential uses.

Mr. Bunger stated he would vote against the motion to deny the project. He thought the small shops will serve the residential communities in the area. Most of the activity would occur in the afternoon. It would not cause a significant increase in traffic as it is local traffic.

Mr. Breetz agreed with Mr. Carmichael's comments about the proposed project which segregates the residential from commercial. He feels the public should also have a voice to their neighborhood.

**There being no further comments, Mrs. Poston asked for a vote on the motion to approve the Findings of Fact for Denial. She reminded everyone that a Yes vote is in favor of the Findings of Fact for Denial or denial of the project, which found Mrs. Arnett, Mr. Brandstetter, Mr. Breetz, Mr. Longano, Mr. McMillian, Mrs. Poston and Mr. Schwenke in favor. Mr. Bunger, Mr. Carmichael, Mr. Hicks, Mr. Kegley and Mr. Rolfsen were opposed. Mr. Reynolds abstained from voting. The motion to deny by a vote of 8 to 5 is approved.**

Mr. Wilson reminded everyone that this recommendation will be forwarded to the Boone County Fiscal Court and the audience should follow-up.

Mrs. Poston stated that the office received letters from Jeanie Knapp and Daniel Knapp after the Public Hearing and they will be forwarded to the Boone County Fiscal Court.

#### **ZONING MAP AMENDMENT**

- 2. Request of ECE, Inc. (applicant) for Arlinghaus I, LLC (owner) for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Suburban Residential One (SR-1) for 5.134 acres of a 59.65 acre tract located at 2225 Graves Road, Boone County, Kentucky. The request is for a zone change to allow single family residences.**

**EXHIBIT**

**“B”**

**THE FINDINGS OF FACT FOR DENIAL STATED BELOW WERE READ AT THE APRIL 1, 2009 BUSINESS MEETING AND WERE ADOPTED BY THE PLANNING COMMISSION WITH A VOTE OF 8 - 5. (SEE 4/1/09 BUSINESS MEETING MINUTES)**

#1

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 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.

**FINDINGS OF FACT FOR DENIAL**

April 1, 2009

1. The Future Land Use Map designates this site for "Suburban Residential" (SR) uses described as "single family housing of up to four units per acre (similar to the adjoining residential subdivisions). This classification does not preclude low density or estate residential developed as a formal subdivision" and therefore the proposal is not consistent with the Map, as the proposal is for a multi-tenant commercial building.
2. The request is not in agreement with the 2005 Boone County Comprehensive Plan for the following reason:
  - A. "Commercial development in Hebron will center around the intersection of new KY 237 and KY 20 with a limited amount of convenience and neighborhood commercial uses north of the I-275 interchange to serve the South Park Industrial Park, Park West Industrial Park, and the growing number of residential subdivisions along North Bend Road. With the amount of residential construction expected in the North River area, larger scale commercial developments, such as drug stores and grocery stores will be needed. Commercial development in this area should be designed to serve the northern part of Boone County. This commercial growth should coordinate with the existing and proposed industrial and residential developments, especially in terms of access ("Recommended Areas of Commercial Activity," pg. 64)."

Even though this proposal is essentially an extension of the existing North Bend Square development, it infringes upon the existing residential character of the immediate area based on the building size, building location and large masonry walls associated with the proposed commercial development.

3. The proposed zone change as expressed through the submitted Concept Development Plan does not compel a conclusion that the proposed zoning classification is appropriate due to the lack of compatibility with the neighboring residential land uses. Due to this fact, whether or not the existing zoning classification is inappropriate is a moot issue.

4. The Committee has not identified any facts which would lead to a finding that there have been major changes of an economic, physical, or social nature not anticipated in the adopted comprehensive plan that substantially alter the area's character nor has the applicant provided any such facts. The reconstruction of KY 237 was known and emphasized in the 2005 Boone County Comprehensive Plan.
5. The Committee and the applicant have agreed to a number of conditions which should be applied to the development, should it be approved. These conditions are necessary to mitigate foreseeable impacts that may be created by the development. These conditions are outlined in the Committee Report for Approval which recommends conditional approval of this application. However, this application should be denied, regardless of the potential conditions, because none of the three statutory criteria of KRS 100.213 have been met.

**COMMITTEE REPORT FOR APPROVAL WAS READ AT THE APRIL 1, 2009 BUSINESS MEETING BUT NOT ADOPTED BY THE FULL PLANNING COMMISSION BY A VOTE OF 8 AGAINST AND 5 FOR THE REQUEST. FINDINGS FOR DENIAL WERE PRESENTED AT THE APRIL 1, 2009 BUSINESS MEETING AND ADOPTED BY THE FULL PLANNING COMMISSION BY A VOTE OF 8 FOR THE DENIAL AND 5 AGAINST. (SEE 4/1/09 BUSINESS MEETING MINUTES)**

#1

## **ZONE CHANGE/CONCEPT PLAN COMMITTEE REPORT**

**TO:** Boone County Planning Commission

**FROM:** Greg Breetz, Chairman

**DATE:** April 1, 2009

**RE:** 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 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.

### **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 applicant has adequately demonstrated that the existing zoning classification of Rural Suburban Estates (RSE) is inappropriate for the 3.68 acre parcel adjacent to and accessed from an existing commercial development and new road improvements, and that the proposed zoning classification of Commercial Two (C-2) is appropriate given that no additional access points are necessary due to the adjacent commercial development and it is integral with the adjoining commercial development. The applicant has demonstrated that the development can be compatible with the adjoining residential use by providing appropriate screening and building placement as described in the attached conditions.
2. The Committee has concluded that the map amendment request is in agreement with the adopted Comprehensive Plan. Specifically, the Business Activity Element states "Commercial development in Hebron will center around the intersection of new KY 237 and KY 20 with a limited amount of convenience and neighborhood commercial uses north of the I-275 interchange to serve the South Park Industrial Park, Park West Industrial Park, and the growing number of residential subdivisions along North Bend Road. With the amount of residential construction expected in the North River area, larger scale commercial developments, such as drug stores and grocery stores will be needed. Commercial development in this area should be designed to serve the northern part of Boone County. This commercial growth should coordinate with the existing and proposed industrial and residential developments, especially in terms of access ("Recommended Areas of Commercial Activity," pg. 64)."

The scale and types of uses of this proposal is designed to serve the immediate residents in the area.

The text within the Land Use Element states that "unlike most developing areas of Boone County, the north river area contains only one primary means of access, being North Bend Road. Additional development activity in this corridor should not occur until the North Bend Road reconstruction is complete, and major developments must provide their own access to North Bend Road as opposed to accessing local streets like Stahl Road ("17. Hebron Area," pg. 155)."

The Kentucky Transportation Cabinet has indicated that the road construction may be completed in the Fall of 2009. The applicant indicated that work would not begin on the proposed development until Spring 2010 at the earliest.

3. The Committee has concluded that the following conditions are necessary to achieve consistency with the specific goals, objectives, and policies of the 2005 Boone County Comprehensive Plan. The conditions listed below are necessary to mitigate any foreseeable community impacts that may be created by the development. The property owner has signed a letter demonstrating agreement with these conditions.

### CONDITIONS

1. The property owner agrees to revise the Concept Development Plan (including the elevations and photometric plan with 15' high maximum parking lot lights) to reflect the elimination of one (1) 24' x 65' tenant space nearest North Bend Road, the additional landscape buffer in its place and the street frontage landscaping.
2. The property owner agrees to provide the Boone County Building Inspection Department with a detailed geotechnical engineering report with regard to the soil stability th the Building Permit stage.
3. The property owner agrees that all storm water from this development will be handled in an underground system in the parking lot so as not to affect the proposed buffering located to the north and east and will be reviewed by the Planning Commission Staff and County Engineer at the required Major Site Plan Review.
4. The property owner agrees that the dumpster enclosure will be constructed of brick to match the building and restrict trash collection only between the hours of 7:00 a.m. to 9:00 p.m.
5. The property owner agrees that there will be no remote ordering/speaker system and no freestanding menu/preview boards with the proposed drive-up window.

6. The property owner agrees that there will be no freestanding signage for this development, only building mounted signage.
7. The property owner agrees that there will be no emergency generator(s).
8. The property owner agrees that there will be no outside storage and that all HVAC equipment will be roof mounted.
9. Permitted Commercial Two (C-2), Commercial One (C-1) and Office One (O-1) uses for this development are listed as follows, prohibited uses are stricken:

**COMMERCIAL TWO (C-2)**

**SECTION 1021**

**Principally Permitted Uses**

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;
2. All the principally permitted uses in an Office One (O-1) district; with the exception of principally permitted use #27 in Section 1111.
3. Eating and drinking establishments including alcoholic beverages; **(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF WALTON CITY LIMITS ONLY)** Eating and drinking establishments including alcoholic beverages and accessory drive-in facilities;
4. Department stores, mail order houses, direct retail selling organizations of general merchandise;
5. Furniture, home furnishings including specialty and floor coverings;
6. Specialized upholstery and furniture repair or refinishing services;
7. Apparel stores;
8. Household appliances, china, glassware and metal ware;
9. Radio, t.v., watch, clock, and jewelry repair;
10. Photographic, stenographic and other duplicating and mailing services;
11. Legal services, engineering and architectural services;
12. Security brokers, dealers and flotation services;
13. Title abstracting services; holding and investment services;
14. Advertising services including direct mail;
15. Business and management consulting services;
16. Employment services;
17. Consumer and mercantile credit reporting, adjustment and collection services;

