

Zone Change Request by Russell and Sara
Stephenson for Property on Dixie Highway,
Boone County

This is a zone change request by the property owners, Russell and Sara Stephenson, for a 20,000 square foot property located at 8560 Dixie Highway, Boone County, and being on the west side of said Highway about 525 feet south of its intersection with Shoemaker Lane. The request is to change the current zoning of Suburban Residential One, SR-1 to Commercial One (C-1) for the tract.

The current zoning of adjoining properties to the north, south and west is Suburban Residential One, (SR-1). To the east, across Dixie Highway, is Industrial One (I-1) zoning.

The current land use for the subject tract is Commercial (Dairy Island). All adjoining tracts to this site are currently undeveloped.

The Land Use Plan map of the Boone County Comprehensive Plan indicates that Medium Density Residential is the planned future land use of the tract. Adjoining properties to the north, south, and west are also planned as Medium Density Residential. While to the east is planned Industrial land use. The text of the Plan states on Page 3.4, "Medium density residential development could include the expansion of existing developments in the Florence and Walton service areas. As the Florence service area is expanded, new medium density development is encouraged adjacent to subdivisions existing and committed south of KY 18 and west of Hopeful Road; in the vicinity of Pleasant Valley Road; south of U.S. 42, west of I-75; south of Union along KY 536, and near the Richwood interchange with I-75." And on Page 3.12 it is stated, "Continuing urbanization of the Florence area will result in growth toward other existing and growing communities. The plan would retain the distinction of surrounding communities by changing land use patterns and development densities and by preserving undeveloped conservation lands where appropriate."

At this point I would like to advise the Commission that this request is an attempt to put the property into conformity with the zoning regulations. The Comprehensive Plan took this into consideration and makes the following statement on Page 3.17 of the text, "There are a number of existing commercial and industrial land uses on specific sites in Boone County which are not in conformance with the land use plan element. It is the intent of this Plan to allow those uses to continue to exist as long as they are compatible with their surrounding environment. This is necessary to maintain the economic well-being of the community as a transition is made from rural to urban type land use patterns. Any expansion of these existing

land uses must be carefully evaluated to determine the long-term effect on existing and proposed surrounding land uses."

As addressed above expansion of existing non-conforming uses must be evaluated. This request, though, does not show any conceptual development involving maintenance of or expansion of the existing use. This application only requests the rezoning and does not include a Concept Development Plan.

Currently water can be made available to the site from a Boone County Water main along U.S. 25, Dixie Highway. Sanitary sewage disposal is provided by a private on-site system.

This site currently has one access onto Dixie Highway which is a two lane state maintained highway having an average surface width of twenty-two feet.

I would like to point out to the Commission, that in consideration of this request, the Commercial One district requested has been set up for the purpose, "to provide the convenience goods and personal services required for daily living needs.

In summary, should the Commission recommend approval for and the Legislative Body would approve this request, the Land Use Map of the Comprehensive Plan would need to be changed to Commercial due to this request's lack of conformity to the Comprehensive Plan.

DATE SUBMITTED:

8/24/83

Alvin "Chip" Block

Alvin "Chip" Block
Zoning Enforcement Officer

BOONE COUNTY PLANNING COMMISSION

PUBLIC HEARING

AUGUST 24, 1983

Chairman Kroger opened the Public Hearing at 7:00 P.M. for the request of Sarah and Russell Stephenson for a zoning map amendment from Suburban Residential One (SR-1) to Commercial One (C-1) for one half acre ($\frac{1}{2}$) tract located on U.S. 25, Boone County, to bring non-conforming pre-existing use (Dairy Island Ice Cream) into conformity.

Mr. Block presented the Enforcement Officer's Report and located the property on the map. Mr. Block noted a concept plan was submitted after the preparation of his report. He continued that the concept plan provided for the maintenance of the existing Dairy Island and a 12' X 30' addition in the future for indoor seating along with an additional twenty-six (26) parking spaces. Chairman Kroger asked if there was anyone in behalf of the request. Mrs. Stephenson stated that she would like the property rezoned back to Commercial One (C-1) as was originally zoned when the Dairy Island was built in 1979. Chairman Kroger asked if there was anyone in opposition to the request. No one responded. Chairman Kroger asked if there were any further comments. No one responded. Chairman Kroger declared the Public Hearing closed at 7:11 P.M..

Chairman Kroger opened the Public Hearing at 7:51 P.M. for the request of H.P.S., Inc. for a zoning map amendment for property located at 21 Old Stephenson Mill Road, Walton, Kentucky from a zoning district of Urban Residential One (UR-1) to Urban Residential Two (UR-2) zoning district, containing .98 acres.

Mr. Block presented the Enforcement Officer's Report and located the property on the map. Mr. Block noted that no concept plan was submitted.

Mr. W. Mathis stepped forward and submitted a letter from the City of Walton stating they had no objection to the zone change. Mr. Mathis stated that the grounds for a zone change is based on the fact that on December 10, 1979 H.P.S. received a building permit from Mr. Locke for 12 units to this site. Mr. Mathis stated the present zoning is inappropriate for this site and a mistake was made at the time of adoption. Mr. Mathis also submitted a plan of the proposed development submitted in 1979 showing the location of units proposed in relation to the existing building. Mr. Mathis stated that H.P.S. would round off the acre from .98 to one acre if the Commission requested. In response to Mr. McMillian, Mr. Mathis stated it was on Old Beaver Road, adjoining the new telephone building property on the east side. Mr. Mathis presented a copy of the building permit issued by Mr. Bill Locke, December 10, 1979 for 12 units. Chairman Kroger asked if there

was anyone in opposition. No one responded. Chairman Kroger closed the Public Hearing at 8:00 P.M..

Chairman Kroger opened the Public Hearing at 8:00 P.M. for the request of Timothy T. Hogan and Robert G. Schneider, for a zoning map amendment for property located at Dream Street, Florence, Kentucky from Office Two (O-2) to Commercial Two (C-2) zoning district, containing 2.8824 acres.

Mr. Block presented the Enforcement Officer's Report and located the property on the map.

Chairman Kroger asked if there was anyone to represent the applicant. Mr. Frank Wichmann stepped forward and stated the property was acquired jointly by Mr. Hogan and Mr. Schneider in 1979 for the purpose proposed on the development plan by this request. Intentions were delayed due to financial circumstances. Mr. Wichmann pointed out that Dream Street was extended at a considerable cost to the applicant. Mr. Wichmann continued that the zoning was changed during KZF which prohibits the activity for which the property was originally proposed. Mr. Wichmann pointed out this type of commercial activity does not generate a lot of traffic; there would be approximately five (5) to eight (8) trips a day for a retail carpet store and office complex. Mr. Wichmann stated it was the applicants' intentions to located near the interstate for high visibility. Mr. Schneider wants to expand his woodware business from Covington. Chairman Kroger asked if there was anyone else in behalf of the request. No one responded.

In response to Mr. Viox, Mr. Wichmann stated Mr. Schneider operated a paper and woodwork company in Covington and that his plans to expand are not as definit as Mr. Hogan's.

In response to Chairman Kroger, Mr. Block stated that a development plan request was proposed at an earlier date, and action was taken in 1979 approving a special use permit for two buildings. Mr. Block stated the special use permit became void due to no action within one year of issuance of the permit and there was no reapplication. Mr. Block stated the request was for the same type of activity on 2.8824 acres. Chairman Kroger asked if there was any opposition. No one responded. Chairman Kroger noted that the request would be on the agenda, September 7, 1983. Hearing no further comments, Chairman, Kroger closed the Public Hearing at 8:16 P.M..

Chairman Kroger read a letter from Spectape stating their withdrawal of a request for a revision to concept development plan for a zoning map amendment approved March 3, 1982, Resolution No. R-3-82 for property located at 3625 Turfway, Erlanger, Boone County, Kentucky, zoned Industrial One (I-1) on a 25.7051 acre tract. Chairman Kroger accepted the letter of withdrawal.

Chairman Kroger adjourned until 8:45 P.M..

Chairman Kroger opened the Public Hearing at 8:46 P.M. for the request of Hugh Imfeld for a revision to concept development plan for a zoning map amendment approved October 6, 1982, Resolution No. R-18-82 for property located at Turfway Road and Ky. 18, Florence, Kentucky zoned Commercial Three (C-3), containing 13.4549 acres less 132,775 sq. ft..

