

APPLICATION FOR ZONING ACTION

TO:  Boone County Planning Commission  City of Union Board of Adjustme  
 City of Florence Board of Adjustment  City of Walton board of Adjustmen  
 Boone County Board of Adjustment  Zoning Enforcement Officer

FOR:  Zoning Text Amendment  Zoning Map Amendment  
 Comprehensive Plan Change  Preliminary Plat Approval  
 Improvement Plat Approval  Final Plat or Deed Plat  
 Conditional Use Permit  Site Plan Review  
 Concept Development Plan  Historic District Overlay  
 Preliminary Development Plan  Sign Permit or Zoning Permit  
 Change of Non-Conforming Use  Appeal or Variance  
 Design Review Board Hearing and Certificate of Appropriateness

Applicant: Wiseway Inc, Rodney S. Cain →  Owner  
George Donnelly Estate, Larry Borcham →  Agent  
Address: P.O. Box 428, Burlington, Ky. 41005 1/2 LARRY  
BURCHAM Telephone: 586-6223

Location: Wiseway - 8301 DIXIE Highway, FLORENCE, KY  
Donnelly Prop - 8319 Dixie Highway, Florence, Ky U.S. 25

Name of Property Owner: Wiseway Inc + George Donnelly Estate  
Address of Property Owner: AS ABOVE

Zone: SR-1 Area in Acres: 8.578 ACRES ml  
Deed Book: Wiseway 249 Page No. 288 Group No. 2050  
Donnelly 277 Page No. 426 Group No. 2050

Description of Request: C-3 to conform with use of property prior to the placing of the present zoning.

Property Owner's Signature: [Signature]  
Date MAY 15, 1984 Applicant's Signature: Larry S. Borcham

FOR PLANNING COMMISSSTON USE:  
Application date and fee of \$ 386.31 Received: 5/15/84 Complete  
Referred to: \_\_\_\_\_ For Meeting Date: \_\_\_\_\_  
Action: \_\_\_\_\_ Date: \_\_\_\_\_

ZONE CHANGE REQUEST FOR PROPERTY AT  
THE CORNER OF U.S. 25, DIXIE HIGHWAY AND  
RICHARDSON ROAD, BOONE COUNTY

This is a zone change request for a more or less 8.578 acre site located at the southeast corner of U.S. Highway 25 (Dixie Highway) and Richardson Road, Boone County. This tract consists of 7.078 acres owned by Wiseway, Inc. and more or less 1.5 acres owned by the George Donnelly Estate. The applicants are the two property owners and Larry Burcham acting as agent. This request is for a map amendment to change their current zoning of Suburban Residential One, SR-1, to Commercial Services, C-3, for both properties.

The adjoining property to the north, across Richardson Road, is zoned Suburban Residential One, SR-1, and Industrial Two, I-2. To the east is current Industrial One, I-1 zoning. To the west is zoning of Suburban Residential One, SR-1. And to the south is current zoning of Commercial Services, C-3.

The current land use of the subject property is a plumbing and electrical supply and an unused residence. Adjoining to the north is Commercial. To the east is the railroad and beyond is undeveloped land and a church. To the south is residential and beyond it is Commercial. And to the west is Bi-County Coop, a residence, a fishing lake, and a small motel.

The Boone County Comprehensive Plan Land Use map shows a planned future land use for this subject tract along with all adjoining properties as Industrial. The text of the Comprehensive Plan makes the following statements concerning this planned Industrial use:

The planned industrial land use category includes all types of mineral extraction, power generation, warehousing, distribution centers and light and heavy manufacturing activities. Industrial growth is a major factor in overall growth potentials for the County.

Opportunities for industrial growth are great and much land in Boone County has already been committed to major industrial development. Table 3 identifies the industrial growth potential (excluding extraction and power generation) in the County and potential industrial employment which could reach 34,260 employees.

Continued development of the Northern Kentucky Industrial Park and Mineola Industrial Park as well as expansion of existing operations therein will provide a major source of growth.

Expansion of the Florence urban service area south of the Northern Kentucky Industrial Park will support industrial development planned east of U.S. 25 extending to just

north of Walton. Industrial land uses should be permitted once adequate infrastructure is available in this area or provided as part of the proposed development. Warehousing type industrial development, which would be most compatible with residential uses west of U.S. 25, is recommended for the east side to U.S. 25, extending to the Southern Railway. East of the railroad, rail-oriented light manufacturing, processing and warehousing uses are encouraged. Also in the Florence urban service area, industrial use is planned west of Houston Road, south of Turfway Road, southeast of the Airport. (3.5)

Also contained in the Comprehensive Plan, Transitional Development Patterns have been planned for. These statements are:

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. (3.17)

As of the preparation of this report no Concept Development Plan, as required by the Commission (of which elements have been waived), has not been received.

Water could be made available from an existing main along U.S. Highway 25. Plans to expand useage will be required to be reviewed by the Boone County Water District.

This property lies outside of an existing Urban Service Area. Future usage of existing services will need review and approval for additional useage or expansions.

The Zoning Order: Boone County, Kentucky makes the following statements concerning the purpose of the C-3 zone:

The purpose of the commercial service district is to provide, control and centralize those types of commercial activities which: a) depend on and generate high vehicular accessibility, visibility and traffic; and/or b) large outdoor single-purpose storage, display and parking areas; and c) which do not fit the scale, character, trade area and general objectives of the other commercial districts in this article or the employment districts defined in Article 11. Such districts will generally be organized about regional or major community trade areas. Sites will be of suitable lands which can be appropriately

buffered from surrounding urban uses. Districts will be located to have direct visibility from expressways and/or major arterials. District facilities and plans should be organized to accomplish as much clustering of compatible uses, sharing of parking and access, signage, lighting and other spaces and improvements as possible.

Should this Planning Commission decide to recommend approval for this request or the Boone County Fiscal Court would eventually approve this request, the following changes would be recommended in the Comprehensive Plan:

1. Change the Land Use map from Industrial to Commercial.
2. Change Tables 1, 3, and 4 by the acres involved in the land use change, along with their associated figures.
3. Consideration to add wording within the text should be made to support any land use change.

*Alvin "Chip" Block*

ALVIN "CHIP" BLOCK  
ZONING ENFORCEMENT OFFICER

ACB/sr

Chairman Kroger asked if the Commission had any further questions. No one responded. Chairman Kroger asked if there was anyone in the audience in behalf or in opposition of the request that would like to speak. No one responded.