18. Travel arranging, transportation ticket and public event or promotional booking agencies;
19. Radio and television broadcasting studios excluding transmitting stations and towers;
20. Art, music and dancing schools, libraries and museums;
21. Medical and dental laboratory services;
22. Medical clinics, out-patient services;
23. Welfare and charitable services;
24. Business associations and professional membership organizations including civic, social and fraternal organizations;
25. Art and craft galleries and similar exhibit space;
26. Aquariums, botanical gardens and other natural exhibitions;
27. Arcades and other amusement centers;
28. Motion picture theaters (indoor);
- ~~29. Bowling alley, skating rinks, roller skating rinks, miniature golf courses, golf driving ranges, and skateboard facilities;~~
30. Recreation centers, gymnasiums, clubs and similar athletic uses;
31. Motorcycle sales or bike shops excluding outside storage;
32. Churches, synagogues, temples and other places or religious assembly for worship;
- ~~33. Hotels and motels including convention facilities;~~
- ~~34. Pawn shops (Not Applicable within the City of Florence);~~
35. Auto parts and accessories stores;
- ~~36. Gasoline filling station;~~

**SECTION 1022**  
**Accessory Uses**

1. Recreation uses or spaces of integral relation to the developed portions of the district defined to be:
  - a. Stages and similar assembly areas;
  - b. Auditoriums, exhibition halls and other public assembly spaces;
  - c. Billiards;
  - d. Play lots and tot lots;
  - e. General, leisure, ornamental and other parks, spaces, trails bikeway systems, malls and urban pedestrian networks;

2. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
  - a. Private garage and parking;
  - b. Structures such as fences and walls;
  - c. Buildings such as storage sheds;
  - d. The keeping and use of appropriate household pets;
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Temporary buildings incidental to construction ;
6. Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use and do not create outside spaces which will tend to enlarge or overpower the activities of permitted uses, and which are conducted in accordance with Section 3154;
- ~~7. Drive-up photo finishing services and automatic teller services;~~
- ~~8. Indoor target ranges and similar athletic uses;~~
- ~~9. Recycling collection points (See Article 31);~~
10. Garment and Furniture centers (See Article 31);
- ~~11. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);~~
12. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155;
- ~~13. Recycling collection containers.~~

#### **SECTION 1023**

##### **Conditional Uses and Criteria**

- ~~1. Garden and landscape sales including florist greenhouses, lawn furniture and the like;~~
- ~~2. Automotive repair facility and wash services for vehicles;~~
- ~~3. Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises (Does not apply in the City of Florence);~~
- ~~4. Small scale sales or leasing of new and used recreational vehicles requiring the storage of no more than fifty (50) vehicles on the premises (Does not apply in the City of Florence);~~
- ~~5. Mini-warehouses or storage facilities (Does not apply in the City of Florence);~~
- ~~6. Horse related uses, including riding and boarding stables, as defined by KRS 100.111 (2)(c).~~
- ~~7. Indoor kennels for household pets; except in the City of Florence where indoor kennels for household pets are only allowed when not adjoining a residential zoned property.~~

**SECTION 1024**

**Intensity**

The intensity of use in a Commercial Two district of under four (4) acres, including all the contiguous private property so designated, shall not exceed 12,000 square feet of gross floor area per acre of land. In a commercial two district of over four (4) acres, the intensity of use shall not exceed 15,000 square feet of gross floor area per acre of land.

**SECTION 1025**

**Minimum Size**

The minimum size and extent of a Commercial Two district, including all the contiguous private property so designated, shall not be less than two (2) acres.

**SECTION 1026**

**Minimum Standards**

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

**COMMERCIAL ONE (C-1)**

**SECTION 1011**

**Principally Permitted Uses**

The following uses are permitted:

1. Hardware stores;
2. Eating and drinking establishments including alcoholic beverages;
3. Grocery stores and supermarkets;
4. Stores with retail sales of meat, fish, seafood, dairy and poultry products;
5. Fruit and vegetable stores; bakeries, candy, nut and confectionery stores;
6. Convenience stores;
7. Liquor, beverage, drug and proprietary stores;
8. Banking services, savings and loan associations, credit unions and other credit services;  
**(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF FLORENCE CITY LIMITS ONLY)** The business of cashing checks or accepting deferred deposit transactions as regulated by KRS 368.010 to 368.120 shall not be included in this permitted use.
9. Insurance carriers and agents;
10. Real estate operators, agents, lessors and real estate sub-dividing and developing services, operative builders and related services;
11. Accounting, auditing and bookkeeping services;
12. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
13. Physician, dental, optical goods and services;
14. Veterinary services and pet grooming services but not including the boarding of animals;
15. Beauty and barber services and tanning salons;

16. Nursery and day care centers;
17. Laundering, dry cleaning and dyeing services including self-service;
18. Alteration and garment repair and custom tailoring;
19. Shoe repair, shoe shining and hat cleaning services;
20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
21. Jewelry stores;
22. Radio, t.v., music supplies, cameras, photographic supplies and specialty household appliances;
23. Art, craft and hobby supplies and products, gifts and novelties;
24. Antiques and used merchandise;
25. Books, stationery, newspapers and magazines;
26. Florists excluding greenhouses;
27. Sporting goods including bicycles;
28. Draperies, curtains, upholstery and floor coverings;
29. Paint, glass and wallpaper stores;
30. Photo finishing services;
31. Recreation centers, gymnasiums, clubs and similar athletic uses;
32. Video stores;
- ~~33. Funeral homes and crematoriums excluding cemeteries or mausoleums.~~

**OFFICE ONE (O-1)**

**SECTION 1111**

**Principally Permitted Uses**

The following uses are permitted:

1. Bank related services or credit unions;
2. Business and personal credit services and title services;
3. Security brokers, investment services and finance companies;
4. Insurance agents, brokers and services;
5. Real estate agents, brokers and management services;
6. Real estate management services and builders offices excluding any outside storage equipment and the like;
7. Photographic services;

8. Eating and drinking establishments including alcoholic beverages;
9. Direct mail and advertising services;
10. Stenographic services and other duplicating and mailing services;
11. News syndicate services and employment services;
12. Research, development and testing services of an office nature;
13. Business and management consulting services and associations;
14. Motion picture, audio-visual and similar media production and distribution services;
15. Physician and dental services including medical, dental laboratories and clinics;
16. Legal, engineering, architectural, education and scientific research services;
17. Accounting, auditing and bookkeeping services;
18. Charitable and social services administration offices;
19. Professional membership organizations and labor organizations and civic associations;
20. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
21. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;
22. Veterinary services not including the boarding of animals;
23. Business colleges or schools;
24. Recreation centers, gymnasiums and other related recreational facilities;
25. The retail sale of office supplies and equipment;
- ~~26. Funeral homes and crematoriums excluding cemeteries or mausoleums;~~
- ~~27. Sexually Oriented Business as defined in Article 40 and applicable standards in Article 31.~~

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

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
FIRST FLOOR FISCAL COURTROOM**

**March 4, 2009  
7:30 P.M.**

**PUBLIC HEARINGS**

**Commission Members Present:** Mr. Brandstetter, Mr. Breetz, Mr. Carmichael, Mr. Hicks, Mr. Longano, Mr. McMillian, Mrs. Poston - Chairwoman, Mr. Charlie Reynolds, Mr. Rolfsen - Vice Chairman, and Mr. Schwenke - Temporary Presiding Officer.

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

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

Mrs. Susan Poston, Chairwoman, called the meeting to order at 7:32 PM and introduced the first item on the Agenda:

**Applicant:** Toebben, Ltd. for  
Toebben, Ltd. (owner)

**Request:** 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 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.**

Following an explanation of the Public Hearing process, Mrs. Poston asked for the Staff presentation.

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

Mrs. Poston asked for the applicant's presentation.

Mr. Gil Whitacre with Bayer Becker Engineers, 209 Grandview Drive, Fort Mitchell, KY and Mr. Bill Toeppen with the Toeppen Company were present on behalf of the request.

Mr. Whitacre stated that the Toeppen Company has been developing commercial, residential and industrial properties throughout the Northern Kentucky region for about forty years. He stated that they were before the Planning Commission in 2006 with a similar plan and, at that time, there was a concern about what would happen with the KY 237 alignment and when the road improvement would be started and completed. He stated that the road improvement is under construction now and the roundabout will be included in the design. A good portion of the roadway will be completed later this year. He stated that the initial zone change request for Remke's Market and Phase I of North Bend Square occurred in 2003 and, at that time, the Planning Commission found that the existing zoning was inappropriate and the proposed commercial zoning was appropriate due to the pending widening of KY 237, the volume of traffic at Tanner Lane and KY 237, and the industrial park directly across the street – and those reasons are still appropriate to the current request. He stated that this is not a stand-alone site -- it is an extension of the existing North Bend Square development. There are no additional anchors and it is all retail shops 60' - 80' in depth. The site will be accessed from the existing North Bend Square project. There will be no new access points along KY 237 or Cardinal Way. He stated that the L-shaped building will frame the commercial activity and act as a screen between the commercial activity to the north and the residences in Cardinal Cove. He stated that there is a fair amount of buffering for the residential area. He indicated the 50-foot green space buffer on the Power Point slide. He stated that a mound will be constructed between the building and the roadway. The new commercial building will be 132 feet from the first house in Cardinal Cove and over 150 feet from the homes on Blue Heron Point which abut the development. He stated that the roundabout will slow the traffic down, which will help to reduce the traffic noise, and the L-shaped building will help to further screen the residential area from the traffic noise. He stated that no vehicular access is proposed along the rear of the building. There are sidewalks along the back of the building to the access doors. There is no lighting at the back of the building other than the security lights at the access points. Mr. Whitacre presented and reviewed the building elevations. The building will be brick and EIFS with glass door fronts similar to the existing Remke's Market. The back of the building will be split-faced block. He stated that a pedestrian connection is proposed in the front corner area. The side of the building will look like the front, which invites pedestrian traffic into the project. He stated that residential zoning is not appropriate for this site because it is immediately adjacent to an upgraded arterial roadway and across the street from an industrial park. A high-density multi-family development could work on the site, except that there is not enough room for the amenities needed to make it a good project. He stated that the proposed development is an extension of the North Bend Square project and it is a good terminus point for the commercial activity. He reviewed the Goals and Objectives Business Activity

Element which says that *businesses should be developed in appropriate locations and be compatible with the surrounding areas*. They feel that they meet that requirement with the buffer they propose. He quoted that *commercial uses shall be designed and located to coordinate with surrounding land use and have safe and effective access and ample parking*, which they have accomplished. He quoted from the Comprehensive Plan in regard to additional commercial development in the Hebron area. He stated that the proposal addresses the Business Activity Element and the retail shops will serve the northern part of the Hebron area and supplement the existing Remke's Market development. He stated that the roundabout is a significant design element that will signify the end of the commercial/industrial area. He presented pictures of the site and adjacent areas. He stated that residential development on the site is not appropriate and commercial development as proposed is appropriate. In response to Staff Comment #1 he stated that they thought they had accomplished making the northwest corner and west elevation of the building look like the front of the building, but they will fine tune the design if necessary. In response to Staff Comment #2, he stated that the lights in the front of the building will be lower than the building and in the back there will be security lights along the sidewalks and at the access points. They will bring the lighting details to the Committee Meeting. They will discuss Staff Comment #3 at the Committee Meeting. In regard to Staff Comment #4, he stated that the landscaping shown is preliminary and shows about the number of plantings required. He stated that there will be a detailed Site Plan Review. Mr. Whitacre offered to answer any questions. This concluded the applicant's presentation.