Mr. C. Barrett, 210 Central Trust, Cincinnati, Ohio, Attorney for Frish's, stepped forward and introduced James Conover of Frisch's and James Viox, Engineer for the development. Mr. Barrett stated the proposal is for a Frish's Restaurant and Quality Inn. Mr. James Viox stepped forward and stated the request was for the same property for which a zone change and concept plan was approved in 1982. He continued the only revision to the plan was the motel and restaurants positions were switched due to the motel being too massive to be placed on the corner. Mr. Viox illustrated the new location of the buildings on the plan. Mr. Barrett stated the plan is for the same usage as when previously submitted, but with an upgrading of the plan with a higher quality of development. Mr. Barnett and Mr. James Viox reviewed the previous plan submitted, September 21, 1982.

Mr. Block presented the Enforcement Officer's Report.

Chairman Kroger asked if there was any opposition. No one responded. Hearing no further comments, Chairman Kroger closed the Public Hearing at 8:58 P.M..

Chairman Kroger opened the Public Hearing at 9:01 P.M. for the request of B/Y Development Company for a zoning map amendment for property located 1,100 feet south of Turfway Road on Price Pike (S.R. 18) from its present zoning district of Urban Residential Two (UR-2) to Commercial Two and Commercial Three (C-2 & C-3), containing 48.674.

Mr. Block presented the Enforcement Officer's Report and pointed out the location of the property on the map.

Chairman Kroger asked if there was anyone present to represent the applicant. Mr. Andy Jolly, Attorney, 30 West 4th Street, Newport, Kentucky stepped forward representing the applicant and introduced Mr. Allen Kline, Freeland Court Report. Mr. Jolly stated he understood the request had been before the Commission before and he wanted to put into the record the legal requirements to give the Commission basis to change the zoning. Mr. Jolly stated it would be shown that 42% of occupied residences in the City of Florence are now rental units. Mr. Jolly felt that the Comprehensive Plan in as far as to provide for high density housing was inappropriate. He continued high density housing proposes a tremendous burden on the City, and that the Commission take into consideration the needs of the citizens of that City. Mr. Jolly stated he would show that the applicant's proposal would produce tremendous income that high density apartments would not. Mr. Jolly stated the applicant basically has taken the Commission's and residents' previous suggestions and tried to alleviate their objections with his revised plan. Mr. Jolly stated that he

felt the evidence presented at this Public Hearing would show that the property should be developed Commercial; and it is impractical and inappropriate for it to remain high density residential due to a saturation of high density residential in the City of Florence. Mr. Ed Brose, developer, stepped forward and passed out portfolios to the Commissioners outlining statistics relating to the development.

Mr. Brose stated he used input from the members of City Council and citizens of the Community in hopes the new plan would resolve the objections brought to his attention. Mr. Brose stated the first layout had principally two main buildings for the factory outlet mall stating building # 1 was too close at 175 feet from the rear lot line of the residents along Claxon Drive. Mr. Brose pointed out there was also an objection to a retention basin to hold the surplus water which would be generated from the runoff on paved areas which would be located directly behind the houses. Mr. Brose stated the two office towers have been brought together, thus pulling one office tower further away from the property line along JoAnn Drive and the motel and restaurant remain in the same location. The branch bank is moved more to the front toward Ky. 18. Mr. Brose outlined the new plan stating building # 1 was eliminated and the closest retail building is now 450 feet away from Colonial Estates and from the end fence post of JoAnn Drive, so the building comes no closer than 450 feet from either JoAnn Drive or Claxon Drive. Mr. Brose stated the retention basis was eliminated altogether as he will be using the paved areas of the parking lot to retain the excess water; or whatever it takes to hold the excess water will be done. He continued that the two office buildings were moved together; therefore, the building is now 375 feet from the end house of Jo Ann Drive as opposed to the previous 275 feet. Mr. Brose stated the bank building moved, otherwise these buildings are in the same general location. Mr. Brose stated that was the basic plan along with the boulevard type streets to improve traffic flow. Mr. Brose stated expert testimony would be given by a traffic engineer and highway designer addressing traffic from this proposed project. Mr. Brose pointed out that in trying to layout and gain additional parking area, the green belt was reduced from 150 foot wide to 100 foot wide and the traffic engineer has informed him there is very little difference as to the traffic noise, fumes, etc. that would come from the parking area with the reduced buffer. He stated he didn't think it would have any adverse affect on the neighborhood. Mr. Brose illustrated on the plan where the green belt was reduced and the C-2 area increased. Mr. Brose pointed out he was only asking for approximately 5 to 5½ acres to be rezoned to C-3. Mr. Brose stated he had generally presented the proposal and concept drawings that he felt would overcome the most objections of the Commission, members of City Council, and members of the Community had had for the first plan.

Mr. Jolly presented Mr. Ray Merkle, Real Estate Agent, the purpose of this evidence to establish the inappropriateness of the present zoning. Mr. Merkle stepped forward and stated he did research on the City of Florence pertaining to the type of occupied housing units and the amount of rental units within the City of Florence

comparing it with other suburban cities surrounding Florence. Mr. Merkle stated that owner occupied units in the City of Florence totaling 3090 was taken from the 1980 U.S. Census report. Mr. Merkle continued that the amount of rental units is 2316; the total occupied rental units in the City of Florence is 43%. The vacancy factor, acquired from the Northern Kentucky Builders Association, indicates 13% in 1981 bring the units to over 50% of rental units in the City of Florence. Mr. Merkle compared the City of Florence to Edgewood at 6% rental units; Elsmere, 15%, Erlanger, 28%; Ft. Wright, 17%; Independence, 15%; Lakeside Park, 38%; Taylor Mill, 17%; and Villa Hills, 4% of the units in these communities are rental units. Mr. Merkle stated it is a burden on the City of Florence, from a tax point of view, to have so many rental units in the Community due to the fact they do not generate the type of tax revenue single family units generate; and also increases the burden on the schools. Mr. Merkle felt the City of Florence was being unundated with too many apartment units. Mr. Merkle outlined comparison figures affecting City services as illustrated in the portforlio distributed by Mr. Brose. Mr. Merkle stated to sum up his presentation he felt that Florence has many apartment units; approximately 43% compared to percentage of the surrounding suburban neighborhoods. Mr. Merkle stated 900 additional rental units are not needed on the proposed property.

Mr. Jolly asked Mr. Merkle as a real estate professional if the zoning requested by the Comprehensive Plan for high density residential is appropriate. Mr. Merkle stated the Home Builders Association of Northern Kentucky indicated a 10 to 13% range of vacancies presently in Florence; according to the City Coordinator, Florence presently has approximately 2400 housing units and Mr. Merkle felt Commercial zoning on an interstate is the type of zoning that has traditionally been found along the interstate. Mr. Merkle stated the proposed property was not a bad location for apartments but that more apartments are not needed and felt it is more appropriate for Commercial zoning. Mr. Jolly asked Mr. Merkle if he knew of any other interchange that was not zoned Commercial; Mr. Merkle responded "no".

Mr. John Eisenmann stepped forward and stated he was a traffic and civil engineer with CDS Associates, Inc. and had been asked by B/Y Development Corporation to look at this site particularly in relationship to the amount of traffic it would generate tributary to interstate system and local roadway patterns. Mr. Eisenmann stated the information presented is what is felt to be a realistic amount that this development as a whole will generate using standard practice for traffic engineering estimating the amount of trips which would generate from the site. Mr. Eisenmann stated Price Pike and Turfway Road with improvements is basically conservative for the considerable amount of growth. He continued the roads presently carry between 5,000 and 7,000 vehicles per day, the design the Department of Transportation has proposed is between 21,000 and 24,000 vehicles per day leaving a considerable amount of excess capacity. Mr. Eisenmann stated by using trip generation data, he acquired the total of 27,000 vehicles for the proposed project and 40,000 vehicles for Florence Mall in and outs per weekday. He continued in comparison with the figures acquired from trip generation data and 20,000 actual vehicle in and out per

day at the Florence Mall, he applied a reduction and arrived at 14,000 to 15,000 in and outs per day for the proposed project. Mr. Eesenman stated although it is an increase in current traffic, in his opinion was not an amount the proposed roadway pattern cannot accept. Mr. Eisenmann stated there could be a few modifications, such as a traffic signal at the entrance driveway of the project. He pointed out the concept and advertisement of the development is of a Regional Nature and that 80% of the traffic leaving the site would head North to the interstate with the possible spill over of 20% along Ky. 18 between the Florence Mall and the proposed facility.