Chairman Kroger informed the applicant that the request would be on the Agenda, June 20, 1984, at 8:00 P.M. for action.

Hearing no further comments, Chairman Kroger adjourned the Public Hearing at 8:45 P.M.

Chairman Kroger proceeded to the request of Wiseway, Inc. owner; and Larry Burcham, Agent for George Donnelly Estate, owner for a zoning map amendment for property located at 8301 and 8319 Dixie Highway, Florence on an 8.578 acre site from Suburban Residential One (SR-1) zone to Commercial Services (C-3).

Mr. Block gave his Enforcement Officer's Report, slide presentation and a brief summary of the Concept Development Plan submitted by the applicant.

Chairman Kroger asked if there was anyone in the audience in behalf of the request.

Mr. Cain and Mr. Larry Burcham stepped forward. Mr. Burcham stated that because of the request to waive the Concept Development Plan on the 7 plus acre tract, we have discussed it to some degree and that he really had nothing else to add.

Chairman Kroger asked the Commission if they had any questions.

Mr. Buse stated that Section 1,4 and 6 were waived of the Concept Development Plan. He stated the sections that were not waived were Section (2); which provides for public or private circulation within the district; Section (3); which is the arrangement of uses, structures, buildings and other improvements. He stated that apparently there are no buildings or structures to go on this property, based on what's written. He continued that Section (5); which is for the appearance of the visual design aspects between the districts and its surroundings. He expressed his concern that this items were not addressed in the concept plan and that the only mention of the use of the property was some outdoor storage and no mention of structures, due to that, regardless whether or not the zone change is permitted the applicant will not be able to build and Mr. Buse wanted to make sure the applicant understood that. Chairman Kroger pointed out that the Commission as a whole has not had an opportunity to review

concept plan.

Mr. Cain stated that pertaining to the access to the property, there is presently a 24 foot wide 16 inch culvert that provides access to the property now, approximately 450 feet from Richardson Road, and he plans to leave it for an access. He stated he would make a cut at the rear of his present property to gain access to the adjoining property he will be purchasing. He continued that he plans to raze everything there. He stated his company has grown from eleven (11) to thirty (30) employees in the past five years. He stated he completed his building in 1979 and the property he plans to purchase in in Estate at this time. He stated he has no specific plans at this point other than to clean up the property and use it for some storage and access to the back of his property, that is his present plans. Chairman Kroger stated the comments made by Mr. Cain can be accepted as part of the Concept Development plan, and conditions of the zone change. Mr. Cain stated he agreed to his statements as being part of his concept plan and that he understood he would have to come before the Commission for another Public Hearing if he had a significant change in his concept development plan which would be determined by the Commission.

In response to Mr. Cain, Mr. Block stated if he expanded his principally permitted use of the property he presently is on, he would have to come before the Commission for Site Plan Review, if you are granted the Commercial Services (C-3) zoning. Mr. Cain stated that he understood and had no problem with anything that has been said.

Chairman Kroger asked if there was anyone else that had any comments in behalf or in opposition of the request. No one responded. Chairman Kroger asked if any members of the Commission had any comments. In response to Mrs. Smith, Mr. Cain stated the Wiseway property fronts U.S. 25.

Chairman Kroger asked if there were any further comments. No one responded. Chairman Kroger informed the applicant that the request would be on the Agenda of June 20, 1984, at 8:00 P.M. for action.

Hearing no further comments, Chairman Kroger adjourned the Public Hearing at 9:03 P.M..

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING MINUTES

JUNE 20, 1984 8:00 P.M.

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Chairman Kroger called the meeting to order at 8:00 P.M.. Eleven (11) members present. Messers. Collins, Godsey, McMillian and Mitchell were absent. All staff members were present.

Mr. Barnett moved to approve the minutes of June 6, 1984, Business Meeting and June 13, 1984 Public Hearing minutes. Mrs. Smith seconded. Chairman Kroger asked if there were any comments. Mr. Neltner noted a correction be made on June 13, 1984 Public Hearing minutes, page 13; stating "indication by 1990 that all bags be plastic", should stated, "about half of the bags be plastic", he further noted that page 14; stated "plastic consumers", should read "plastic bags." Mr. Barnett moved that he Public Hearing minutes of June 13, 1984 be approved with the corrections; Mr. Smith seconded. The motion carried unanimously.

BILLS:

Mrs. Baker read the following bills to be paid; Pip, printing zoning regulations, \$540.00; Boone Co. Finance, Xerox Use May thru June 19, 1984, \$331.68; Boone Co. Finance, postage, May thru June 19, 1984, \$270.31; Scot Business Machine, ribbons and rental, \$89.96; Bi-County, sign posts, \$9.50; Village Square, supplies, \$29.63; Ferd Wagner Co., supplies(House No.), \$31.40; Lanlor Office Products, supplies(House No.), \$25.62; Staff salaries and benefits.

Mr. Jone moved that all bills be paid. Mr. Buse seconded; the motion carried unanimously.

REPORTS:

The commission reviewed the Zoning Enforcement Officer's report. Mr. Block noted an addition to the report being a letter requesting information to be submitted pertaining to occurrences on the property located at the corner of Houston Road and Ky. 18 and that they also address the soil erosion control measures to be taken due to the property being left exposed. In response to Chairman Kroger, Mr. Block stated the Union Swim Club violation is for a mobile sign, but they are going to install a permanent double-faced sign. He continued that Dude's Bar-B-Q is also in violation of a mobile sign and will be notified. Mr. Davis requested that Mr. Block review the mobile sign situation along U.S. 25.

COMMUNICATION:

Chairman Kroger noted a letter received from Ms. Castellini which she has since withdrawn; also a letter from Morris & Bressler.

AGENDA ITEMS:

Chairman Kroger proceeded to the first item on the Agenda the request of Frisch's Restaurants, Inc., for Site Plan Review for property located on Turfway Road, Florence in a Commercial Services (C-3) zone, for the purpose of building a restaurant.