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

Mr. Daniel Knapp, 1906 Robins Run, Hebron and Mr. Mike Perdon, 1888 Morning Dove Court were present. Mr. Knapp stated that his home is the first house on the cul-de-sac and he has a view of the site. He stated that the request made three years ago was turned down by the Committee largely due to the impact that a commercial development would have on the residences - including the closeness of the building to their street and that they would have to look at the back of it with the utilities and dumpsters. At that time, a Committee member commented that there was another residential property in Boone County that adjoined commercial property and this was not any different and, in a meeting with their subdivision, Bill Toebben pointed out a commercial property that adjoins a residential property and said that it is not a problem. Mr. Knapp stated that he toured three different commercial properties in Boone County that adjoin residential properties. He presented Power Point slides of properties on Pleasant Valley Road and at the Shoppes at Oakbrook. He presented a picture of a bank on Pleasant Valley Road and noted the line of trees/buffering, the driveway behind the building, and that it had a residential look with a shingle roof - all of which was done for the benefit of the residential properties. He presented a slide

showing the opposite end of the building and noted the drainage buffer equivalent to one or two buildings lots (a distance of 50 - 200 feet). He noted the architectural block used on the building. He presented pictures taken of a property at Plantation Pointe and stated that he had difficulty seeing where Plantation Pointe adjoins commercial property due to the buffers. He noted the location of an elementary school and a daycare center with a residential style roof. He stated that these uses are not fourteen shopping sites and a parking lot – they are a residential-friendly daycare center and a bank. He presented a picture of the Shops at Taylor Mill, which Mr. Toebben gave them as an example of a commercial property fitting nicely in a residential setting. He stated that the development has residential roof lines and the building is brick, but there are unsightly dumpsters. The back of the building is block, but there is a deep wooded area between the commercial building and the homes. He stated that reference was made to commercial property across the road from the subject site. He has lived in his home for ten years. When he moved in, there was only commercial development north of I-275 and the industrial parks, which have not been a problem. He stated that the industrial park on KY 237 is a busy Gap Outlet, but it is not a disturbance in regard to noise or sight because it sits down lower. It is not a problem because of the lay of the land. He stated that he is opposed to the request because the property was purchased four years ago at a residential price and a similar sized property in a commercial area would cost three or four times the price. He stated that the request encroaches on their residential space and goes against the Comprehensive Plan. He stated that the property should stay residential and it could be added to Cardinal Cove. It could be used as a transitional property with a single-story residential looking office building, a church, the new library, or a park. He stated that there is a rise up to the existing commercial property of ten feet or more. He asked that the residents' rights be protected and the request denied.

Mr. Frank Dichlara, 1910 Robins Run in Cardinal Cove, stated that he has lived in his home for about fifteen years. When he bought his property, there was a lake there and the area was quiet. He planned to retire there and live in a country atmosphere. He presented a video of the back of Remke's Market. He stated that Mr. Toebben is proposing that they look at a dumpster, trash, rats, shoebox lights shining in his yard, gas mains and emergency power generators that will be tested on a regular basis – all things that go along with commercial development. He is opposed to the request because the site has been a residential property and it is right up against residential properties. He is opposed to this type of commercial development next to a residential development.

Ms. Nelda Perdon, 1888 Morning Dove Court, Treasurer of the Homeowners Association, submitted signed petitions and letters (see Exhibit 1). She moved to Boone County in 1996 and she loved the area at that time, but she does not like where she is living now. She stated that 63% of the 75 homes in the subdivision responded to the petitions and 96% were opposed to the zone change to Commercial. She stated that currently there are 45 occupied stores on North Bend

Road up to I-275. She believes Remke's may close now that Kroger has come in, and Flick's has already closed. There are eight vacant stores on KY 237 up to the interstate. She stated that she sat through eight traffic light cycles between Cardinal Cove and Tanner Lane. She stated that they have only one way in and one way out of their subdivision and going down to Graves Road and over to KY 20 takes another 30 minutes. She stated that there are currently 1,453 single-family homes and 14 multi-family homes in the Hebron area on or off of North Bend Road and at two cars per residence, that is 2,934 cars. There are 2,805 planned single-family homes, which is another 5,610 cars. There are 1,202 multi-family units planned, which is another 2,404 cars. Right now with the planned and built homes, there are 10,948 cars on North Bend Road. She has requested information from the Transportation Department on the current road project. She stated that from Graves Road to the main entrance of Remke's the new construction is still two lanes. At the main entrance to Remke's, there is a turn lane off of North Bend Road. She questioned where all the cars will go – they do not fit on the road now. In the morning, there are people going to work and school buses. She asked the Commissioners to come out and look. She stated the buildings they already have are not filled. She would welcome single-family homes on the subject property. This development in front of their subdivision would be an eyesore and they do not want it. She is opposed to the request.

Ms. Terri Iacobucci, 1877 Falcon Crest in Cardinal Cove, stated that the entrance to their neighborhood has been decimated. When she refinanced her house in 2007, her house value had declined in part due to the entranceway and what people have to drive through to get to her house. There was a beautiful pond at the entranceway, but it was drained and the wildlife left to die. The pond was then filled with questionable landfill. The entrance has gone from a beautiful pond to a dumpsite. Their neighborhood has already suffered beyond repair.

Ms. Leslie Ast, 1876 Morning Dove Court, read a prepared statement saying that she opposes the Zone Change request because it is not in agreement with the Comprehensive Plan. She agreed with her neighbors as to why the property should be kept residential. She stated that the zone change would increase traffic congestion and decrease traffic flow. Traffic congestion is already a problem on this section of North Bend Road. Cardinal Cove is a landlocked neighborhood with only one way in and one way out. She is concerned about emergency services being able to access Cardinal Cove. Property values are already declining and would be further diminished by the zone change. The zone change is not in the public interest and would alter the image of their neighborhood. There are many retail spaces available along KY 237 and there is no need for this site to be used for retail.

Mr. Brian Huston, 1977 Blue Heron Point, stated that his property backs directly up to the subject property. He agreed with his neighbors. He stated that there are a number of commercial properties available north of I-275, with a prime example being the Flick's store. He stated that the Business Activity Element says that

*commercial development in Hebron will center around the intersection of KY 237 and KY 20 with a limited amount of convenience and neighborhood commercial uses north of the I-275 interchange.* He stated that if there are open retail spaces then it is not limited and there is already a glut. He stated that his property value would be diminished by the zone change. Their master bedroom is on the second floor and at the rear of the house and he is concerned about the parking lighting. It is at most 120 feet from his back door to the rear of the building and there will be commercial dumpsters and possibly grease traps if there are bars and restaurants. There will be noise when the dumpsters are emptied and odor from the grease trap. He appreciates the additional trees and shrubs on the plan, but they will not mature quickly and he will have a view of the back of the commercial building. He wants to enjoy the deck on the back of his house and not look at commercial dumpsters. He and his wife are opposed to the request.

Mr. Fred Adams, 1870 Cardinal Cove, stated that it is a hassle to get onto KY 237. It sometimes takes 45 minutes to get from his house to I-275. He is opposed to the request.

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

Mr. Rolfsen asked if there is any proposal from the state for a traffic signal at this location. He questioned people trying to make a left turn out of the development.

Mr. Bill Toebben, President of Toebben Company, stated that he lives at 1302 North Bend Road, and this is his neighborhood, too. He stated that there are currently four access points into the existing North Bend Square – two off KY 237 and two off Tanner Road. Those access points will remain and that is how the traffic will get into the proposed development. The main drive in front of the existing retail center will connect to the proposed driveway. He stated that they will make an effort to keep the dumpsters against the existing retail. They propose a sidewalk in the back. There is no proposal for a driveway across the rear of the building – it is just an emergency access to meet the building code.

Mr. Rolfsen asked if there would be one main dumpster for the entire development. Mr. Toebben indicated the location at the back of the building where they propose a brick enclosed dumpster.

Mr. Rolfsen asked if their proposal would coordinate with North Bend Road being completed. Mr. Toebben responded that the state would like to have the road done in October 2009 and he does not see the development occurring until spring 2010. He stated that he has to drive through the traffic everyday too.

Mr. Schwenke questioned the location of the heating and air-conditioning units. Mr. Toebben responded that they will be on the roof behind the parapet and they

will not be visible. The brick parapet continues to the north end of the building where they are also proposing a 10-foot high landscape berm along Cardinal Way.