Chairman Kroger asked if there was anyone else in behalf of the request. Mr. Bill McBee, State Representative, stepped forward and stated he had no financial involvement in the project and continued that the State had a lot of money involved in building the interchange and that Bruce Lunsford of the Commerce Department, would like to see the interchange best developed to generate tax revenue.

Chairman Kroger asked if there was anyone else in behalf of the request. No one responded.

Mr. W. Mathis, Attorney, stepped forward and filed a petition in opposition to the request on behalf of residents on JoAnn and Claxon Drive, pointing out there were signatures of 14 of the 21 adjoining property owners. Mr. Jolly objected to the petition stating the Commission was a fact finding Commission and not to go with public opinion. Mr. Mathis agreed with Mr. Jolly stating the petition was to show public interest and to identify the people he represents.

Mr. Mathis continued stating the proposed modification of the Plan included several thousand more square feet and an approximate addition of 600 to 700 more parking spaces than the original plan. Mr. Mathis stated in his opinion there had been no significant changes to base a zone change upon the fact the original zoning was inappropriate nor is there findings of a significant economic, socio, developmental change which would justify KRS 100 for a zone change. Mr. Mathis stated the applicant did not appeal the findings in April pertaining to objections of KRS 100 and he assumed by not appealing the applicant agreed with said findings. Mr. Mathis pointed out the Commission was requested to authorize a zone change, which was previously found not to be in conformance with the Comprehensive Plan, not to authorize the rearrangement of a Concept Plan. Mr. Mathis continued in his opinion there was no justification for a zone change and for that reason he urged the Commission to adopt the same previous findings and deny the request.

Chairman Kroger asked if there was anyone else in opposition.

Mr. Ed Shafer stepped forward and stated that his objection four (4) months ago was the intensity of the use, and his concern now was even greater due to the buildings and parking increased by one-third. Mr. Shafer stated the water and sewage is all paid for and does not cost the City anything. Mr. Shafer stated that Ms. Sullivan provided statics of some 23,000 vehicles which at the time

the applicant agreed with, then the applicant stated the State Highway Department said the ramp would handle 21,000 to 24,000 vehicles. Mr. Shafer stated he did not know where the traffic would go with the present 5000 to 7000 vehicles and the addition of the proposed development. Mr. Shafer continued that a smaller development could be an alternative. Mr. Shafer stated he could not imagine a project larger than the Florence Mall developing at this intersection, continuing that Mr. Erickson, Manager of the Mall, stated at the Florence City Council meeting that the Florence Mall has 300,000 sq. feet of gross rentable floor space, and there is 430,000 sq. feet in only one building of the proposed project. Mr. Shafer responded to a comment concerning an interchange not being zoned Commercial and quoted the Comprehensive Plan on Land Use Development. Mr. Shafer stated he felt the previous Committee Report was valid and expressed concern of the R1F abutting commercial development along with cutting down on the greenbelt. Mr. Shafer also expressed concern concerning pertaining to water retention.

Mr. Mathis requested that all items of the previous request be submitted as part of the record.

Chairman Kroger asked if there was anyone else in behalf or in opposition to the request. No one responded. Chairman Kroger asked if the Commissioners had any questions.

In response to Mr. Viox, Mr. Brose stated the area zoned UR-2, adjacent to the parking lot would be approximately the same grade as JoAnn Drive with the approximate elevation of 9:15 or 9:12 and that the swale would probably be filled in. Mr. Brose stated to get from the elevation in UR-2 from the parking lot to Claxon Drive there will be an embankment through the 100 foot area. Mr. Viox pointed out an embankment is a structure and felt that it should be included as part of the zone change. In response to Mr. Viox, Mr. Brose stated there would be screening; a raised area around the entire perimeter of the parking lot of both JoAnn and Claxon Drive and that \$230,000.00 is budgeted for landscaping for the entire project, most of which will go into the greenbelt area. Mr. Brose stated a security fence is considered and also evergreens for year round foliage. In response to Mr. Viox, Mr. Brose stated he has not submitted a landscaping plan. Mr. Viox asked Mr. Brose if he planned to grade the entire site at one time. Mr. Brose responded stating the site of four out buildings which are the bank, out patient clinic, restaurant and motel would be referred to as Phase # 1 which would begin in April and at the end of July would begin on the balance of the site. Mr. Brose stating landscaping would take place at the time of finalizing, blacktopping, curbs and gutters must be installed in order to landscape. Mr. Viox expressed concern of grading beginning and the possibility of the project folding due to economic problems, and the property being left with no landscaping or screening. Mr. Brose stated that Phase # 1 would not begin until four leases had

been secured for the out buildings. Mr. Brose also stated development on Phase # 2 of the Mall area would not begin until 65% of Phase # 2 was leased. Responding to a comment by Mr. Shafer, Mr. Brose stated the building itself is 430,000 square feet, but there is 375,000 square feet of net rented area. He continued as far as the Florence Mall, the Manager did not include the four (4) major stores which include 838,000 square feet of net rented area against 1,070,000 square feet of total Mall area. Mr. Brose stated the Florence Mall is approximately two and one-half (2½) times the size of the proposed project. Mr. Viox pointed out that Mr. Merkle talks about apartment units being the alternative to the proposed development, Mr. Viox continued there are other uses in the UR-2 zone other than multi-family units.

Mr. Jolly stated the developer is willing to deed the greenbelt to the residents, then they would have complete control as their residential use. Mr. Viox stated the embankment is an earthen dam and should be included in the zone change. Mr. Brose stated the ravine would be filled in, not dammed. Mr. Viox stated technically its part of the development by holding up the parking lot and should be included as part of the zone change. Mr. Jolly stated the applicant would be willing to include the property as part of the zone change, but felt it would be better to leave it available for greenbelt. Mr. Viox stated development should start at the edge of the greenbelt and not encroaching on the UR-2 zone. Mr. Brose stated there are two main draws and by filling in the area to ground level would make the property usable ground to residents in Colonial Estates. In response to Mr. McMillian, Mr. Brose stated he would be acquiring 1 3/4 acres from Mr. Jacobs and by acquiring this land would pick up 200 to 300 parking spaces. He continued he would not be requesting a zone change or considering the structures on the property at this time.

Chairman Kroger asked if there were any further comments. Mr. Mathis proceeded to ask questions of Mr. Brose's expert witnesses.

In response to Mr. Mathis, Mr. Merkle stated he was a Real Estate Agent, not a Land Planner. Mr. Mathis asked Mr. Merkle if the zone change is granted, under the present Comprehensive Plan if he had determined the impact it would have on the total percentage of Commercial development in the County? Mr. Merkle replied he was not sure, he did not compute the percentage. Mr. Mathis asked if Mr. Merkle knew how much undeveloped commercial land was in the County. Mr. Merkle replied he did not know. Mr. Mathis asked how much the development would reduce the residential development under the present zoning of the City of Florence. Mr. Merkle replied he testified as to certain specific items to this particular track of land, based on his experience as a realtor. Mr. Mathis asked if the interchange in question has Commercial development as shown on the Comprehensive Plan? Mr. Merkle replied, "yes". Mr. Mathis asked if he knew of other interchanges along I-75 that had this type of existing zoning in conjunction with commercial with much the same proximity. Mr. Merkle stated to some extent along the interchange and that the only property zoned commercial at this proposed interchange was the Nagy

property rezoned by this Commission. Mr. Mathis point out that the Lookout House interchange is zoned commercial with residential zoning. Mr. Merkle stated the surrounding property was developed many years ago as residential before the interchange was developed. Mr. Merkle point out that the Comprehensive Plan can change. Mr. Mathis asked Mr. Merkle if he could say there's no other interchange like this one within 10 miles. Mr. Merkle replied "no sir".