Mr. Block presented his Enforcement Officer's Report. Mr. Jenkins stated he concurred with the Enforcement Officer's Report with the addition that the Concept Development Plan shows ultimately a retention basin for the entire site and recommended that the retention basin be part of the initial development. He continued that they are essentially extending existing culverts into the area where the proposed retention basin is, but do not indicate it being part of the first phase. Mr. Jenkins stated it would help, not only from erosion standpoint, but would get the retention basin in place so whenever additional development takes place the basin will be there.

Mr. Lynn read the Committee report which recommended approval with the condition of the building of the retention basin.

Mr. Giese representative of the request agreed to the stipulated conditions.

Mr. Buse moved that the request be granted based on the Engineers and Committee's Report. Mr. Barnett seconded; Mr. Viox abstained due providing topographical surveys to the applicant. The motion carried unanimously.

Chairman Kroger proceeded to the request of Mathis, Dallas, Frohlich, Agents for Mr. Herman Slusher, for a zoning map amendment from Urban Residential One (UR-1) to Urban Residential Two (UR-2), for property located at Old Stephenson Mill Road, Walton, on a .76 acre site, for the purpose of constructing a 12 unit apartment building.

Mr. Block summarized his Enforcement Officer's Report.

Mr. Lynn read the Committee Report which recommended approval.

Mr. Mathis, representing the Applicant, stated the problem with the topography of the land was discussed, specifically

the curvature. He stated he was advised by the Architect that the property can be graded down to road level which should improve the visibility of the entire corner, and would be further addressed during Site Plan Review.

Chairman Kroger asked if there were any further comments in behalf or in opposition of the request. No one responded.

Mr. Viox moved by Resolution that the request be granted based on Committee Report and be forwarded to the City of Walton. Mr. Jones seconded; Mr. Martin abstained due his association with Mr. Mathis. The motion carried; 9 yes, 1 no, 1 abstained; Mr. Delong voted no.

Mr. Viox moved by Resolution that if the zoning map amendment is adopted that all the necessary changes be made to the Comprehensive Plan and Text. Mr. Jones seconded. Mr. Martin abstained. The motion carried unanimously.

Chairman Kroger proceeded to the request of Wiseway, Inc., owner; and Larry Burcham, Agent for George Donnelly Estate, owner of a zoning map amendment for property located at 8301 and 8319 Dixie Highway, Florence on an 8.578 acre site from Suburban Residential One (SR-1) zone to Commercial Services (C-3).

Mr. Block presented his Enforcement Officer's Report. Mr. Lynn read the Committee Report which recommended approval.

Chairman Kroger asked if the applicant had any comments.

Mr. Cain questioned if the conditions pertained to both parcels of land.

Mr. Buse, Committee Chairman, stated if there were substantial changes on either parcels, a new Concept Development Plan would have to be submitted.

Mr. Cain stated he understood and agreed to the conditions.

Chairman Kroger asked if there was anyone else that would like to speak in behalf or in opposition of the request. No one responded.

Mr. Barnett moved by Resolution that the request be granted based on the Committee Report and be forwarded to the Boone County Fiscal Court. Mr. Greene seconded; the motion carried unanimously.

Mr. Buse moved by Resolution that if the zone change is adopted by Fiscal Court that the appropriate changes be made to Comprehensive Map and Text. Mr. Greene seconded; the motion carried unanimously.

Chairman Kroger proceeded to the request of Sunrise Federal Savings and Loan Association, owners, for a zoning map amendment for property located at 8114 Highway 42, Florence, on a 1.11 acre site, from Urban Residential Two (UR-2) to Commercial Services (C-3).

Mr. Block presented his Enforcement Officer's Report. Mr. Lynn read the Committee Report which recommended approval with conditions.

Mr. Tim Brandt, representing the applicant, stated he would like all the property to be rezoned to Commercial Services and that they had submitted two plans. He continued the first plan showed existing Sunrise Federal, but not the proposed car wash, and the second plan showed the proposed car wash which outlined the Sunrise building. He felt there was a mistake that the property was not originally zoned Commercial. Mr. Brandt stated he would like the property rezoned to Commercial Services and agreed if the office use for the existing Sunrise is changed, they would submit a new Concept Development Plan, instead of having to come back and have that parcel rezoned.

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

In response to Mr. Viox, Mr. Brandt stated Sunrise would continue to occupy the building, due to merging with Monmouth Federal, this office would be closed but didn't know the exact date. He stated they would make some other use of the building. Mr. Brandt stated he would agree to remove the term, "excess property" from the Concept Plan.

Mr. Buse reviewed the second Concept Development Plan depicting the use of the excess property, and stated if the Committee had previously reviewed the second plan they would have included it as part of the zone change request, but at the time they reviewed the most recent plan submitted which used the term "excess property". He stated if the Commission wants to incorporate the two plans together, he would be prepared to recommend the C-3 zoning be applied to both. He stated he was concerned about keeping the integrity of the Concept Development Plan.

Mr. Barnett expressed concern of granting a blanket C-3 zone for the existing structure allowing any use in the C-3 zone. He stated it is close to a residential apartment building and is not sure if the Commission would want any loud use in that building.

Mr. Buse, stated he agreed with Mr. Barnett's concerns, however, they would be limited to their Concept Development Plan, and any substantial change would require resubmission and a new concept development plan along with another Public Hearing.

Mr. Buse pointed out that if there was some other use , they would have to come back for a Public Hearing, whether it is a modification of Concept Development Plan or rezoning request.

In response to Chairman Kroger, Mr. Brandt stated the use of the exiting building is Life Federal.

In response to Chairman Kroger, Mr. Block stated a saving and Loan is not addressed in the permitted uses of C-3 zone and it would be stretching the interpretation to permit the use.

Mr. Buse stated perhaps we should go back to original Committee report and if some other use is determined, Mr. Brandt would have to come back one way or the other.

Mr. Brandt pointed out there has been a bank at this location for some time and service stations since the 60's and felt it should be changed to C-3.

Chairman Kroger expressed concern of rezoning to C-3 and creating a non-conforming status, and doubted if a C-3 zone would accept this type of existing business. He stated from comments at the Public Hearing, they are going to move out, then some unknown use that will be in C-3. He stated in a permitted use situation we would be hard pressed addressing what could go in that building. He felt the Committee Report is a substantial document recommending a split on the zone.

Mr. Buse moved by Resolution to recommend to the Common Council of the City of Florence that approval of the zone change on subject property as outlined in findings of fact in Committee report with the restriction that are listed. Mr. Davis seconded. Motion carried unanimously.