Mr. Breetz stated that the site looks trashy. Mr. Light responded that it is a staging lot for the state. He stated that there were two houses on the lot owned by the Reeves brothers. The pond belonged to one of the brothers. He stated that there were siltation issues with the pond when Cardinal Cove was built and it was dredged. Mr. Reeves subsequently drained the pond. After Mr. Toeppen purchased the property, he got a permit to fill the hole. Mr. Light stated that he talked to Mr. Toeppen about the possibility of questionable fill material and Mr. Toeppen told him that they still have to do a geotech. Some of the materials may have to be removed.

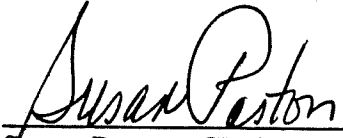
Mr. Breetz asked if the state had to go through an approval process to use this lot for staging. He stated that the lot is an eyesore. Mr. Costello responded that the state has a construction easement and the state is causing the eyesore -- the Planning Commission has no control over the state. He stated that Mr. Toeppen should know if there is a construction easement. In response to a question from Mrs. Poston, he stated that the state would have to return the property to its original condition (grade, clean and seed the property). Staff will look into these issues and advise the Committee.

Mr. Longano asked for more information about the proposed ten-foot berm and plant materials. He asked what other options there are for screening beside the buffer yard. Mr. Whitacre stated that the berm will basically run the length of the building and he indicated its proposed location on the Power Point slide. He will provide a cross-section of the elevation to the Committee. He stated that there will be landscaping on the top of and around the berm. Mr. Light stated that there are other options for buffering, but a berm with landscaping is the most popular.

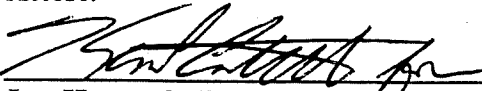
There being no further comments from the applicant, Mrs. Poston allowed comments from a spokesperson for the opposition. The President of Cardinal Cove subdivision stated that there is a 15-foot wide strip of land that belongs to Cardinal Cove that is adjacent to the subject site, and the applicant is showing development on that strip. Mr. Whitacre responded that the strip of land is labeled on their plan as "Cardinal Cove Homeowners Property" and they know that Cardinal Cove owns that strip of land. They are not showing any development on that strip of land.

There being no further comments, Mrs. Poston stated that the Committee Meeting for this item will be on March 18, 2009 at 5:00 PM in this room. The public is welcome to attend the Committee Meeting, but new information will not be accepted. This item will be on the Agenda for the Business Meeting on April 1, 2009 at 7:00 PM. Mrs. Poston closed this Public Hearing.

**APPROVED:**

  
Susan Poston  
Susan Poston, Chairwoman

**Attest:**

  
Jan Hancock  
Jan Hancock, Recording Secretary

**Exhibit 1 - Signed petitions and letters, housing data, and a list of current retail uses on KY 237, submitted by Nelda Perdon**

## ZONE CHANGE/CONCEPT PLAN COMMITTEE VOTE

TO: Boone County Planning Commission

FROM: Greg Breetz, Chairman

DATE: March 18, 2009

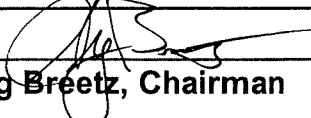
RE: Request of **Toebben, Ltd. (applicant)** for **Toebben, Ltd. (owner)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.

### 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/North Bend Road

March 18, 2009

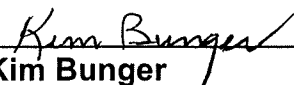
  
 \_\_\_\_\_  
**Greg Breetz, Chairman**

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

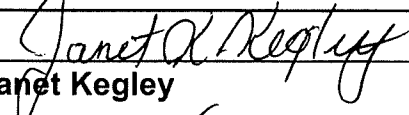
\_\_\_\_\_

**Ben Brandstetter**

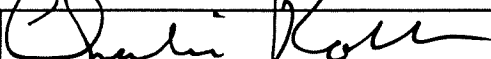
For Project \_\_\_\_\_ Absent   
 Against Project \_\_\_\_\_  
 Abstain \_\_\_\_\_ Deferred \_\_\_\_\_

  
 \_\_\_\_\_  
**Kim Bunger**

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

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

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

  
 \_\_\_\_\_  
**Charlie Rolfsen**

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

\_\_\_\_\_

**Judy Arnett (Alternate)**

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

\_\_\_\_\_

**Linda Herald (Alternate)**

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

\_\_\_\_\_

**Charlie Reynolds (Alternate)**

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

**TOTAL:** \_\_\_\_\_ DEFERRED 3 FOR PROJECT \_\_\_\_\_ ABSENT \_\_\_\_\_  
 \_\_\_\_\_ AGAINST PROJECT \_\_\_\_\_ ABSTAIN \_\_\_\_\_

# **SUPPORTING INFORMATION**



209 Grandview Drive  
 Fort Mitchell, KY 41017  
 P 859.261.1113  
 F 859.261.1710  
 www.bayerbecker.com

DESCRIPTION: 3.68 Acres to be rezoned  
 LOCATION: North Bend Road (Ky. Hwy. 237)  
 DATE: January 30, 2009

Situated in the County of Boone, Commonwealth of Kentucky, lying on the East side of North Bend Road (Ky. Hwy. 237 - R/W Varies), South of the centerline intersection of North Bend Road and Cardinal Way (R/W Varies) and being all of the remainder of a 3.229 acre tract and all of the remainder of a 4.452 acre tract conveyed to Toeppen, LTD. in Deed Book 893, Page 35 and all of the remainder of a 9.05 acre tract conveyed to Toeppen, LTD. in Deed Book 905, Page 606 of the Boone County Clerk's Records at Burlington and more particularly described as follows:

Begin at the Northwest corner of an 8.292 acre tract conveyed to Toeppen, LTD. in Deed Book 868, Page 849, said corner being on the existing East right-of-way line of North Bend Road and the TRUE POINT OF BEGINNING:

- thence from the TRUE POINT OF BEGINNING and with the existing East right-of-way line of North Bend Road North 19°26'54" West, 263.78 feet;
- thence continuing with the existing East right-of-way line of North Bend Road, North 16°57'42" West, 119.19 feet
- thence North 24°27'04" East, 34.40 feet to the existing South right-of-way line of Cardinal Way;
- thence with the existing South right-of-way line of Cardinal Way, North 65°51'50" East, 24.13 feet;
- thence continuing with the existing Southwest right-of-way line of Cardinal Way, North 72°21'08" East, 85.00 feet;
- thence North 59°47'57" East, 170.95 feet to the Northwest corner of Lot 75 of Cardinal Cove Subdivision, Section Six, as recorded in Plat Cabinet 5, Slide 11;
- thence with the West line of Lots 74 and 75 of the above mentioned cardinal Cove Subdivision, South 36°48'56" East, 100.26 feet;
- thence with the South line of Lot 74, North 57°45'12" East, 20.00 feet;
- thence with the South line of Lot 73, 74 and the Homeowners Association Parcel of the above mentioned Cardinal Cove Subdivision, Section Six, South 36°48'55" East, 296.72 feet to the North line of the above mentioned 8.292 acre tract;
- thence with the North line of the above mentioned 8.292 acre tract, South 62°01'31" West, 477.79 feet to the TRUE POINT OF BEGINNING.

Containing 3.68 acres of land and subject to all easements and rights-of-way of record. The reference meridian is Kentucky State Plane Coordinates, North Zone (1601).  
 The above description was prepared for zoning purposes only by Chris R. Gephart, Licensed Professional Surveyor #3292 in the Commonwealth of Kentucky, January, 2009. This description is not the result of a field survey and monuments will not be set. Not for recording purposes.



March 24, 2009

## **BOONE COUNTY PLANNING COMMISSION**

[www.boonecountyky.org/pc](http://www.boonecountyky.org/pc)  
[www.boonecountygis.com](http://www.boonecountygis.com)

Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, KY 41005

Phone (859) 334-2196; Fax (859) 334-2264  
[plancom@boonecountyky.org](mailto:plancom@boonecountyky.org)

Mr. William Toebben  
Toebben Ltd.  
541 Buttermilk Pike  
Crescent Springs, KY 41017

RE: 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 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The request is for a zone change to allow a retail center and uses permitted in the C-2 zone.

Dear Mr. Toebben:

The following represents the conditions of approval for the above referenced application as recommended by the Planning Commission's Zone Change Committee at their March 18, 2009 meeting. If you, as the applicant, agree with these conditions, please indicate by providing the signatures of the property owners, in the spaces provided at the end of this letter, and return the original letter to the Planning Commission office by Monday, March 30, 2009.

### CONDITIONS

1. The property owner agrees to revise the Concept Development Plan (including the elevations and photometric plan with 15' high maximum parking lot lights) to reflect the elimination of one (1) 24' x 65' tenant space nearest North Bend Road, the additional landscape buffer in its place and the street frontage landscaping.
2. The property owner agrees to provide the Boone County Building Inspection Department with a detailed geotechnical engineering report with regard to the soil stability th the Building Permit stage.
3. The property owner agrees that all storm water from this development will be handled in an underground system in the parking lot so as not to affect the proposed buffering located to the north and east and will be reviewed by the Planning Commission Staff and County Engineer at the required Major Site Plan Review.
4. The property owner agrees that the dumpster enclosure will be constructed of brick to match the building and restrict trash collection only between the hours of 7:00 a.m. to 9:00 p.m.