Mr. Eisenmann responded to Mr. Mathis stated he was the City Engineer of Blue Ash and Sharonville, and that his firm is the City Engineer for Springdale. Mr. Eisenmann stated his personal experience is 50% traffic engineering. Mr. Eisenmann responded to Mr. Mathis stating he did not do a traffice, but obtained information from local records. He continued the figure of 27,000 in and outs was acquired from data that the Institute of Transporation had collected over the last 5 to 10 years by serveying sites across the nation and making data available for different sizes and types of development. Mr. Mathis asked what impact the Frischs proposal would have on in and out. Mr. Eisenmann stated is was not aware of the specifics of that development. Mr. Mathis asked if it would be a fair statement to say it will increase by several thousand cars a day. Mr. Mathis stated with the current, the proposed and the addition of the Frischs traffic it would total approximately 32,000 to 34,000 in and outs per day, and according to Mr. Eisenmann's opinion most of which will head up the ramp north bound. Mr. Eisenman stated the he differs with the statement of 27,000 in and outs for this project. Mr. Eisenmann stated the experts quoted 40,000 in and outs for the Flornence Mall which , but at the present the total number of vehicles going by the Mall does not reach 40,000. Mr. Mathis stated that Mr. Eisenmann cited as recognized experts on the subject and took there averages nationwide or he would not have cited them. Mr. Eisenmann stated it was the only information available.

Mr. Mathis stated if 66% of the amount quoted by experts is used along with the present traffic, it would fill up the capacity of the infrastructure of the roadway. Mr. Eisenmann stated that was not the capacity of the roadway but the design volume. He continued the capacity of the roadway is considerable more, it is not determined by the number of lanes but the geometrics of the intersection and signalization is the controllment factor as far as the capacity of the roadway. Mr. Mathis asked Mr. Eisenmann, that in summary if there is no other development, including Frischs, would there be a significant impact on the design capacity of the roadway? Mr. Eisenmann replied, "yes".

Chairman Kroger asked if there was ay comments from the audience.

Mr. Russell Egbert stated that during the first request he had objections that had now been addressed to his satisfaction. He stated that he found this project more favorable than a subdivision. He continued that he felt the original plan was better with a larger greenbelt. Mr. Egbert point out that some of the Frischs trafic would be internal between developments. Mr. Egbert stated he would recirculate his petition submitted at the previous request if Chairman Kroger would it. Chairman Kroger stated the Commission is basically fact finding and

does not solicit petitions, but that it would be accepted if submitted.

Mrs. Arlene Brown stated if projects were turned down due to increase in traffic there would be no further development. She continued a total plan with total control will benefit the area more than apartment with less control and possibly no woods for a buffer zone. Mrs. Brown felt the buffer zone deeded to the residents was an added advantage. She stated with the rise in Florence taxes, this development is needed to generate money for Florence.

Mr. Brose stated that he felt it was a good viable project which would be an asset to the community. He stated that he brought what he felt to be traffic experts because of traffic questions raised during the last request. Mr. Brose stated that a factory would not generate the taxes of an outlet mall. He stated that 85% of the people drawn to this project would be outside of Boone County area and would also increase the sales at the Florence Mall. Mr. Brose stated within two years a projected 10 million dollars would be paid in state sales tax alone; in 5 years a projected 300 million in sales. Mr. Brose stated if apartments or this development is built they would both be a 30 million dollar project and real estate taxes would be the same, but the City's earning's taxes generated would be approximately \$412,500 per year. Mr. Brose stated the plus factors were so great he could not understand the objections. He stated the traffic pattern would be the same if residential or a factory mall. Mr. Brose felt the proposed project would generate the maximum dollars for the Community.

In response to Chairman Kroger, Mr. Brose stated he and his associate would own the land 100% and would control on a management basis all construction. Mr. Brose stated his associate would manage the project once completed. Chairman Kroger asked Mr. Brose if he would agree to not starting construction on Phase # 1 until the four out buildings were leased. Mr. Brose replied, "yes". Mr. Brose stated he would also agree to not starting any grading or construction of Phase # 2 until he had on paper 65% of the entire mall leased. Mr. Brose stated that construction of the two office towers in Phase # 3 will not begin until after two years of the Mall's operation and it is conceivable they will never be built if more parking spaces are needed for the Mall.

Chairman Kroger asked Mr. Brose if he decided to sell the land after agreeing to a Concept Development Plan, would someone else accept all of these condition? Mr. Brose replied that he though they would, that it is normal good business practice; unless the man has finances of his own and doesn't need outside financing. In response to Chairman Kroger, Mr. Brose stated if the project becomes a burden, he has a partner he can bring in that will totally finance the project, but he and his associate want no other partners.

Chairman Kroger asked Mr. Brose if he was generally agreeing to all these conditions as being part of the Concept Development Plan. Mr. Brose replied, yes sir, no problem.

Chairman Kroger asked if there were any further comments, hearing none, Chairman Kroger closed the Public Hearing at 10:35 P.M.

RESPECTFULLY SUBMITTED:

Sheryl G. Baker
CLERK

APPROVED: 9-21-83

Paul J. Kroger
CHAIRMAN

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

SEPTEMBER 7, 1983

8:00 P.M.

Chairman Kroger called the meeting to order at 8:00 P.M. Thirteen (13) members were present. Mr. Jones and Mr. Godsey were absent. Members of the staff present were; Mr. Block, Mr. Jenkins, Mr. Wilson, and Mrs. Baker: Mr. Viox moved that the minutes of August 17, 1983 be approved. Mr. McMillian seconded, the vote carried unanimously.

BILLS:

Staff salaries and benefits; \$3,749.21. Enquirer, advertisement - director position; \$386.40: Boone County Recorder, public hearing; \$665.58: John R. Greene, xerox paper; \$98.02: Boone Finance Department, postage use; \$135.18: Madison Office Supply, supplies; \$36.30: Jerry Rouse, filing fees; \$60.00: Cincinnati Silk Screen, public hearing signs; \$290.00: Campbell Insurance Agency, public official bond; \$101.50: Boone County Recorder, subscription renewal; \$9.00: Commonwealth of Kentucky, topo maps; \$64.80. Mr. McMillian moved that all bills be paid. Mr. Davis seconded; the vote carried unanimously.

COMMUNICATION:

Letters from Mr. Shafer, Joel Erickson, Frank Mathews, Steven Berry; all pertaining to zone changes. Correspondence to Mr. Block.

REPORTS:

There was no Treasurer's Report presented due to Mr. Godsey being hospitalized.

For the City of Florence, William Rieger, Building Inspector, issued 31 permits during August representing \$774,700.00 in estimated construction costs. Boone County Building Inspector, Conrad Tobergte, issued 45 permits for the month of July for total construction costs of \$1,665,976.00 and 45 permits for the month of August for total construction costs of \$1,441,506.00. Mr. Tobergte issued zoning and sign permits in the county totalling \$465.00 for the month of August.

The Commission reviewed the Convenience Plat Report submitted by Mr. Jenkins.

The Commission reviewed the Enforcement Officer's Report submitted by Mr. Block.

Chairman Kroger proceeded to the request of B/Y Development Company for a zoning map amendment for property located 1,100 feet south of Turfway Road on Price Pike (S.R. 18) from its present zoning district of Urban Residential Two (UR-2) to Commercial Two and Commercial Three (C-2 & C-3), containing 48.674 acres. Mr. Barnett stated the Commission is recommending the request be deferred. Mr. Wilson stated a two week deferral would still be within the 60 day time limitation. Chairman Kroger felt a one (1) month delay would be appropriate to allow time to gather all information. Chairman Kroger recommended that the applicant be asked to waive the time limitation and action be taken on the request the first meeting of October. Mr. Collins inquired as to the one month delay. Chairman Kroger stated it was no reflection on the work done by the Committee but that he felt everyone should have an opportunity to express their position to the Committee. Mr. Kroger felt one month is a small amount of time in comparison to the next twenty-five (25) years in an area as sensitive and volatile as this area. In response to Mr. Buse, Chairman Kroger pointed out that he had stated his position to Mr. Brose this afternoon. In response to Mr. Hasselbring, Mr. Barnett, Committee Chairman, stated if the Commission felt it could not take action on the information it has, a one month delay would be in order. Mr. Brose stated he had talked to Mr. Barnett concerning a two week delay and his Attorney, Mr. Jolly, is preparing a letter agreeing to the two week delay. Chairman Kroger pointed out a letter is not necessary for a two week delay and asked Mr. Brose if he was saying he was not agreeable to the additional two weeks. Mr. Brose stated since he had talked to Mr. Kroger this afternoon he has not been able to confer with his Attorney or partner and would be hesitant to agree to an additional two weeks. Mr. Greene stated he felt a two week delay is enough and that he felt all information could be found in two weeks. Mr. Buse moved for two weeks deferral with the provision that if we are not prepared at that time, we can ask for an additional two weeks. Mr. McMillian seconded. Mr. Brose stated if Mr. Barnett would contact him on the 18th of September, prior to the next meeting, with the appraisal that the Commission at large need an additional two weeks, he will have a letter prepared to the Commission before the next meeting, granting an additional two weeks deferral. The motion for two week deferral passed unanimously.