Chairman Kroger proceeded to the request of Duro Corporation, Agent for Finley & Bonnie Jacobs, for a zoning map amendment for property located at Box 172, R.R. # 1, Walton, from Industrial One (I-1) to Industrial Two (I-2).

Mr. Block summarized his Enforcement Officer's Report. Mr. Lynn read the Committee report which recommended approval with conditions.

Chairman Kroger asked if there were any representatives of Duro Corporation present and if they had any comments.

Mr. Moore stepped forward and requested a clarification of the conditions.

Mr. Buse stated as Committee Chairman for this report, your request is subject to a concept development plan. He continued that the concept development plan shows a gravity flow sewer. Mr. Buse stated if in fact a gravity flow sewer is not built

the Concept Development Plan is not legal and you would have to come back for a change. He continued in effect it is a condition, because if there is any major changes in the plan this Commission will not approve the site plan review.

Mr. Wilson stated the Committee looked at the representations made at the public hearing as being the applicants concept development plan and the applicant is agreeable to those as conditions of the zone change. He continued if they would change, the applicant would have to come back through the public hearing process.

Mr. Moore stated he understood the conditions and agreed to them along with the conditions that relate to restrictions applicable to the remaining property.

Chairman Kroger asked if there was anyone who would like to speak in opposition or seek information.

Mrs. Thelma Castellini stepped forward and stated she would begin with the Comprehensive Plan of Boone County. She stated she would give first hand absolute fact, being one of the people involved at the time along with the people in the Richwood area. She continued that all kinds of promises were made and to show their good intentions and honor we were provided with a piece of paper known as deed restrictions. She continued at that time the Commission decided that the Comprehensive Plan had not yet been put into effect although it had been accepted. Mrs. Castellini stated this plan was underwritten by County taxpayers money at a cost of approximately \$75,000.00. Mrs. Castellini stated the Comprehensive Plan in its original form did not indicate that Richwood and the Jacobs farm or anybody elses farm would be industrial. She continued then the Comprehensive Plan was amended and was amended to read warehousing type industrial development, which would be most compatible with residential uses west of U.S. 25 and was recommended for the east side of U.S. 25, that is what we are talking about, extending to the southern railway. Mrs. Castellini continued it further stated east of the railroad, rail oriented light manufacturing, processing and warehousing uses are encouraged, also in the Florence urban service area industrial uses. It continued that in the same area just north of Walton, somewhere between Industrial Road and Walton, Industrial land uses should be permitted once adequate infrastructure is available in this area or provided as a part of the proposed development. Mrs. Castellini stated anyone who spends millions of dollars on one side of a railroad, whether it is in road, sewer lines, electric power or gas lines when you get to the railroad you have a problem. The road traffic is part of the infrastructure. She continued it might be completely and totally adequate for the side of the railroad where this is proposed, but on the side where the people have to go up and down U.S. 25 and egress and ingress to the expressway, two holding lanes north and south and an automotic railroad gate won't be adequate. Mrs. Castellini stated they say it is 1500 feet, by the time you take out Old Lexington Pike and getting over there, you are going to be lucky to have 1000 feet of holding space to service a minimum of 100 cars going in and out twice everyday, to and

from work. We are talking about the truck traffic crossing the railroad, deliveries and the normal kind of traffic generated by any kind of plant. Mrs. Castellini stated not much has been suggested to alleviate an already overdeveloped highly concentrated commercial area at the interchange and it will be made worse. Mrs. Castellini continued we read a lot about the Kentucky Department of Transportation and that we have somebody in there now and are supposed to have a direct line right to the tope. Mrs. Castellini stated the funds may or may not come. She continued we have nothing but committment, nothing in writing. She stated she also had a committment five (5) years ago. Mrs. Castellini stated she didn't know where the Department of Commerce suddenly came up with five (5) million dollars, but if you take five million dollars and put in a sewer line and a road on the wrong side of a railroad track, of course it will be beautiful on that side but what are we doing for the other side. She stated she had read the uses of Industrial Zone One and Industrial Zone Two and the differences in use is staggering. She continued everybody wants industry on somebody else's backyard or over somebody elses fence. She stated when Mr. Rolfes and Camco appeared before this Commission they wanted to put up a beautiful soap factory on the east of the railroad. Mrs. Castellini stated the land was zoned agriculture and in order to put up any plant it had to be rezoned industrial. Mrs. Castellini stated that these covenants were represented to the area residents as legally binding and enforceable for evermore, there was no question. She continued they were not as Mr. Robinson told you last week, they were not contingent on one thing. She further stated if there way any basis at all, when the covenants went off of the land, it should have reverted, that instance, to agriculture. The restrictions were on the land, not Camco. Mrs. Castellini stated it was used as a selling point to sway this Commission, it was used further in the Fiscal Court as a means to beat down the opposition. Mrs. Castellini stated she is now told this piece of paper is not worth what it is written on, and now we come along with the same County Attorney, and the same council trying to sell us another bill of goods, by applying zoning restrictions. Mrs. Castellini stated in regard to Industrial use, Industrial One is supposed to be light, and Industrial Two is heavy. We are not talking about 67 acres, but a minimum of 240 acres and the State Commerce Department are talking about 1000 acres of heavy industry, in spite of the fact that the Kentucky Department of Natural Resources and the Camco Report from 1979 and all other sources designate it as an environmentally sensitive area. Mrs. Castellini felt that these restrictions that are being battered about to protect the people should not be considered in the Commission's vote, because they are not worth anymore today as zoning regulations than they were five years ago as deed restrictions. They got them on and they will get them off, it is just that simple, and who is going to be around to watch every move that is made. Mrs. Castellini stated we are talking aproximately 1200 acres of land just one by one going down the tube and it is a staggering thought. Mrs. Castellini stated she thought more acceptable words for the deed restrictions are collusion and conspiring to defraud, that is pretty plain. Mrs. Castellini continued