Mr. William Toebben  
Toebben Ltd.  
March 24, 2009  
Page 2

5. The property owner agrees that there will be no remote ordering/speaker system and no freestanding menu/preview boards with the proposed drive-up window.
6. The property owner agrees that there will be no freestanding signage for this development, only building mounted signage.
7. The property owner agrees that there will be no emergency generator(s).
8. The property owner agrees that there will be no outside storage and that all HVAC equipment will be roof mounted.
9. Permitted Commercial Two (C-2), Commercial One (C-1) and Office One (O-1) uses for this development are listed as follows, prohibited uses are stricken:

**COMMERCIAL TWO (C-2)**  
**SECTION 1021**

**Principally Permitted Uses**

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;
2. All the principally permitted uses in an Office One (O-1) district; with the exception of principally permitted use #27 in Section 1111.
3. Eating and drinking establishments including alcoholic beverages; **(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF WALTON CITY LIMITS ONLY)** Eating and drinking establishments including alcoholic beverages and accessory drive-in facilities;
4. Department stores, mail order houses, direct retail selling organizations of general merchandise;
5. Furniture, home furnishings including specialty and floor coverings;
6. Specialized upholstery and furniture repair or refinishing services;
7. Apparel stores;
8. Household appliances, china, glassware and metal ware;
9. Radio, t.v., watch, clock, and jewelry repair;
10. Photographic, stenographic and other duplicating and mailing services;
11. Legal services, engineering and architectural services;
12. Security brokers, dealers and flotation services;
13. Title abstracting services; holding and investment services;
14. Advertising services including direct mail;
15. Business and management consulting services;

Mr. William Toebben  
Toebben Ltd.  
March 24, 2009  
Page 3

16. Employment services;
17. Consumer and mercantile credit reporting, adjustment and collection services;
18. Travel arranging, transportation ticket and public event or promotional booking agencies;
19. Radio and television broadcasting studios excluding transmitting stations and towers;
20. Art, music and dancing schools, libraries and museums;
21. Medical and dental laboratory services;
22. Medical clinics, out-patient services;
23. Welfare and charitable services;
24. Business associations and professional membership organizations including civic, social and fraternal organizations;
25. Art and craft galleries and similar exhibit space;
26. Aquariums, botanical gardens and other natural exhibitions;
27. Arcades and other amusement centers;
28. Motion picture theaters (indoor);
- ~~29. Bowling alley, skating rinks, roller skating rinks, miniature golf courses, golf driving ranges, and skateboard facilities;~~
30. Recreation centers, gymnasiums, clubs and similar athletic uses;
31. Motorcycle sales or bike shops excluding outside storage;
32. Churches, synagogues, temples and other places or religious assembly for worship;
- ~~33. Hotels and motels including convention facilities;~~
34. Pawn shops (**Not Applicable within the City of Florence**);
35. Auto parts and accessories stores;
- ~~36. Gasoline filling station;~~

**SECTION 1022**  
**Accessory Uses**

1. Recreation uses or spaces of integral relation to the developed portions of the district defined to be:
  - a. Stages and similar assembly areas;
  - b. Auditoriums, exhibition halls and other public assembly spaces;
  - c. Billiards;

Mr. William Toeppen  
Toeppen Ltd.  
March 24, 2009  
Page 4

- d. Play lots and tot lots;
  - e. General, leisure, ornamental and other parks, spaces, trails bikeway systems, malls and urban pedestrian networks;
2. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
    - a. Private garage and parking;
    - b. Structures such as fences and walls;
    - c. Buildings such as storage sheds;
    - d. The keeping and use of appropriate household pets;
  3. Signage (See Article 34);
  4. Parking (See Article 33);
  5. Temporary buildings incidental to construction ;
  6. Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use and do not create outside spaces which will tend to enlarge or overpower the activities of permitted uses, and which are conducted in accordance with Section 3154;
  - ~~7. Drive-up photo finishing services and automatic teller services;~~
  - ~~8. Indoor target ranges and similar athletic uses;~~
  - ~~9. Recycling collection points (See Article 31);~~
  10. Garment and Furniture centers (See Article 31);
  - ~~11. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);~~
  12. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155;
  - ~~13. Recycling collection containers.~~

**~~SECTION 1023~~**  
**Conditional Uses and Criteria**

- ~~1. Garden and landscape sales including florist greenhouses, lawn furniture and the like;~~
- ~~2. Automotive repair facility and wash services for vehicles;~~
- ~~3. Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises (Does not apply in the City of Florence);~~
- ~~4. Small scale sales or leasing of new and used recreational vehicles requiring the storage of no more than fifty (50) vehicles on the premises (Does not apply in the City of Florence);~~

Mr. William Toebben  
Toebben Ltd.  
March 24, 2009  
Page 5

- ~~5. Mini-warehouses or storage facilities (Does not apply in the City of Florence);~~
- ~~6. Horse related uses, including riding and boarding stables, as defined by KRS 100.111 (2)(c).~~
- ~~7. Indoor kennels for household pets, except in the City of Florence where indoor kennels for household pets are only allowed when not adjoining a residential zoned property.~~

#### **SECTION 1024**

##### **Intensity**

The intensity of use in a Commercial Two district of under four (4) acres, including all the contiguous private property so designated, shall not exceed 12,000 square feet of gross floor area per acre of land. In a commercial two district of over four (4) acres, the intensity of use shall not exceed 15,000 square feet of gross floor area per acre of land.

#### **SECTION 1025**

##### **Minimum Size**

The minimum size and extent of a Commercial Two district, including all the contiguous private property so designated, shall not be less than two (2) acres.

#### **SECTION 1026**

##### **Minimum Standards**

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

#### **COMMERCIAL ONE (C-1)**

##### **SECTION 1011**

##### **Principally Permitted Uses**

The following uses are permitted:

1. Hardware stores;
2. Eating and drinking establishments including alcoholic beverages;
3. Grocery stores and supermarkets;
4. Stores with retail sales of meat, fish, seafood, dairy and poultry products;
5. Fruit and vegetable stores; bakeries, candy, nut and confectionery stores;
6. Convenience stores;
7. Liquor, beverage, drug and proprietary stores;
8. Banking services, savings and loan associations, credit unions and other credit services;  
**(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF FLORENCE CITY LIMITS ONLY)** The business of cashing checks or accepting deferred deposit transactions as regulated by KRS 368.010 to 368.120 shall not be included in this permitted use.
9. Insurance carriers and agents;
10. Real estate operators, agents, lessors and real estate sub-dividing and developing services, operative builders and related services;
11. Accounting, auditing and bookkeeping services;

Mr. William Toebben  
Toebben Ltd.  
March 24, 2009  
Page 6

12. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
13. Physician, dental, optical goods and services;
14. Veterinary services and pet grooming services but not including the boarding of animals;
15. Beauty and barber services and tanning salons;
16. Nursery and day care centers;
17. Laundering, dry cleaning and dyeing services including self-service;
18. Alteration and garment repair and custom tailoring;
19. Shoe repair, shoe shining and hat cleaning services;
20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
21. Jewelry stores;
22. Radio, t.v., music supplies, cameras, photographic supplies and specialty household appliances;
23. Art, craft and hobby supplies and products, gifts and novelties;
24. Antiques and used merchandise;
25. Books, stationery, newspapers and magazines;
26. Florists excluding greenhouses;
27. Sporting goods including bicycles;
28. Draperies, curtains, upholstery and floor coverings;
29. Paint, glass and wallpaper stores;
30. Photo finishing services;
31. Recreation centers, gymnasiums, clubs and similar athletic uses;
32. Video stores;
- ~~33. Funeral homes and crematoriums excluding cemeteries or mausoleums;~~

**OFFICE ONE (O-1)**

**SECTION 1111**

**Principally Permitted Uses**

The following uses are permitted:

1. Bank related services or credit unions;
2. Business and personal credit services and title services;

Mr. William Toebben  
Toebben Ltd.  
March 24, 2009  
Page 7

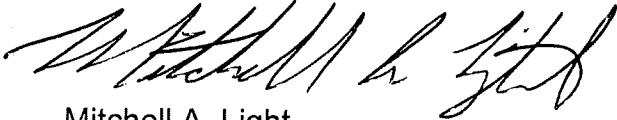
3. Security brokers, investment services and finance companies;
4. Insurance agents, brokers and services;
5. Real estate agents, brokers and management services;
6. Real estate management services and builders offices excluding any outside storage equipment and the like;
7. Photographic services;
8. Eating and drinking establishments including alcoholic beverages;
9. Direct mail and advertising services;
10. Stenographic services and other duplicating and mailing services;
11. News syndicate services and employment services;
12. Research, development and testing services of an office nature;
13. Business and management consulting services and associations;
14. Motion picture, audio-visual and similar media production and distribution services;
15. Physician and dental services including medical, dental laboratories and clinics;
16. Legal, engineering, architectural, education and scientific research services;
17. Accounting, auditing and bookkeeping services;
18. Charitable and social services administration offices;
19. Professional membership organizations and labor organizations and civic associations;
20. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
21. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;
22. Veterinary services not including the boarding of animals;
23. Business colleges or schools;
24. Recreation centers, gymnasiums and other related recreational facilities;
25. The retail sale of office supplies and equipment;

Mr. William Toebben  
Toebben Ltd.  
March 24, 2009  
Page 8

~~26. Funeral homes and crematoriums excluding cemeteries or mausoleums:~~

~~27. Sexually Oriented Business as defined in Article 40 and applicable standards in Article 31:~~

Sincerely,



Mitchell A. Light  
Assistant Zoning Admin/Enforcement Officer

MAL/pr

AGREEMENT

I, William Toebben, do hereby agree to the recommended conditions of approval stated above for the Zoning Map Amendment from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.68 acres located at 1922 and 1932 North Bend Road to allow a retail center and uses permitted in the C-2 zone.