Chairman Kroger proceeded to the request of H.P.S., Inc. for a Zoning Map Amendment for property located at 21 Old Stephenson Mill Road, Walton, Kentucky from a zoning district of Urban Residential One (UR-1) to Urban Residential Two (UR-2) zoning district, containing .98 acres. Mr. Block presented the Enforcement Officer's Report and located the property on the map. Mrs. Baker read the Committee Report recommending approval.

Mr. Mathis stated a building permit had been granted prior to the enactment of the present zoning order to place units on this particular site according to a plan which has been previously submitted which the applicant is willing to live with. Mr. Buse asked for the changes to be outlined which the Committee Report refers to. Mr. Hasselbring stated, if you read the staff report when the November, 1979 approval was first given to the old plan that the plan did show the area to go to at least medium density residential; so we are not talking about a great magnitude of change. You will also find in Staff Report references to surrounding property which have been developed since that time, since that time as identified by that plan as originally submitted and being the same plan being considered by the Committee, that on the entire property itself, where the zoning splits basically there has been development on that actual property of similar nature of what they are showing on their plan and those are the changes. In response to Mr. McMillian, Mr. Hasselbring stated when the building permit was issued in December, 1979 the property was zoned correctly, but for some reason the building was not built and then the zone was changed which necessitated this request. The building permit has become null and void. Chairman Kroger asked if anyone else was present in behalf of the request or in opposition. No one responded. Mr. McMillian moved by Resolution that the request be granted based on the findings of fact based on the Staff and Committee's Report and forwarded to the Walton City Council; Mrs. Smith seconded. Mr. Mathis agreed to the conditions of the Committee Report. The motion carried unanimously. Mr. Buse moved by Resolution that the Comprehensive Plan Map and Text be changed to reflect the granting of the zone change if approved by the City of Walton. Mr. Hasselbring seconded; the motion carried unanimously.

Chairman Kroger proceeded to the request of Timothy T. Hogan and Robert G. Schneider, for a zoning map amendment for property located at Dream Street, Florence, Kentucky from Office Two (O-2) to Commercial Two (C-2) zoning district, containing 2.8824 acres. Mr. Block presented the Enforcement Officer's Report and located the property on the map. Mrs. Baker read the Committee Report recommending approval. Chairman Kroger asked if Mr. Wichmann had any comments. Mr. Wichmann stated the project has been in the works prior to the Comprehensive Plan, the property has always been intended to be used for the purposes outlined and Mr. Hogan was required to extend Dream Street which has already been a great financial investment to extend the street in front of his property. Chairman Kroger asked if anyone else was present in behalf or in opposition of the request. No one responded. Chairman Kroger asked if there were any further comments or questions from the members of the Commission; no one responded. Mr. Hasselbring moved by Resolution for a recommendation of approval, based on findings outlined in the Staff Report and forwarded to the Florence City Council; Mr. Viox seconded. The motion carried unanimously.

Chairman Kroger proceeded to the request of Hugh Imfeld for a revision to Concept Development Plan for a zoning map amendment approved October 6, 1982, Resolution No. R-18-82 for property located at Turfway Road and Ky. 18, Florence, Kentucky zoned Commercial Three (C-3), containing 13.4549 less 132,775 sq. ft. Mr. Block presented the Enforcement Officer's Report. Mrs. Baker read the Committee Report recommending approval. Chairman Kroger asked if there was anyone present in behalf of the request. Mr. C. Frances Barrett stepped forward and introduced Mr. Conover, property Manager of Frisch's and Mr. James Viox, Engineer for the project, and stated the Concept Plan was revised and upgraded and stated he would answer any questions. Chairman Kroger asked if there was anyone in opposition. No one responded. Mr. Barnett moved by Resolution to the Common Council of the City of Florence to approve the request based on findings contained in the Committee Report; Mr. Greene seconded. Mr. William Viox abstained due to being a member of the Engineering Company which prepared the plan. The vote carried unanimously.

Chairman Kroger proceeded to the request of Western States Envelope Company, for Site Plan Review for property located at Mineola Industrial Park Section VII, Lot #8, Jamike Avenue, Boone County, Kentucky, zoned Industrial One (I-1) on a 3.43 acre site. Mr. Block presented the Enforcement Officer's Report. Mrs. Baker read the Committee Report recommending approval. Mr. Jenkins, Staff Engineer, stated he had a question pertaining to storm water which had already been answered. Chairman Kroger asked if there was anyone in behalf or in opposition to the request. No one responded. Mr. Davis moved to approve the request; Mr. McMillian seconded. Mr. William Viox abstained due to being Engineer for the project. The vote carried unanimously.

Chairman Kroger proceeded to the request of John and Connie Marshall, for Site Plan Review for property located on Dixie Highway, in front of Greenlawn Mobile Home Park, Boone County, Kentucky in a Commercial One (C-1) zoning district on a 11,508 sq. ft. lot, for the purpose of constructing a hair styling building. Mr. Block presented the Enforcement Officer's Report. Mrs. Baker read the Committee Report recommending approval. Chairman Kroger expressed concern of the 4,800 gallon holding tank. Mr. Block read a letter from Michael Shehan from Northern Kentucky Health Department stating approval of a 4,800 gallon holding tank provided an alarm system is installed in the tank, and plans be sent for approval for inside plumbing. Mr. Viox moved to approve the request based on the Staff Report; Mr. Greene seconded. The vote carried unanimously.

Chairman Kroger proceeded to the request of Everett S. Clinkenbeard for a zoning map amendment on property located at 134 U.S. 25, Walton, Kentucky, from a zoning district of Agriculture Two (A-2) to Industrial Two (I-2), containing 20 acres.

Mr. Block presented the Enforcement Officer's Report and located the property on the map. Mrs. Baker read the Committee report recommending approval. Chairman Kroger asked if there was anyone present in behalf of the request. Mr. Benson stated he would defer any comments until later in the meeting.

Chairman Kroger asked if there was anyone in opposition. Mr. Ed Drennon, Attorney representing residents in opposition, stepped forward and stated the request was deferred due to information that was to be provided for the traffic situation but nothing has been provided. He pointed out the location is a straight away with 24 trains per day and there is a great possibility of a truck being hit and dismantled. Mr. Drennon stated the citizens visited the Lexington plant, bringing back photographs which illustrated it lacked in areas which were to be included in the proposed plant. Mr. Drennon pointed out that 80% to 90% of the Lexington plants business is truck traffic. Mr. Drennon stated the Lexington plant was located in an Industrial Park, and that is where the proposed plant should also be located. Mr. Drennon stated the Comprehensive Plan indicates industrial land use at the proposed location, and the logical reason for it being there is Dixie Highway and the railroad tracks, but the Industrial area was an extension of the Industrial Park in Florence and Southern Walton. He felt it was not intended to be built back towards Florence. Mr. Drennon stated Dr. Salzman, Environmental Health, related to information previous submitted by Mr. Lathan was not totally accurate concerning arsenic and other chemicals as possible carcinogens. Mr. Drennon stated Dr. Kenneth Reed, Northern Ky. Environmental Services, also disagrees with Mr. Lathan, and stated that no one can tell you the long term affect of carcinogenics, it has already been found that they can cause cancer in animals. Mr. Drennon pointed out it is the wood treatment people telling you the chemical is safe, not the Environmental people. Mr. Drennon stated that he has been told there are not enough studies on the wood treatment plants, but maybe in the next 5 to 10 years there will be. Mr. Drennon pointed out the arsenic is not the only concern but the chromium and other chemicals which are stated to be safe but transported in special accident proof containers. Mr. Drennon expressed concern of the long term affect of the health of nearby residents. He continued that after the chemical is in the plant it is diluted to 1%, but during transportation it is a highly concentrated chemical. Mr. Drennon pointed out that nearest residents are within 100 to 200 feet of the proposed plant and when the chemical is combined with dust it can blow a mile or more. Mr. Drennon stated the fixation process of the chemical is within 24 hours, the Environmental people say that is not true. Mr. Drennon stated a petition was submitted for surrounding residents as well as residents of the City of Walton, stating their opposition to the location of the proposed plant. He continued it is their opinion the plant would be better located in the Industrial Park where City services are available. Mr. Drennon expressed concern of the plant being located near Banklick Creek and the possible pollution of the creek.