she believed that they conspired maybe with good intentions, certainly it could not be any less than duplicity. Mrs. Castellini asked how much the people were supposed to take. She continued it is a farm area, there are farmers that are living there, and someone has decided to transplant an entire new way of life right in the middle of it. She stated when she said industry is fine and it is always just great as long as it is somebody else's backyard. Ms. Castellini stated a gentlemen with the Camco situation somehow has purchased the land around her so that instead of bordering this particular site she is separated by a zone. Mrs. Castellini stated she had never heard yet of buying a piece of ground for a factory in an "L" shape but that is exactly what has happened, and now there is friction between him and Duro, because he wants to put in some kind of unsitely autobody. Ms. Castellini felt the application itself should not be considered, because if men's words are any good at all, then the property should have reverted to agriculture the instance there covenants are removed, but it was the Planning Commission and Fiscal Court who decided after that that it would be light industrial, and felt it should remain light industrial. Mrs. Castellini stated she had nothing to say about Duro, but did know that the ink that is used in stamping and decorating plastic bags is still causing problems in Kentucky at two different places. She continued it might be all right to take it out in barrels or flow it out into somebody elses sewer treatment plan through a gravity fed sewer line and let somebody else worry about it. Ms. Castellini questioned how they could get that much water into the sewer system if the treatment plan won't handle it, it must equalize. Mrs. Castellini stated she would put not one shred of faith, in fact less, because she had been done in once, in the new restrictions that they are going to put on themselves and did not feel they should be asked to live with them.

Chairman Kroger asked if there was anyone else who would like to speak in opposition of the request.

Mr. Robert Benton stated the attorneys said the way the restrictions were removed is a very fine legal matter. Mr. Benton stated he did not have the money to pursue the matter or he would. He continued that he did not think restriction should be imposed and promises made to the people that will not be kept.

Mrs. Robert Benton stated they did go to a plastic plant in Dearville and as far as she and her husband is concerned if they do what was done there, it is not a pollutant of any kind, the only thing is it is very ugly where the silos and the tracks are. She continued she did think in 1979 they were had, and all they have to go on now is the Commission's word as gentlemen that you will not put anything next to us that is going to pollute the air that we have to breath.

Chairman Kroger asked if there were any further

comments. No one responded. Chairman Kroger asked the Commission if they had any comments.

Mr. Buse stated he would like to comment with regard to Mrs. Castellini's presentation. Mr. Buse stated the Commission approved the property knowing that deed restrictions were being put on the property. He continued the Commission expected legally for them to last, he stated he could say that for himself having been a member of the Commission at that time. He continued that they are not on the property is a legal problem not something this Commission had anything to do with. He further stated in this case, however, they will become conditions of the zone change. He stated the Commission could not handle the legal problems involved but can handle the conditions that are put on this. Mr. Buse pointed out only this Commission can change these conditions but that it would take a majority of 15 people to change those conditions. Mr. Buse added he was not stating they would never change; everything on this earth changes, but he stated he did not think this Commission is likely to change them unless there is good, sound and substantial reasons to do so. In response to Mr. Buse, Chairman Kroger stated he thought all of the parties involved have copies or have read the conditions.

Mr. Buse stated he wanted to make sure that they are aware and that those conditions will become of record not only on the 67 acres that we are considering on the zone change but by agreement of the applicant on the entire 245 acre tract. Mr. Buse stated with regard to the road conditions that he was as upset about the road conditions as anyone here. He continued at some point you have to make a decision and that it is true he is relying on Dr. Poore's statement to him that the Transportation Department would not only change the problems that exist today at the Richwood Interchange, but provide adequate road facilities for egress and ingress as future development occurs. Mr. Buse stated at some point in time you have to take people's words for things, nothing happens really until something is built. He continued we cannot expect them to do it unless this zone change is approved and if, in fact, the promises made to him are put into effect that the entire situation will be better than if we let it remain as it is in regard to road conditions. Mr. Buse stated he thought we would see adequate lanes put in on Richwood Road and along U.S. 25 to handle the traffic which has become a major problem now because of the three truck stops. He stated this is not a simple and easy decision to make and he thought in the long run it is the proper one. Mr. Buse further stated if the property had reverted back to agriculture then what we were looking at would be different. Mr. Buse stated as a member of the Commission, that if in the future the concept development plan, if for instance the gravity flow sewer was not included and the treatment would be by a sewage package plant and if in fact there is a reapplication for a change in the concept development plan to show that he would vote against doing that.

Mr. Buse added one of his reasons for voting for this is to provide sewers to that property which are going to mitigate the problems that would exist with a package sewer plant. Those are problems throughout this County and State. Mr. Buse continued if it was not included he would not be in favor of it, but it is included and is a condition. Mr. Buse stated that must be built or a new concept development plan has to be submitted. Mr. Buse stated he could tell the applicants today if that new concept development plan comes in which does not include gravity flow sewers, he personally would vote against it. He stated he did not know how the other members of the Commission feel. He stated he felt with what they have in front of the Commission that it is proper to grant this zone change.

Chairman Kroger asked for any further comments.  
No one responded.

Mr. Delong moved by Resolution to recommend approval of the request with conditions outlined in the Committee Report along with the Proposed Restrictive Conditions submitted at the Public Hearing and that it be forwarded to the Boone County Fiscal Court; Mr. Buse seconded.

Chairman Kroger called for any further discussion.  
No one responded. The motion carried unanimously.

NEW BUSINESS:

Chairman Kroger accepted the following items as New Business which he referred to Committee:

Request of Thomas J. Budke, Agent for Gulf Oil Corporation, for Site Plan Review for property located at the SW Quadrant of I-75 and Ky 18, Florence, Ky. on a 21760 square foot tract, zoned Commercial Services (C-3), for the purpose of redeveloping site to use as a convenient store in connection with existing gasoline sales plus carwash.

Request of Eddie L. Tanner, et al, owner for an Improvement Plat Approval for property located at the intersection of Ariens Drive and Ky. 20, in an Industrial One (I-1) zone on a 3.35 acre site.

Request of Eddie L. Tanner, et al, owner for a Preliminary Plat Approval for property located at the intersection of Ariens Drive and Ky. 20, in an Industrial One (I-1) zone on a 3.35 acre site.

Request of Beckman Construction, Inc., Agent for C. Alfred Roberts, dba, A & R Land Company, for Site Plan Review for property located at 1663 Production Drive, Burlington in an Industrial One (I-1) zone on a 4.39 acre site.

Chairman Kroger proceeded to the request of Extension Services, Agent for Mall Road Square Ltd., for site plan review for property located at Mall Road Square Shopping Center, Mall Road and U.S. 42, Florence, on a .1 acre site zoned Commercial Two (C-2) for the purpose of utilizing existing parking lot for tailgate market.