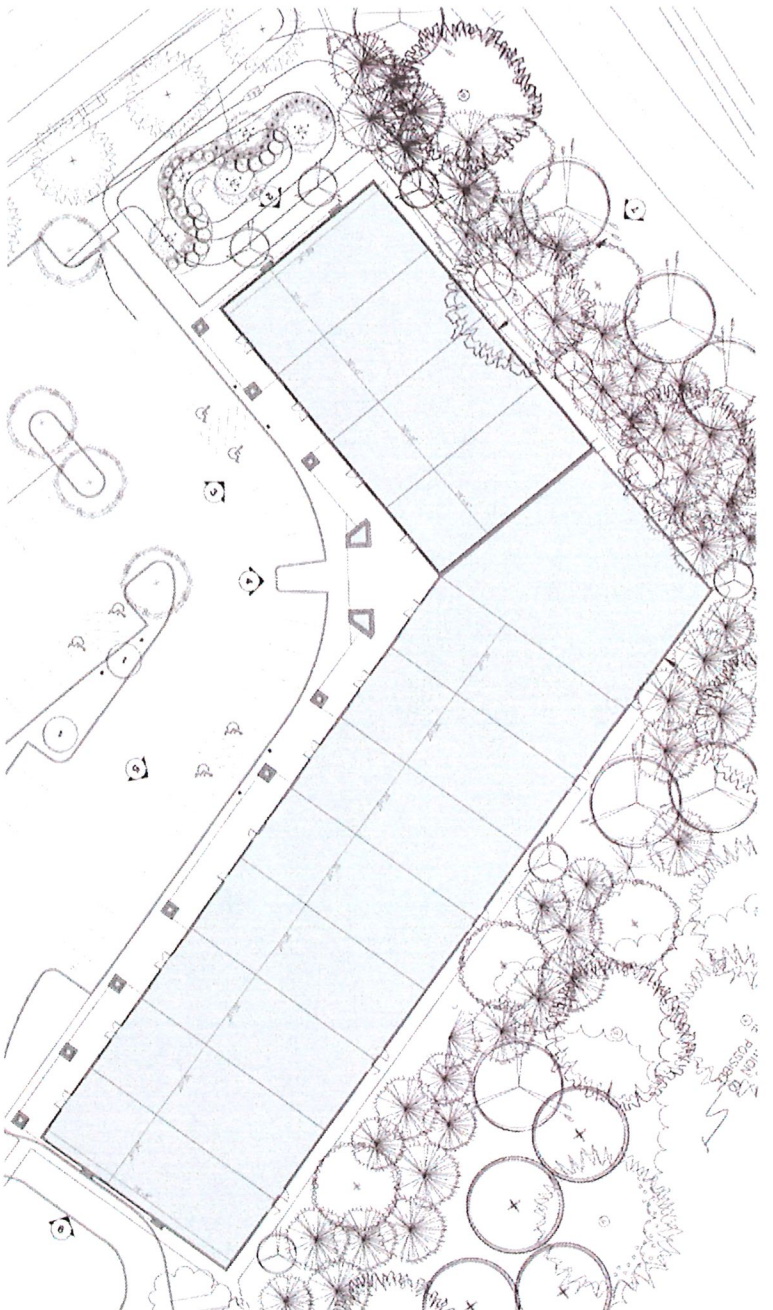


William Toebben  
(Owner)

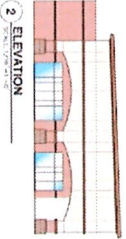
3-31-09

Date

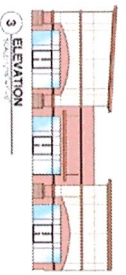




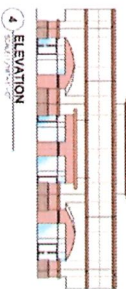
1 SITE PLAN



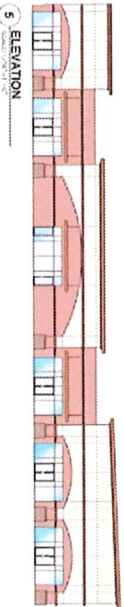
2 ELEVATION



3 ELEVATION



4 ELEVATION



5 ELEVATION



7 ELEVATION



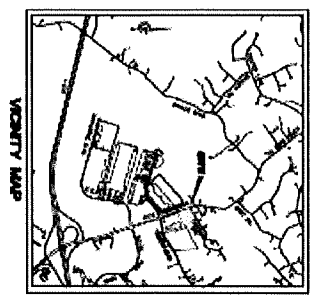
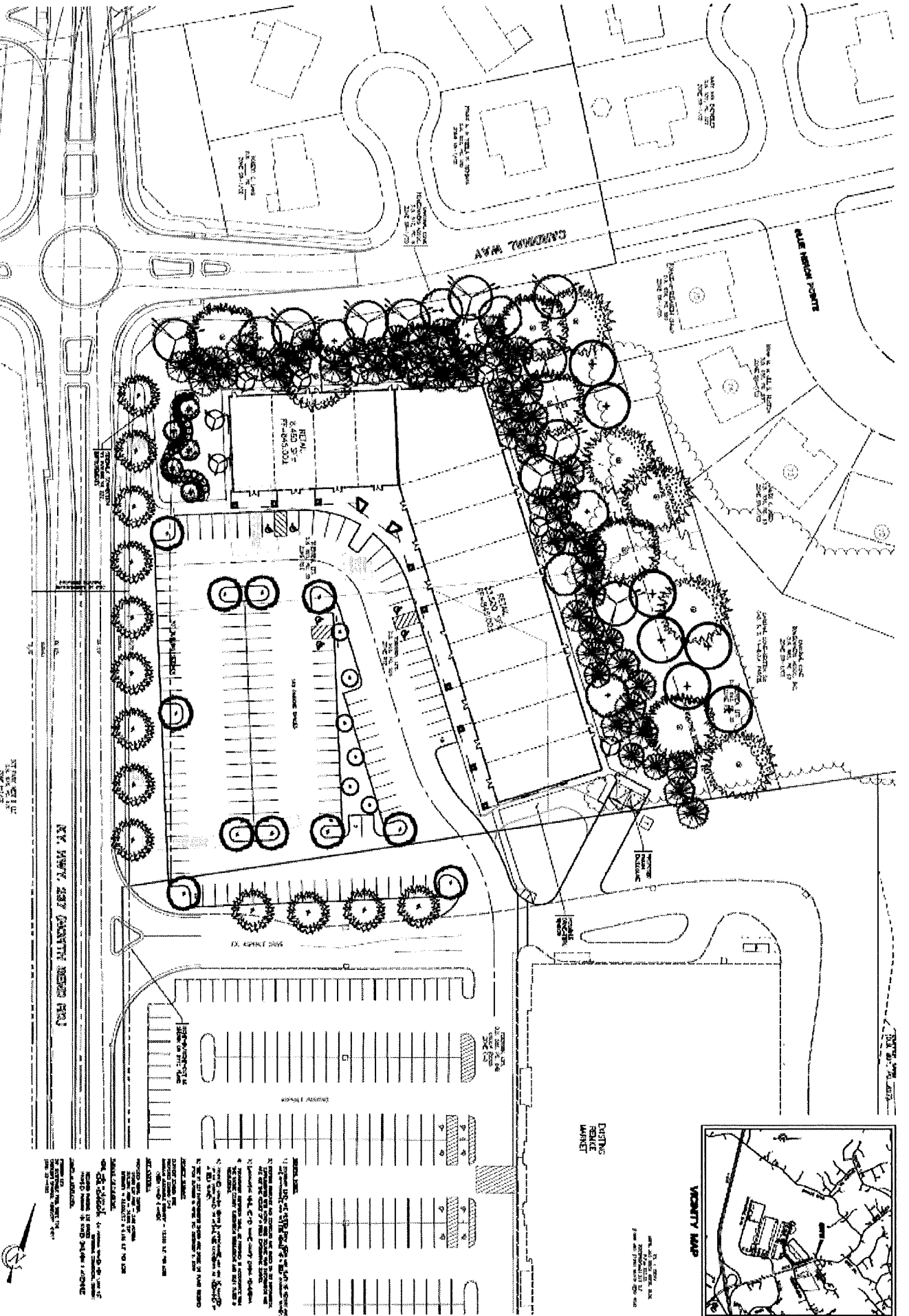
**NORTH BEND SQUARE**  
CONCEPTUAL ELEVATION DRAWINGS

MARCH 23, 2008



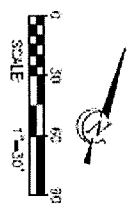
**REVISED ELEVATIONS PER THE 3/18/2009 ZONE CHANGE**  
**COMMITTEE AND CONDITIONS OF APPROVAL**