Mr. Drennon pointed out the traffic situation has never been solved and expressed concern of the possibility of numerous accidents and stated a rural area is not the property location for this particular plan.

Chairman Kroger asked if there was anyone else in opposition. No one responded. Chairman Kroger asked Mr. Benson if he had any comments.

Mr. Benson apologized to Mr. Drennon, stating there was a document received from the Commerce Department which provided for road facilities and improvements. Mr. Benson stated Mayor Ryan wrote a letter asking for road improvements, such a letter was requested by Jim Rumke, after Mayor Ryan and Charlie Mitchell viewed the applicant's plant in North Carolina and were satisfied with the plant. Mr. Rumke wrote a letter in response, stated if the project is approved, the transportation cabinet would undertake the necessary steps to insure a free flow of traffic at the intersection in question. Mr. Benson pointed out there were school buses crossing the same intersection now and are certainly as large as the trucks that will be transporting the chemicals. Mr. Benson stated the applicant was in a no win situation, concerning the type of trucks hauling their chemicals, if it was not leakproof there would be problems for the applicant if a wreck occurred, and when leakproof trucks are used he is criticized by comments that if the chemical is so safe why do you need such a wreck proof truck. Mr. Benson stated that if a wreck occurred and a container of this type would break, the government would get immediately involved in any cleanup. Mr. Benson pointed out the plant in Lexington was not the applicant's, but a similar plant which was constructed before the law required slabs. He continued that the Lexington plant was a post and pole operation compared to the proposed lumber plant, and he was not certain as to their need to the railroad, but the proposed plant needs the railroad system. Mr. Benson also stated the proposed plant would be using approximately 30,000 gallons of water per day, which Boone County is not in a position to provide without a strain and Walton is anxious to make money from the project. Mr. Benson stated the Comprehensive Plan calls for Industrial use in this location and the applicant happens to be the first to take advantage of the Comprehensive Plan in the area; who ever is first is going to be a spout until other people develop in the area. Mr. Benson stated only a couple of people actually border the property and that Mr. Clinkenbeard is going to keep his property and does not seem concerned about the plant. Mr. Benson pointed out that it is always hard to find a unanimity between experts of opinion. Mr. Benson continued to respond to Dr. Salzman's letter of August 15, 1983. Mr. Benson stated there was not a statement in the letter that he had much quarrel with, but that it have nothing to do with a wood treatment plant. Mr. Benson stated there was nothing in the letter that made him believe Dr. Salzman's ever seen a wood treatment plant. Mr. Benson stated there is nothing offensive about the proposed development and that he appreciates the the Committee's recommendation.

Dr. Edwin A. Woolson, PHD Research Chemist, stepped forward and stated he has worked with arsenic and arsenic compounds for approximately 20 years. He stated he was very familiar with arsenic literature and has over 3000 references dealing with Environmental Health Analysis pollution type situations. He stated he was the Chairman of the USDA in cooperation with EPA arsenic sub-committee dealing with inorganic arsenical used as wood preservatives. Dr. Woolson stated he had testified at OSHA hearings, EPA hearings, the National Cancer Institute amount others and has over 100 written articles which deal with arsenic. Dr. Woolson stated he is one of the best experts in the country. Dr. Woolson pointed out in the letter there are over 40 cited reference dealing with animal studies to try and produce cancer and not one has been positive. He stated if anything arsenic has shown some potential to protect against cancer in man in smelter situations where exposed to very high levels of arsenic trioxide. He continued that as a dust there is some indication arsenic in excess of 500 miligrams per cubic meter does cause lung cancer, less that that there are no indications according to recent analysis of the data in these exposure situations. Dr. Woolson stated the chemicals are toxic or they wouldn't be wood preservatives. Dr. Woolson stated it becomes a matter of exposure and how much exposure to the environment, the workers and to the people living in the area may want to expect. He continued that current regulations from EPA and from the American Wood Preservatives Association specify wood treatment must be visibly clean, so that means you must not see any of the residue on the surface of the wood after it is treated. Dr. Woolson stated that wood has been analyzed using scrub technique and acid scrub techniques and there is a little bit of arsenic, but not a lot. Dr. Woolson stated if you use other types of formulations than the CCA, proposed for this plan, especially ACA, the amonia formation, you can have significant residue on the surface of the treated wood, which will lead to some exposure for those people actually handling it. He continued with the clean treated wood, if there's nothing on the surface there is not going to be any dust. Dr. Woolson stated 80 to 90% of the fixation process, is within the first 24 hours so any material that is going to leach off is essentially going to be on the drip pad or still in the wood. He stated it does not leach out of the wood, if it did it would not be a very good preservative. Dr. Woolson stated the American Wood Preservative Bureau, as part of it licensing and registration procedure inspects the wood every thirty (30) days at least to be sure it is being treated and conforms with there standards, both for penetration and for residue. Dr. Woolson, stated the proposed plants chemicals come in liquid for and is never present as a dry material, and being a liquid process it can't get into the air. Dr. Woolson stated that Mr. Lathan did some measurements in a plant where they measure the air in the pressure tubes that move all the solution around and found only 1.7 micrograms of cubic meter of air contained arsenic. He stated

that 2 milimeters is the safety factor in the OSHA air standard for inorganic arsenic, and they were not about to detect any chromium in the air filter. Dr. Woolson stated he personally did not see any problem with this type of plant with the pollution controls that have been proposed.

Mr. David Yeager expressed his concerns of this type of plant being located in a residential area. He continued that there was a definite conflict pertaining to the risk involved of putting the plant at the proposed location. He stated there have been no long range studies done on the affects of exposure to CCA. He felt Mr. Benson comparison of the trucks hauling the chemical to school buses was ridiculous in that the trucks weight three time that of a school buse. Mr. Yeager expressed his concern of the impact on the Community, the plant being too close to a residential area and the fact it does not have immediate access to an interstate.

Chairman Kroger asked if there was any further comments.

Mr. Gary Gemmer expressed his concern of the truck traffic using Old Lexington Pike, which has an 8 ton limit.

In response to Mr. Hasselbring, Dr. Woolson stated CCA is a pentavalent which is the least toxic in a non-leaching process. Mr. Yeager stated he felt that not all of the chemical stays within the wood itself and that pentavalent arsenic is a cancer causing agent.

Mr. Buse expressed concern of inadequate screening and should be properly addressed.

In response to Mr. Neltner, Dr. Woolson stated studies were done in some plants that have been in operation in excess of twenty years with no signs of adverse affects. In response to Mr. Neltner, Mr. Lathan stated a stamp certifies that the wood has been properly treated, and if you lose the stamp due to unfavorable inspection, you have lost your license to do business.

In response to Mr. Viox, Mr. Block pointed out several locations of Industrial zones within 1½ to 2 miles from the site. Mr. Benson stated the area was chosen because of rail and water. Mr. Viox stated the Northern Kentucky Industrial Park has rail and water. Mr. Benson stated it wouldn't be Walton water, which would be the prople that need to sell the water, rather than the people who didn't need to sell water. Mr. Benson stated the plant would be the largest user on the entire Walton system if the zone change is granted.

Mr. Viox stated the Comprehensive Plan is the future land plan of the County and the zoning order is the zones that we currently have for those uses. He continued that we have tried to grow from the existing Industrial zone outward instead of beginning in the middle. He stated the proposed site is quite a distance both North and South

from existing Industrial zoning. Mr. Viox stated when he looks at the Industrial Park that has the facilities for this type of use, he found it hard to believe that you have to go down the highway to a rural area and create an industrial zone.

Mr. Buse expressed concern with Mr. Benson's remark with regard to the City of Walton's water and felt it was hardly a proper basis for the location of a plant. He stated plants were not brought in simply to sell water for the City of Walton.

In response to Mr. McMillian, Mr. Block pointed out locations near the Walton water district zoned Industrial.

Chairman Kroger asked if there was any further comments. No one responded.

Mr. McMillian moved by Resolution to the Boone County Fiscal Court that the Boone County Planning Commission recommends approval of the project, including concept development plan based on the finding of fact in the Committee Report. Mr. Greene seconded. The vote carried; 9, yes; 4 no. Mr. Buse, Mr. Kroger, Mr. Barnett and Mr. Viox voted no.