Chairman Kroger stated before the Commission is a request to accept this application as new business and also take action this evening. Chairman Kroger asked if there was anyone present to represent the applicant.

Mr. John Mowbray, Boone County Extension Agent for Agriculture, working for Boone County through the University of Kentucky stepped forward and stated that their agency along with the Soil Conservation Service, Agents of U.S. Department of Agriculture are sponsoring this tailgate market. Mr. Mowbray stated that Boone County is recognized as being one of the outstanding commercial horticultural areas of the State of Kentucky. It has some of the best producers in the Northern Kentucky area. Unfortunately one of the biggest problems of production of produce is marketing. Cincinnati is considered one of the top six (6) fruit and vegetable markets in the country and because of this, much produce is trucked into the Greater Cincinnati Area. Unfortunately the produce that's grown in this part of the Country is ready for market about the same time most of the produce in the rest of the Country is available, that brings about a glut in the market and reduced prices. What we are asking for is simply permission to establish a tailgate market on an existing parking lot. We are not looking for any permanent structures, we are not even necessarily looking for a permanent zone change. We are looking for permission to sell produce for as long as the Extension Service or Soil Conservation is associated with the tailgate market. In anticipation of this we have set up a tailgate market Committee which has established rules and guidelines and the market will be limited to the area outlined on the site plan. We will limit no more than twenty (20) sellers and would be two evenings per week, Wednesdays and Saturdays from 3:30 til dark. We would also like to have permission to put up an "A-Frame" type of sign 4'X 6' only during hours of operation of tailgate market. Because we are agencies of the government, and we do not have funds for fees, we are asking that the Commission waive the fee for this request. Also because of the limited time of our marketing in this part of the Country, July thru October, we would ask that you act on this tonight. This might give us adequate time to establish a membership in the market or to do any type of advertising. He stated he didn't think any of the businesses in the Shopping Center would be adversely affected by their location, they are in the extreme front of the shopping area, there is very little parking ever done there and parking of customers for the tailgate market would not interfere with parking for established businesses, nor traffic flow. Mr. Mowbray stated that Mr. David Droesch, representative of Chelsea Moore, which manages the shopping center, has been in contact with all the businesses within the center and no one has opposed the project. They do anticipate it might bring in some extra business.

Chairman Kroger asked if there were any further comments.

Mr. Buse stated there should be established a tailgate selling location for local produced farm commodities in Boone County, but believed that the proposed location is inappropriate and wrong. He stated Florence Mall should be a strictly Commercial Center, there are other areas on Route 18 or other areas not within a developed shopping center that are appropriate. He stated he felt this location was very inappropriate and that it ruins the imagine of Mall Road. He stated he is for the idea, but not the location and questioned if it would conform to the Concept Development Plan, because it would be a change.

In response to Mr. Neltner, Mr. Mowbray stated to establish how the twenty (20) spaces would be allotted would be by establishing a membership in a market limited to twenty (20) people, therefore, there would be no more members in the market. That would eliminate any overflow as far as sellers, we would restrict the hours of sale. There would be no one selling on off days. It is temporary to see if the market would be welcome in the Community. He stated they have had quite a few requests for a tailgate market, this was in our five (5) year plan of work on down the road, but because of the amount of concern of people that would like to see a tailgate market established, we have gone ahead and pursued it for this year.

Chairman Kroger stated the first item of business is accepting this application as new business and action tonight.

Mr. Viox moved to accept the applicants request, waive the fee and take action on the request this evening. Mr. Barnett seconded, the motion carried unanimously.

In response to Mr. DeLong, Mr. Mowbray stated expansion would be prevented by membership only and the reason for membership would be so the person would be covered by insurance, they would pay parking cost and there are a number of reasons to limit it so that we do not add more than 20 spaces. He continued if the membership in the future went beyond 20 it is in the request that we be allowed to sell other evenings other than Wednesdays and Saturdays, and schedule people those other evenings so that we do not go beyond the 20 spaces.

In response to Mr. DeLong, Mr. Mowbray stated, what he had said was, that initially days and hours of operation will be Wednesdays and Saturdays from 3:30 til dark, July thru October. He continued if the market membership needs to expand in coming years we would like to have the option to sell produce up to 7 evenings per week but keep the ceiling of 20 sellers per day and the same hours of 3:30 til dark.

In response to Mr. Buse, Mr. Block stated there had been people selling tailgate at Houston Road and Ky. 18 along

with the Industrial Road and U.S. 25. Mr. Buse stated he thought Houston Road and Ky. 18 would be an appropriate area and he did not understand why the application was not for some area other than Mall Road. Mr. Mowbray stated quite a bit of Mall Road is agriculture, and many times in the summer you will see the property owners parked beside the road selling corn and produce. Mr. Buse stated one of the things he wants is to maintain the integrity of Mall Road. He continued there are areas throughout this county where he thinks this is appropriate. Mr. Buse stated he thought it was needed and that there was one at St. Paul's church parking lot that existed for a year or two. Mr. Mowbray stated the problem with that location was getting in and out. The traffic stopped people from coming back. Mr. Mowbray continued the restrictions of selling from a hardtop parking lot and parking in something that was at least gravel and maybe hard surfaced, also limits us from going to many of the areas like Houston Road and Ky. 18. Mr. Buse stated he had not problems with the idea, but with the location. Chairman Kroger stated that during the development of the Temporary Commercial Display we were concerned with this type of activity in the big parking areas of the mall and there were some provisions made where the documentation was supposed to come, not only from the landowner, but also from shopowners that activities of this nature would not disrupt them and that they were in favor of it. Chairman Kroger continued that he thought that was something that is lacking with this request. He continued he had gone through the application and it's simply the application with Chelsea Moore's signature on it but he does not know for a fact that Chelsea Moore has contacted the various merchants in that area. Mr. Mowbray stated that Mr. David Droesch, manager of the mall has informed me that he has contacted all the businesses within the mall and that there has been no objections. He continued they were not looking to establish a flea market, but a place to sell fresh homegrown produce from the Northern Ky. area.

Mr. Buse stated he did not want to stop tailgate selling, at worse he could see approving it temporarily for one year period of time and ask the applicant to look for a location that might be more suitable in the future, but he would not like to keep this as any type of a permanent thing on Mall Road.