# REVISED LANDSCAPE PLAN PER THE 3/18/2009 ZONE CHANGE COMMITTEE AND CONDITIONS OF APPROVAL

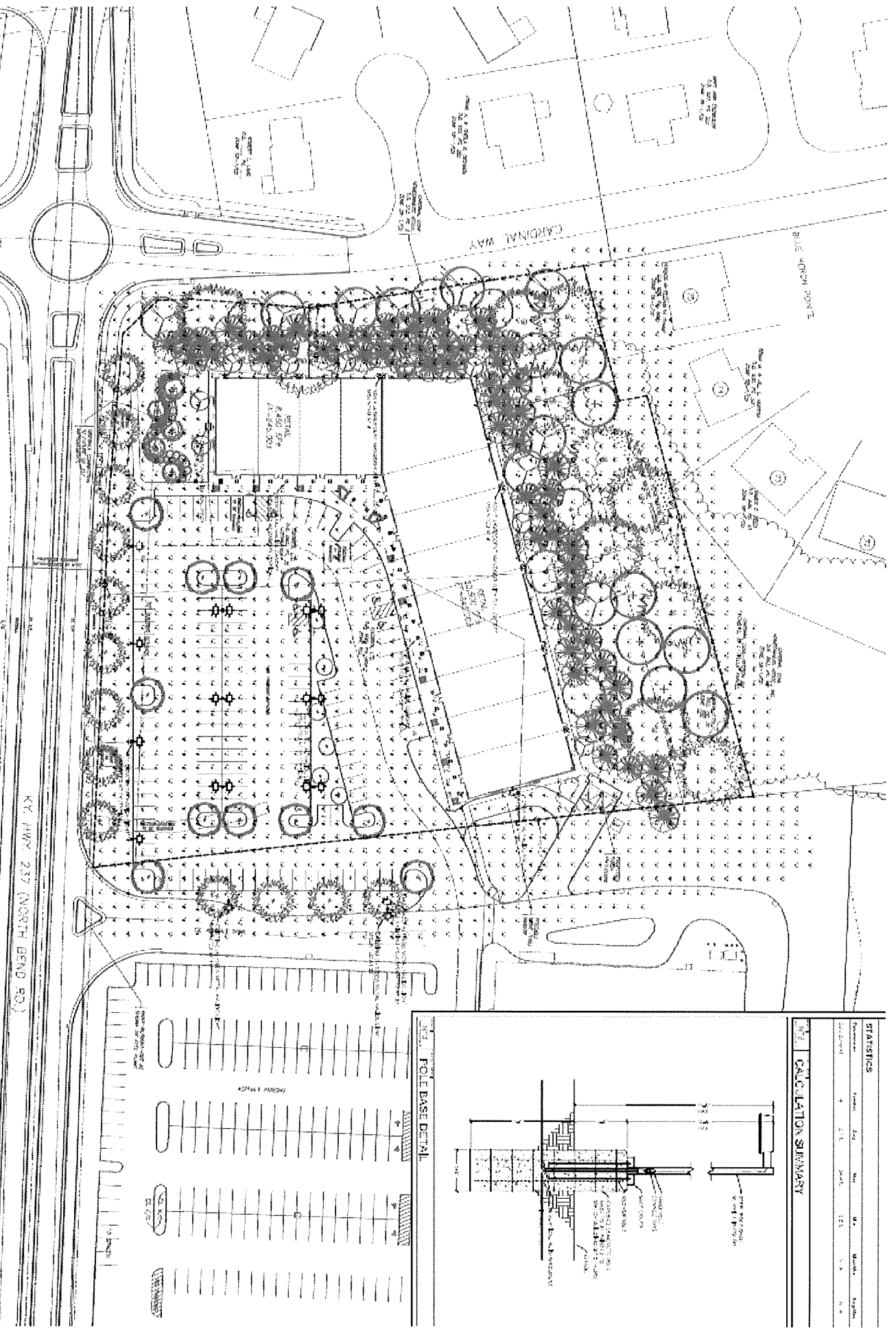


DATE: 03/18/2009  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT: [Name]

- NOTES:**
1. ALL PLANTINGS TO BE INSTALLED WITHIN 90 DAYS OF SUBMITTING THE LANDSCAPE PLAN TO THE CITY.
  2. ALL PLANTINGS TO BE INSTALLED WITHIN 90 DAYS OF SUBMITTING THE LANDSCAPE PLAN TO THE CITY.
  3. ALL PLANTINGS TO BE INSTALLED WITHIN 90 DAYS OF SUBMITTING THE LANDSCAPE PLAN TO THE CITY.
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  9. ALL PLANTINGS TO BE INSTALLED WITHIN 90 DAYS OF SUBMITTING THE LANDSCAPE PLAN TO THE CITY.
  10. ALL PLANTINGS TO BE INSTALLED WITHIN 90 DAYS OF SUBMITTING THE LANDSCAPE PLAN TO THE CITY.
- LEGEND:**
- 1. 12" DBH SPREADER PINE
  - 2. 12" DBH SPREADER PINE
  - 3. 12" DBH SPREADER PINE
  - 4. 12" DBH SPREADER PINE
  - 5. 12" DBH SPREADER PINE
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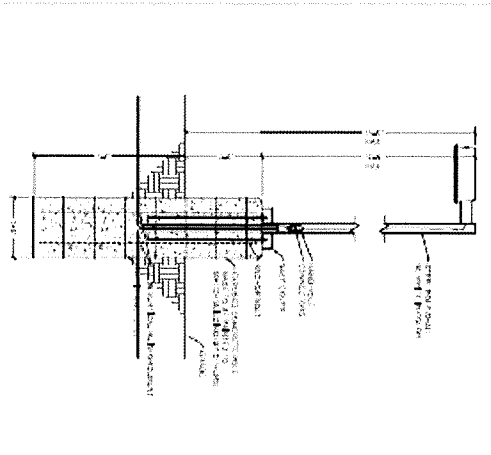


# REVISED PHOTOMETRIC PLAN PER THE 3/18/2009 ZONE CHANGE COMMITTEE AND CONDITIONS OF APPROVAL



**STATISTICS**

Item	Quantity	Unit	Value	Material	Supplier
Concrete	100	cu yd	100		
Rebar	100	lb	100		
Gravel	100	cu yd	100		
Asphalt	100	sq yd	100		



**ORDINANCE 09-09**

**AN ORDINANCE RELATING TO AN APPROVAL 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 RURAL SUBURBAN ESTATES (RSE) TO COMMERCIAL TWO (C-2) FOR 3.68 ACRES LOCATED AT 1922 AND 1932 NORTH BEND ROAD, BOONE COUNTY, KENTUCKY.**

**WHEREAS**, the Boone County Planning Commission received a request for a Zoning Map Amendment to the Boone County Zoning Map and such Zoning Map Amendment being a zone change from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.68 acres site located at 1922 and 1932 North Bend Road, Boone County, Kentucky, which is more particularly described below; and,

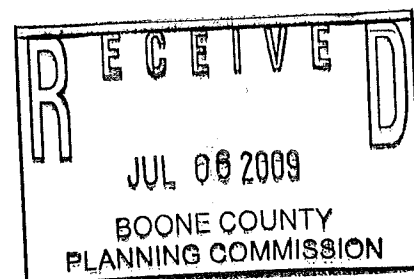
**WHEREAS**, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending denial for the Zoning Map Amendment.

**WHEREAS**, a majority of the Boone County Fiscal court desires to override the recommendation of the Boone County Planning Commission pursuant to KRS 100.211 within ninety (90) days of the Planning Commission's final action.

**NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT, COUNTY OF BOONE, COMMONWEALTH OF KENTUCKY:**

**SECTION I**

That the request for a Zoning Map Amendment for the real estate which is more particularly described below shall be and is hereby approved, with conditions. This Zoning Map Amendment being a zone change from Rural Suburban Estates (RSE) to Commercial Two (C-2) for 3.68 acres located at 1922 and 1932 North Bend Road, Boone County, Kentucky. The real estate which is the subject of this request for a Zoning Map Amendment in a Rural Suburban Estates (RSE) zone is more particularly described in DEED BOOKS 893 & 905, PAGE NOS. 35 & 606, respectively (as supplied by the applicant) as recorded in the Boone County Clerk's office.



## SECTION II

That as a basis for overriding the recommendation of the Planning Commission, the Boone County Fiscal Court sets forth the following findings of fact:

1. The map amendment request is in agreement with adopted Comprehensive Plan. Specifically, the Business Activity Element of the Comprehensive Plan states, "Commercial development in Hebron will center around the intersection of new KY 237 and KY 20 with a limited amount of convenience and neighborhood commercial uses north of the I-275 interchange to serve the South Park Industrial park, Park West Industrial Park, and the growing number of residential subdivisions along North Bend Road. With the amount of residential construction expected in the North River area, larger scale commercial developments, such as drug stores and grocery stores will be needed. Commercial development should be designed to serve the northern part of Boone County. This commercial growth should coordinate with the existing and proposed industrial and residential developments, especially in terms of access."
2. The Land Use Element text of the Comprehensive Plan states, "Unlike most developing areas of Boone County, the north river area contains only one primary means of access, being North Bend Road. Additional development activity in this corridor should not occur until the North Bend Road reconstruction is complete, and major developments must provide their own access to North Bend Road as opposed to local streets." Completion for the North Bend Road construction is scheduled for 2009 and the proposed development does not include any access points from local roads.
3. The existing zoning classification of Rural Suburban Estates (RSE) is inappropriate due to the fact that the parcel is located adjacent to existing commercial and light industrial development. The proposed zoning classification of Commercial Two (C-2) is appropriate because no additional access points along KY 237 or Cardinal Cove are needed and the proposed development can be compatible with adjoining residential use by providing appropriate screening and building placement.

In addition, the Boone County Fiscal Court adopts the findings of fact and conditions for approval and hereby incorporates by reference as if fully set out in the Ordinance the Boone County Planning Commission Zone Change/Concept Plan Committee Report which was presented to the Planning Commission on April 1, 2009 and included in the official record of the Planning Commission marked as "Exhibit B"

**SECTION III**

This ordinance shall be in effect and in full force from and after its passage, publication and recording, according to law.

Adopted this 30<sup>th</sup> day of June, 2009.

First Reading - 6-23-09 Yes      No     

Second Reading - 6-30-09 Yes 4 No 0

Gary W. Moore  
Gary W. Moore  
Judge-Executive

ATTEST:

Daphne Kamblium  
FISCAL COURT CLERK

PASSED: 4-0

Toebben, Ltd. (applicant) for Toebben, Ltd. (owner) Zoning Map Amendment

CONDITIONS

1. ***The property owner agrees to revise the Concept Development Plan (including the elevations and photometric plan with 15' high maximum parking lot lights) to relocate the 24' x 65' tenant space nearest the adjacent commercial development to the western side of the proposed building, closest to North Bend Road. This modification should result in a seventy foot (70 ft.) building setback along Cardinal Way.***
2. The property owner agrees to provide the Boone County Building Inspection Department with a detailed geotechnical engineering report with regard to the soil stability in the Building Permit stage.
3. The property owner agrees that all storm water from this development will be handled in an underground system in the parking lot so as not to affect the proposed buffering located to the north and east and will be reviewed by the Planning Commission Staff and County Engineer at the required Major Site Plan Review.
4. The property owner agrees that the dumpster enclosure will be constructed of brick to match the building and restrict trash collection only between the hours of 7:00 am to 9:00pm.
5. The property owner agrees that there will be no remote ordering/speaker system and no freestanding menu/preview boards with the proposed drive-up window.
6. The property owner agrees that there will be no freestanding signage for this development, only building mounted signage.
7. The property owner agrees that there will be no emergency generator(s).
8. The property owner agrees that there will be no outside storage and that all HVAC equipment will be roof mounted.
9. Permitted Commercial Two (C-2), Commercial One (C-1) and Office One (O-1) uses for this development are listed as follows, per the attached Exhibit "A".