Chairman Kroger proceeded to the request of Sarah and Russell Stephenson for zoning map amendment from Suburban Residential (SR-1) to Commercial One (C-1) for a ½ acre tract located on U.S. 25, Boone County, to bring non-conforming pre-existing use (Dairy Island Ice Cream) into conformity. Mr. Block presented the Enforcement Officer's Report. Mrs. Baker read the Committee Report recommending approval. Chairman Kroger asked if anyone were present in behalf or in opposition of the request. No one responded. Mr. Buse moved by Resolution to the Boone Fiscal Court to approve the request based on findings of fact contained in the Committee Report; Mr. Greene seconded. The vote carried unanimously. Mr. Buse moved that the Comprehensive Land Use Map and Text be changed if the request is approved by the Fiscal Court. Mr. Viox seconded. The vote carried unanimously. Mr. Viox stated the people were unaware of the zone change of the tract of land situated around Dairy Island and moved that all cost be waived except for any hard cost incurred. Mr. McMillian seconded; the vote carried unanimously.

NEW BUSINESS

Chairman Kroger proceeded to the request of D. Brigham Roberts, Agent for Skilcraft Sheetmetal, Inc. for Site Plan Review on property located at 1033 Limaburg Road, Burlington, zoned Industrial One (I-1) on a 1.475 acre site. Mr. Block stated there was no adjustment of Agenda fee submitted. Chairman Kroger stated the applicant would have to submit a fee for adjustment of Agenda if he wanted this request heard at the next meeting.

Chairman Kroger reviewed the correspondence. As part of the correspondence was the request of A. Meyers Davis Development Corporation concerning sidewalks in Featherstone East Subdivision. Discussion followed. Chairman Kroger stated the request be submitted to Subdivision Committee for review.

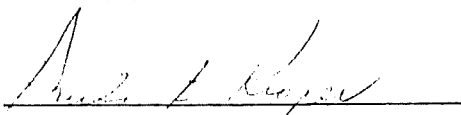
Chairman Kroger asked the Staff to send in a favorable review for the A-95 review.

Mr. Barnett inquired as to the status of compensation to the Commissioners to attend Planning Commission meetings. Chairman Kroger stated a quarterly report would be submitted to Boone Fiscal Court and the Commission could probably expect payment in mid October.

Mr. Viox moved to adjourn the meeting; Mr. Barnett seconded. The vote carried unanimously.

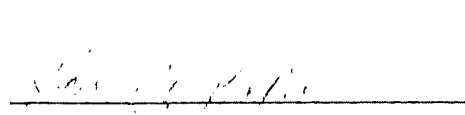
The meeting adjourned at 10:35 P.M.

APPROVED:



CHAIRMAN

RESPECTFULLY SUBMITTED:



CLERK

C O M M I T T E E R E P O R T

TO: Boone County Planning Commission

FROM: Carol Smith, Chairman

SUBJECT: Request of Sarah & Russell Stephenson for zoning map amendment from Suburban residential (SR-1) to Commercial One (C-1) for a ½ acre tract located on U.S. 25, Boone County, to bring non-conforming pre-existing use (Dairy Island Ice Cream) into conformity.

CONCLUSION:

Committee recommends approval including the concept Development Plan based upon the following findings of fact.

1. The current land use of the property existed prior to the adoption of the new zoning regulations.
2. Due to this use existing and that it is compatible with current surrounding land uses, we feel the current zoning is inappropriate and improper.
3. The text of the Comprehensive Plan does take into consideration where some current Commercial uses are not in conformance with the Plan. And that continuance of and expansion of this use would not adversely affect current and planned surrounding land uses.
4. The submitted Concept Development Plan along with the planned future use would be consistent with the C-1 Zone and uses permitted in the zone.
5. The planned and existing use would further buffer the planned Medium Density Residential to the west from the planned Industrial land use to the east, across U.S. 25.

We further recommend that the appropriate tables of the Comprehensive Plan text be changed along with the hand Use map change from Medium Density Residential to Commercial.

Carol Smith
Carol Smith, Chairman

Scott Hasselbring
Scott Hasselbring

Lawrence Collins
Lawrence Collins

Charlie Mitchell
Charlie Mitchell

Barry Neltner
Barry Neltner

R.W. Greene
R.W. Greene

CONCEPT DEVELOPMENT PLAN

Property Location: 8560 Dixie Highway
Florence, Kentucky

Owner: Russell and Sarah Stephenson
1188 Frogtown Road
Union, Kentucky 41091

Ownership Documentation: Deed attached

Current Zone: SR1

Requested Zone: C-1

The Concept Development Plan for this request consists mainly of a request by the owners to return the subject property to the zone as it existed on June 27, 1978 when a construction permit was issued. The permit was issued in conformance with then existing zoning regulations allowing the construction of commercial buildings, in this instance an Ice Cream Parlor.

As a non-conforming use, it is understood that no further additions may be made to the facility however inside eating arrangements are desired to be added onto the current building. In addition to that restriction, should the business be offered for sale, the non-conforming status would preclude sale until such time as expansion became available.

In addressing the "Concept Development Plan" requirements of the Planning Commission, items 1 through 5 are addressed simply by stating no changes to the existing property will occur. The only exception to this would occur when eat-in facilities are constructed. This minor partitioning of the building is shown on attachment #2. Pictures showing current use of the property are attached as #3. All parking spaces remain as currently existing.

In response to item 6 of the requirements, this request can be viewed only as complementary to the Comprehensive Plan in that it provides one of several types of buffer zones between Industrial activity and Residential use. Current zoning across U.S. Rt25, a major arterial highway, is Industrial One, and is presently being offered for sale as such. This property is just 60 feet (the right of way distance of US25) from the property in question.

There will be no further improvements to the property except as noted.

Sarah Stephenson

KNOW ALL MEN BY THESE PRESENTS: That

FLOYD MARTIN and THERESA MARTIN, husband and wife

for and in consideration of Five Thousand Dollars (\$5000)

THIS INSTRUMENT PREPARED BY
Robert F. Barrett
ROBERT F. BARRETT
ATTORNEY AT LAW
FLORENCE, KENTUCKY

Property Transfer Tax Paid \$5.00
JERRY W. ROUSE, Clerk *JWR* D.C.

the receipt whereof is hereby acknowledged, do es hereby bargain, sell and convey to the said
RUSSELL STEPHENSON and SARAH STEPHENSON, husband and wife,
for and during their joint lives with the remainder in fee simple to
the survivor of them, his or her
heirs and assigns forever, the following described real estate, lying and being in Boone County, Kentucky to-wit:

Grantee Mailing Address RR2, Frogtown Road, Walton, Kentucky Group No. 342
Present Street Address U.S. Highway 25, Florence, Kentucky Plat No. 2/51

Being all of Lots 12 and 13 of the F. Martin Subdivision as shown on
the plat for said subdivision which is recorded in Plat Book 2, page
51 of the Boone County Court Clerk's records at Burlington, Kentucky.
Said lots front fifty (50) feet on the U. S. Highway and extend back
between parallel lines a distance of two hundred (200) feet.

This property is conveyed subject to all restrictions contained in
prior deeds and on public record.