Chairman Kroger asked if there were any further comments.

Mr. Viox stated he would tend to agree with Mr. Buse. He stated he would like to try this as a one year trial basis and not make it something permanent at this time.

In response to Chairman Kroger, Mr. Mowbray stated the application reads that we are in the proposal for as long as extension and soil conversation is working with themarket. He continued if it does not work out the first year I am sure that we would assume another location, if it does work out and

your approval was based on one year we would also look for another location.

Mr. Mowbray stated he would agree to a one year approval.

Mr. Wilson stated we cannot impose that condition, it has to be part of the application.

Chairman Kroger expressed concern of granting a one year approval.

Mr. Martin stated he understood the applicant's position regarding a time factor, but that he entirely agreed with Mr. Buse, that Florence Mall Road and the area itself is a sophisticated development and this is somewhat inappropriate. Mr. Martin stated if Mr. Mowbray would reapply for another location, such as Houston and Ky 18 it would be more suitable.

Mr. Jones stated he felt Houston Road is going to be overloaded, especially when the I-75 exit is completed. He continued he did not think anything else should be on Houston Road and that he would rather see it located on Mall Road.

Chairman Kroger asked if there were any further comments.

Mr. Viox moved that the request be granted for one year only. Mr. Jones seconded.

Chairman Kroger asked if there was any further discussion.

In response to Mr. Martin, Mr. Mowbray stated the year would end the last of October, 1984.

Chairman Kroger commented that this motion is encouraging by precedent setting this type of activity on Mall Road. He continued it has been a long and hard struggle on Mall Road just to maintain the integrity of that area. He stated it would be much easier for, he as chairman, not to have to answer calls from across the county about the people setting up shop on the various corner and to know that they would all be located in one spot, but if you are going to limit your activity to 20 people, there will still be those corners, it will not put an end to them. Chairman Kroger expressed concern of stepping into dangerous territory by passing a motion on a temporary basis on an issue such as this. He continued that he is all for the idea, but is concerned about Mall Road. He stated he has heard of the farmers marketed since last October or November and now we are in a marketing season looking for a location, which he can appreciate the problems of finding such a location.

Mr. Mowbray stated you would not believe the amount of people he has had to talk to and the number of businesses and the City of Florence to get where we are right now. It is

not that we have just waited until marketing season to come before the Commission. He continued we have spent hours, days, and weeks on tailgate marketing. We are just looking for a way to market locally homegrown produce.

In response to Mr. Martin, Mr. Mowbray stated they have checked several churches in the area, Latonia Racetrack and they were very sympathetic and were willing to work with use and would contact me, but with the Spiral Sweepstakes and the Ky. Derby we just were not able to make the right connections. The one we had progressed with was the Florence Square and we were coming up to a late date and we decided to go with that location. In response to Mr. Martin, Mr. Mowbray stated this is the best and if this does not materialize we will probably not have the tailgate market this year, except if individuals would elect to go to somewhere like Boone-Kenton flea market.

Mr. Martin asked if he were saying if this was not approved tonight we are killing the market for this year. Mr. Mowbray stated "yes".

Mr. Mowbray continued that they were looking for a high traffic area that is acceptable to the public. He continued they did not want to be a traffic hazard or to set any precedent that would cause a problem. He continued that is why they stipulated that they wanted this for as long as the extension and soil conservation was involved in the market. Mr. Mowbray stated if we saw or received comment from you that we were causing problems we could get out of the marketing business. We do not personally gain anything from this.

Chairman Kroger called for further comments. Hearing no further comments Chairman Kroger restated the motion made by Mr. Viox and seconded by Mr. Jones. The motion failed; 9 no; 2 yes. Messengers: Barnett, Buse, Davis, DeLong, Greene, Martin, Neltner, Kroger and Mrs. Smith voted "no".

Mr. Barnett stated everybody wants to see a tailgate market and that he would like to see staff work with the extension agency to try to find someplace that would be more appropriate.

Chairman Kroger proceeded to the request of Buten Brothers Builders, Inc., owner for an Improvement Plat Approval for property located at Evergreen Dr., on a 31.4 acre site zoned Suburban Residential One (SR-1).

Chairman Kroger asked if there was anyone present in behalf of the applicant. No one responded. Chairman Kroger stated the request is before the Commission that we accept this as an item of new business and that action be taken on the request this evening. Mr. Viox moved that the request be accepted and action taken this evening. Mr. Jones seconded. The motion carried unanimously.

In response to Chairman Kroger, Mr. Viox stated

the application was received May 21, 1984 and in the absence of Mr. Jenkins, he reviewed the request and prepared a report in which he recommended approval. Mr. Lynn presented the Committee Report which recommended approval.

Chairman Kroger asked for further comments. No one responded.

Mr. Greene moved that the request be granted based on Committee Report. Mrs. Smith seconded. The motion carried unanimously.

Chairman Kroger asked if there was any further business.

Mr. Jim Knapp and Don Tober of Deter Brothers Builders, requested that the Commission accept and act on a site plan review for an addition to the Darkhorse Tavern on Turfway Road, in Florence.

Mr. Knapp submitted the application and fee for the Site Plan Review as new business.

Chairman Kroger stated to the Commission that he accepts the application as new business as normal procedure, he stated the applicant has requested action also be taken tonight. Chairman Kroger asked the Commission for comments.

In response to Chairman Kroger, Mr. Block stated he had seen the original plans but that they had been revised to conform with some of the setback requirements.

In response to Chairman Kroger, Mr. Jenkins stated he had not had an opportunity to review the plans.

In response to Chairman Kroger, Mr. Viox stated he had not reviewed the plans from an Engineer's standpoint but that he had prepared a survey which was recently approved by the Commission to transfer to the new owners and the new owners prepared the site plan.

Mr. Barnett stated he felt uncomfortable voting on this request tonight without the Engineer's Report and without Committee reviewing the site plan.

Mr. Martin concurred with Mr. Barnett, stating he felt the Engineer needed time to review the plans, pertaining to parking, water run-off, etc. He stated he did not feel comfortable voting on it either, he would not know what he was voting on.

Mr. Barnett moved that the application be accepted for the Darkhorse Tavern request as new business but review of the request be held in a normal fashion and not reviewed at this meeting. Mr. Davis seconded, the motion carried unanimously.