**COMMERCIAL TWO (C-2)**

**SECTION 1021**

**Principally Permitted Uses**

The following uses are permitted:

1. All principally permitted uses of a Commercial One (C-1) district;
2. All the principally permitted uses in an Office One (O-1) district; with the exception of principally permitted use #27 in Section 1111.
3. Eating and drinking establishments including alcoholic beverages; **(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF WALTON CITY LIMITS ONLY)** Eating and drinking establishments including alcoholic beverages and accessory drive-in facilities;
4. Department stores, mail order houses, direct retail selling organizations of general merchandise;
5. Furniture, home furnishings including specialty and floor coverings;
6. Specialized upholstery and furniture repair or refinishing services;
7. Apparel stores;
8. Household appliances, china, glassware and metal ware;
9. Radio, t.v., watch, clock, and jewelry repair;
10. Photographic, stenographic and other duplicating and mailing services;
11. Legal services, engineering and architectural services;
12. Security brokers, dealers and flotation services;
13. Title abstracting services; holding and investment services;
14. Advertising services including direct mail;
15. Business and management consulting services;
16. Employment services;
17. Consumer and mercantile credit reporting, adjustment and collection services;

18. Travel arranging, transportation ticket and public event or promotional booking agencies;
19. Radio and television broadcasting studios excluding transmitting stations and towers;
20. ~~Art, music and dancing schools, libraries and museums;~~
21. Medical and dental laboratory services;
22. Medical clinics, out-patient services;
23. Welfare and charitable services;
24. Business associations and professional membership organizations including civic, social and fraternal organizations;
25. Art and craft galleries and similar exhibit space;
26. Aquariums, botanical gardens and other natural exhibitions;
27. Arcades and other amusement centers;
28. Motion picture theaters (indoor);
29. ~~Bowling alley, skating rinks, roller skating rinks, miniature golf courses, golf driving ranges, and skateboard facilities;~~
30. Recreation centers, gymnasiums, clubs and similar athletic uses;
31. Motorcycle sales or bike shops excluding outside storage;
32. Churches, synagogues, temples and other places or religious assembly for worship;
33. ~~Hotels and motels including convention facilities;~~
34. ~~Pawn shops (Not Applicable within the City of Florence);~~
35. Auto parts and accessories stores;
36. ~~Gasoline filling station;~~

**SECTION 1022**  
**Accessory Uses**

1. Recreation uses or spaces of integral relation to the developed portions of the district defined to be:
  - a. Stages and similar assembly areas;
  - b. Auditoriums, exhibition halls and other public assembly spaces;
  - c. Billiards;
  - d. Play lots and tot lots;
  - e. General, leisure, ornamental and other parks, spaces, trails bikeway systems, malls and urban pedestrian networks;

2. A dwelling unit of the property owner, or owner-operator, manager, or employee of the business including:
  - a. Private garage and parking;
  - b. Structures such as fences and walls;
  - c. Buildings such as storage sheds;
  - d. The keeping and use of appropriate household pets;
3. Signage (See Article 34);
4. Parking (See Article 33);
5. Temporary buildings incidental to construction ;
6. Outside storage, display, loading, uncrating or unpacking areas which are an integral function of a permitted use and do not create outside spaces which will tend to enlarge or overpower the activities of permitted uses, and which are conducted in accordance with Section 3154;
- ~~7. Drive-up photo finishing services and automatic teller services;~~
- ~~8. Indoor target ranges and similar athletic uses;~~
- ~~9. Recycling collection points (See Article 31);~~
10. Garment and Furniture centers (See Article 31);
- ~~11. The rental of trucks and trailers, (only permitted to be displayed in the side or rear of the property);~~
12. Drive-through facilities operated in conjunction with a permitted use, and which are conducted in accordance with Section 3155;
- ~~13. Recycling collection containers.~~

**SECTION 1023**

**Conditional Uses and Criteria**

- ~~1. Garden and landscape sales including florist greenhouses, lawn furniture and the like;~~
- ~~2. Automotive repair facility and wash services for vehicles;~~
- ~~3. Small scale sales or leasing of new and used motor vehicles requiring the storage of no more than fifty (50) vehicles on the premises (Does not apply in the City of Florence);~~
- ~~4. Small scale sales or leasing of new and used recreational vehicles requiring the storage of no more than fifty (50) vehicles on the premises (Does not apply in the City of Florence);~~
- ~~5. Mini-warehouses or storage facilities (Does not apply in the City of Florence);~~
- ~~6. Horse related uses, including riding and boarding stables, as defined by KRS 100.111 (2)(c).~~
- ~~7. Indoor kennels for household pets; except in the City of Florence where indoor kennels for household pets are only allowed when not adjoining a residential zoned property.~~

Toeppen/North Bend Road

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**SECTION 1024**

**Intensity**

The intensity of use in a Commercial Two district of under four (4) acres, including all the contiguous private property so designated, shall not exceed 12,000 square feet of gross floor area per acre of land. In a commercial two district of over four (4) acres, the intensity of use shall not exceed 15,000 square feet of gross floor area per acre of land.

**SECTION 1025**

**Minimum Size**

The minimum size and extent of a Commercial Two district, including all the contiguous private property so designated, shall not be less than two (2) acres.

**SECTION 1026**

**Minimum Standards**

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

**COMMERCIAL ONE (C-1)**

**SECTION 1011**

**Principally Permitted Uses**

The following uses are permitted:

1. Hardware stores;
2. Eating and drinking establishments including alcoholic beverages;
3. Grocery stores and supermarkets;
4. Stores with retail sales of meat, fish, seafood, dairy and poultry products;
5. Fruit and vegetable stores; bakeries, candy, nut and confectionery stores;
6. Convenience stores;
7. Liquor, beverage, drug and proprietary stores;
8. Banking services, savings and loan associations, credit unions and other credit services;  
**(THE FOLLOWING PASSAGE APPLIES TO THE CITY OF FLORENCE CITY LIMITS ONLY)** The business of cashing checks or accepting deferred deposit transactions as regulated by KRS 368.010 to 368.120 shall not be included in this permitted use.
9. Insurance carriers and agents;
10. Real estate operators, agents, lessors and real estate sub-dividing and developing services, operative builders and related services;
11. Accounting, auditing and bookkeeping services;
12. Postal services and packaging services provided the use is essential for pick-up and delivery convenience and not storage or transfer activities more appropriate to an employment district;
13. Physician, dental, optical goods and services;
14. Veterinary services and pet grooming services but not including the boarding of animals;
15. Beauty and barber services and tanning salons;

16. Nursery and day care centers;
  17. Laundering, dry cleaning and dyeing services including self-service;
  18. Alteration and garment repair and custom tailoring;
- 
19. Shoe repair, shoe shining and hat cleaning services;
  20. Family clothing, shoe stores, specialty clothing or boutiques and other apparel retail trade;
  21. Jewelry stores;
  22. Radio, t.v., music supplies, cameras, photographic supplies and specialty household appliances;
  23. Art, craft and hobby supplies and products, gifts and novelties;
  24. Antiques and used merchandise;
  25. Books, stationery, newspapers and magazines;
  26. Florists excluding greenhouses;
  27. Sporting goods including bicycles;
  28. Draperies, curtains, upholstery and floor coverings;
  29. Paint, glass and wallpaper stores;
  30. Photo finishing services;
  31. Recreation centers, gymnasiums, clubs and similar athletic uses;
  32. Video stores;
  - ~~33. Funeral homes and crematoriums excluding cemeteries or mausoleums.~~

**OFFICE ONE (O-1)**

**SECTION 1111**

**Principally Permitted Uses**

The following uses are permitted:

1. Bank related services or credit unions;
2. Business and personal credit services and title services;
3. Security brokers, investment services and finance companies;
4. Insurance agents, brokers and services;
5. Real estate agents, brokers and management services;
6. Real estate management services and builders offices excluding any outside storage equipment and the like;
7. Photographic services;

Toeppen/North Bend Road

April 1, 2009

8. Eating and drinking establishments including alcoholic beverages;
9. Direct mail and advertising services;
10. Stenographic services and other duplicating and mailing services;

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11. News syndicate services and employment services;
12. Research, development and testing services of an office nature;
13. Business and management consulting services and associations;
14. Motion picture, audio-visual and similar media production and distribution services;
15. Physician and dental services including medical, dental laboratories and clinics;
16. Legal, engineering, architectural, education and scientific research services;
17. Accounting, auditing and bookkeeping services;
18. Charitable and social services administration offices;
19. Professional membership organizations and labor organizations and civic associations;
20. Telephone exchange stations, telegraph message centers, radio broadcasting studios, television broadcasting studios and other communication centers and offices excluding any relay, transmitting or receiving towers or similar unattached, erected equipment;
21. The administration, management and any related office use or activity of commercial, business, service, professional, industrial, religious, private institutional, or similar organization, incorporation, companies, associations and such uses. Includes all integral stenographic reproduction, mailing, research, sales and similar office functions, as determined by the Zoning Administrator;
22. Veterinary services not including the boarding of animals;
23. Business colleges or schools;
24. Recreation centers, gymnasiums and other related recreational facilities;
25. The retail sale of office supplies and equipment;
- ~~26. Funeral homes and crematoriums excluding cemeteries or mausoleums.~~
- ~~27. Sexually Oriented Business as defined in Article 40 and applicable standards in Article 34.~~

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