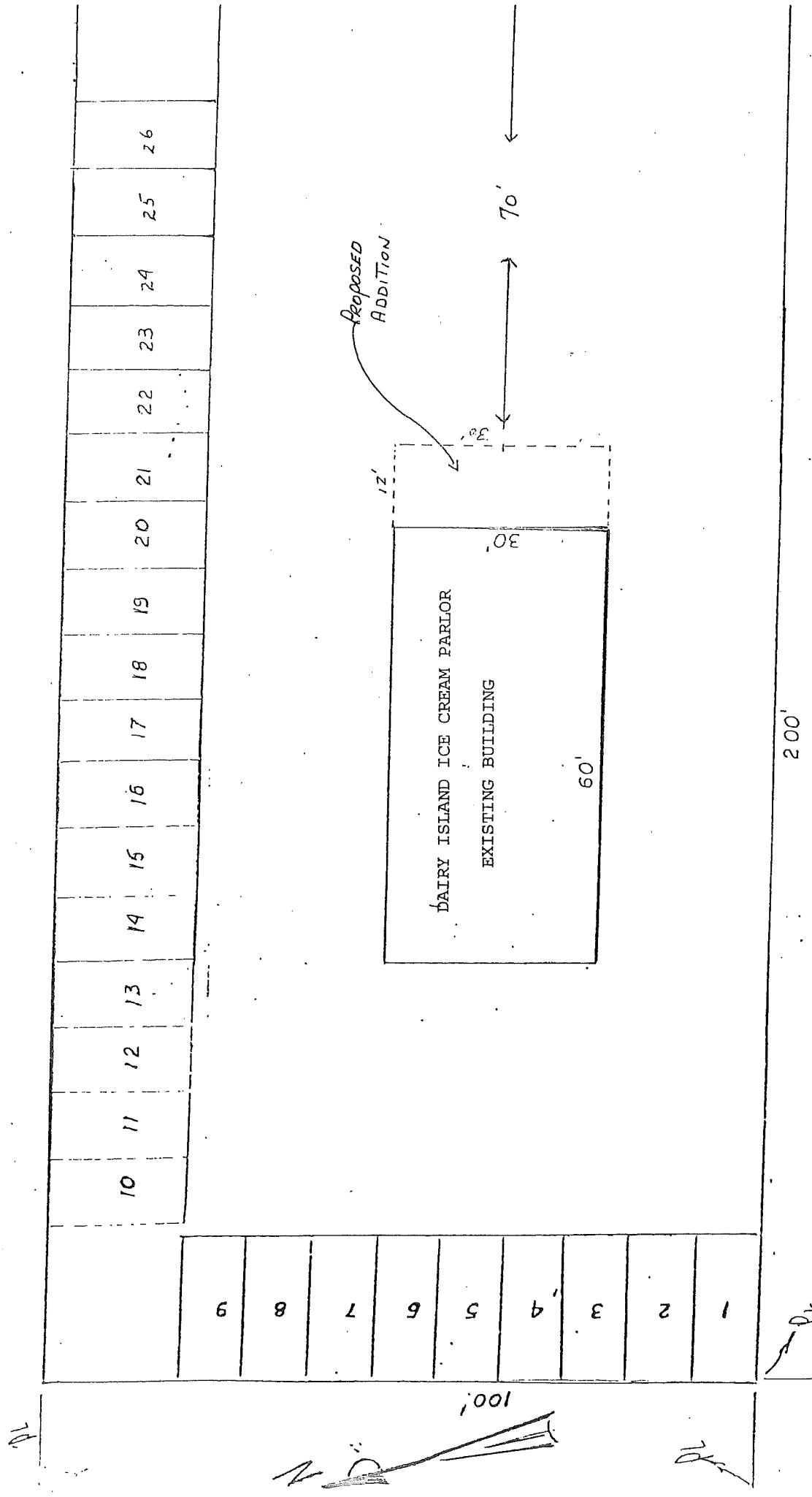
Lot 12

Being part of the same property conveyed to Grantors herein by deed
recorded 28 November, 1949 in Deed Book 94, page 41 of the Clerks
records at Burlington, Kentucky.

Lot 13

Being all of the same property conveyed to the Grantors herein by
by deed recorded 5 day of September 1974 and recorded in deed book 210 page 273, in the
office of the Clerk of the Boone County Court, Burlington, Kentucky.

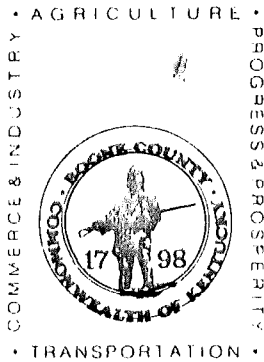
Together with all the privileges and appurtenances to the same belonging. To have and to hold the same to the said
RUSSELL STEPHENSON and SARAH STEPHENSON, husband and wife, for and during
their joint lives with the remainder in fee simple to the survivor of them,
his or her



DRAWING OF PROPOSED ADDITION TO DAIRY ISLAND ICE CREAM PARLOR

BOONE COUNTY, KENTUCKY 8560 DIXIE HIGHWAY

AUGUST 1983



JOHN WEAVER
COMMISSIONER

IRENE PATRICK
COMMISSIONER

RONALD ROBINSON
COMMISSIONER

TERRY ROBERTS
COUNTY JUDGE/EXECUTIVE

TELEPHONE: (606) 334-2240

COUNTY OF BOONE
2950 EAST WASHINGTON SQUARE • BURLINGTON, KENTUCKY 41005

November 1, 1983

Mr. Paul Kroger, Chairman
BOONE COUNTY PLANNING & ZONING COMMISSION
2950 Washington Square
Burlington, Kentucky 41005

Dear Paul:

RE: Ordinance No. (920.38)

The Boone County Fiscal Court, at its meeting held 10/18/83, voted unanimously to approve and adopt Ordinance No. (920.38), an Ordinance adopting a Map Amendment for a zone change from (SR-1) to (C-1) for property located on U.S. (25) as recommended by Planning & Zoning Resolution No. (R-22-83).

Attached please find a copy of said Ordinance of which the effective date is the date published, 10/27/83.

With kindest regards,



Terry Roberts
BOONE COUNTY JUDGE/EXECUTIVE

TR:rm

CC: ✓ Charles Lynn, Director
Planning & Zoning

ATTACHMENT

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT ADOPTING A MAP AMENDMENT TO THE BOONE COUNTY, KENTUCKY, ZONING MAP, SUCH MAP AMENDMENT BEING A ZONE CHANGE FROM SR-1 to C-1 for property LOCATED on U.S. (25), a one-half acre tract.

WHEREAS, the Boone County Fiscal Court received a request from the Boone County Planning Commission for a map amendment for a zone change from SR-1 to C-1 for certain real estate which is more particularly described below, and;

WHEREAS, the Boone County Fiscal Court has recognized the conducted public hearing by the Boone County Planning Commission serving as a due process trial-type hearing and its findings recommending approval of the zone change request, and;

WHEREAS, the Fiscal Court of Boone County, Kentucky, deems it necessary to enact this Ordinance, to preserve and protect the health, safety and convenience of the inhabitants of Boone County pursuant to the Fiscal Court's authority under KRS 67.083 and Chapter 100 of the Kentucky Revised Statutes.

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

SECTION 1

That the zone change for the real estate which is more particularly described below shall be and is hereby approved and adopted, this map amendment being a zone change from SR-1 to C-1. The real estate which is the subject of this zone change recommendation is more particularly described as follows, to wit:

See attached legal description which is incorporated by reference as if fully set out herein.
(ATTACHMENT - EXHIBIT #1)

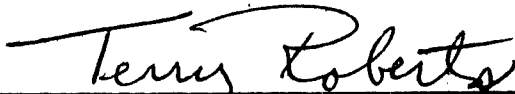
SECTION II

That as a basis for the recommendation of approval and adoption of the zone change request the findings of fact of the Boone County Planning Commission as set forth in its minutes and official records for this zone change request shall be and are hereby incorporated by reference as if fully set out in this Ordinance.
(ATTACHMENT - EXHIBIT #2)

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

Introduced, seconded and given first reading on the 4th day of Oct., 1983.

Adopted by the Fiscal Court of Boone County after second reading at a regular meeting on the 18th day of Oct., 1983, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the Boone County Fiscal Court Clerk and declared to be in full force and effect.



Terry Roberts
Boone County Judge/Executive

ATTEST:

Jerry W. Rouse
Boone County Clerk

Submitted by:



Larry Crigler
County Attorney

10/27/83

(DATE PUBLISHED)

Exhibit #1

SECTION I

That the zone change for the real estate which is more particularly described below shall be and is hereby recommended for approval and adoption, this map amendment being a zone change from Suburban Residential One (SR-1) zone to Commercial One (C-1) zone. The real estate which is the subject of this zone change recommendation is more particularly described as follows:

Being all of lots 12 and 13 of the F. Martin Subdivision as shown on the plat for said subdivision which is recorded in Plat Book 2, page 51 of the Boone County Court Clerk's records at Burlington, Kentucky. Said lots front fifty (50) feet on the U.S. Highway and extend back between Parallel lines a distance of two hundred (200) feet.

FINDINGS OF FACT

Exhibit #2

1. The current land use of the property existed prior to the adoption of the new zoning regulations.
2. Due to this use existing and that it is compatible with current surrounding land uses, we felt the current zoning is inappropriate and improper.
3. The text of the Comprehensive Plan does take into consideration where some current Commercial uses are not in conformance with the Plan. And that continuance of and expansion of this use would not adversely affect current and planned surrounding land uses.
4. The submitted Concept Development Plan along with the planned future use would be consistent with the C-1 zone and uses permitted in the zone.
5. The planned and existing use would further buffer the planned Medium Density Residential to the west from the planned Industrial land use to the east, across U.S. 25.