In response to Mr. Knapp, Chairman Kroger stated

action would be taken July 18, 1984.

In response to Mr. Knapp, Chairman Kroger stated he could request a Special Meeting, but felt it would be hard to get a quorum. Chairman Kroger explained that a month ago the Commission decided to take a vacation and due to the fourth of July falling on a Wednesday, the Commission planned for that time off. He pointed out if we can not get a quorum, we can not have a meeting. Chairman Kroger advised the applicant the fee for a Special Meeting is \$500.00.

Mr. Knapp requested a Special Meeting. Chairman Kroger agains advised the applicant that at this particular time of the year, we may not be able to get a quorum, it not, your \$500 will be refunded. Chairman Kroger stated staff would try to have the Special Meeting, but told the applicant not to hold the Commission to a meeting prior to July 18. He stated the members were told, if they were planning a vacation, get it in now.

Chairman Kroger proceeded with further business, pertaining to clearing out the outstanding bills for Fiscal Year.

Discussion followed: Mr. Buse moved that all legitimate bills be paid to clear out the Fiscal Year. Mr. Barnett seconded the motion carried unanimously.

Mr. Wilson stated that at the next regular meeting the bills should be itemized and a seperate motion raftifying those bills.

Chairman Kroger stated a letter from Mayor Rolfes of the City of Florence, requesting the Commission proceed with updating the Comprehensive Plan. He stated he would like the Florence Liason Committee and the Commission consider the request of the City of Florence and that we address the problem the City is having pertaining to multi-family dwellings. The five (5) year update of the Comprehensive Plan will begin immediately at the beginning of the Fiscal Year. Chairman Kroger stated there will be a committee to work with the Staff during the update and if anyone would like to serve on the Committee please contact Mr. Lynn.

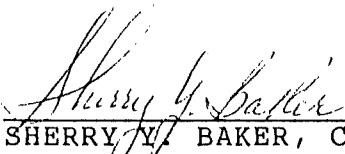
Chairman Kroger asked if there was any further business. Mr. Buse suggested that the Public Hearing and Business Meetings be rescheduled to alleviate problems incurred in preparing the minutes and taking action on the request due to lack of time for reviews.

Chairman Kroger requested that Mr. Buses bring the matter back to the floor at a later date for further discussion.

Chairman Kroger asked if there was any further discussion.  
o one responded.

Mr. Neltner moved to adjourn. Mr. Barnett seconded.  
The meeting adjourned at 10:40 P.M..

RESPECTFULLY SUBMITTED:

  
\_\_\_\_\_  
SHERRY Y. BAKER, CLERK

  
\_\_\_\_\_  
SANDRA G. RYAN, CLERK

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
PAUL E. KROGER, CHAIRMAN

COMMITTEE REPORT

TO: BOONE COUNTY PLANNING COMMISSION  
FROM: R.L. BUSE, Chairman  
DATE: JUNE 20, 1984  
SUBJECT: Request of Wiseway, Inc., owner; and Larry Burcham, Agent for George Donnelly Estate, owner of a zoning map amendment for property located at 8301 and 8319 Dixie Highway, Florence on an 8.578 acre site from Suburban Residential One (SR-1) zone to Commercial Services (C-3).

REMARKS:


This request includes two (2) pieces of property. One of which is the site of the current Wiseway Inc. Building, a wholesale and retail outlet for electrical and plumbing products; and the Donnelly tract which contains a dilapidated house.

The tracts are located on U.S. 25 in an area that is primarily commercial. The Commission has waived elements 1, 4 and 6 of the Concept Development Plan pursuant to Article 3, Section 303 of the Boone County Zoning Order. The applicant has submitted a written Concept Development Plan which contain elements 2, 3, & 5.


We the Committee therefore recommend approval based on the following findings of fact and subject to the following conditions;

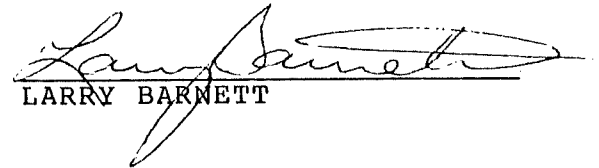
1. The original zoning for the Wiseway tract was inappropriate.
2. The Donnelly tract would be an extension of the Wiseway tract and thus the SR-1 zoning would also be inappropriate.
3. The tracts are served by the necessary infrastructure to support Commission zoning.
4. The general area has seen two (2) other tracts rezoned commercial; specifically the Maddox and Stevenson tracts.
5. As a condition to this zone change the applicant has agreed to submit to the Planning Commission for review any plans for uses other than outside storage. If these plans vary substantially from the current

Concept Development Plan, the applicant has agreed to furnish a new Concept Development Plan which would be subject to a public hearing.

  
R.L. BUSE, JR. Chairman

  
WILLIAM VIOX

  
MELVIN DELONG

  
LARRY BARNETT

  
DON DAVIS

## Concept Development Plan

Per Request of Boone County Planning and Zoning Commission  
Property located at 8319 Dixie Highway, Florence, Kentucky

This concept development plan is submitted for the 1.5 acre tract belonging to The George Donnelly Estate for which the zone change request was requested by Larry Burcham, Agent and Wiseway Inc.. Wiseway, Inc. and Rodney Cain have a valid purchase contract on this parcel.

An access to this property is presently off of U.S. 25 approx. 18 feet from the southernmost corner of the road frontage. This access is presently a 24 foot access and Wiseway, Inc. intends to keep this access open. Wiseway also intends to have access to this parcel via the present adjoining boundaries on the north & northeast and more specifically along the northeast boundary for private circulation between their present property and this property.

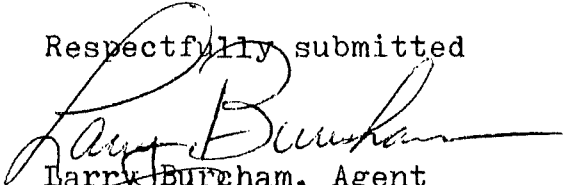
The existing buildings on this property are in very poor condition and the immediate intent of Wiseway, Inc. is to remove the buildings from the property, to clear and clean the parcel, and make it an attractive asset to their present business site. Presently the common boundary between Wiseway's property and Donnelly's property is grown very dense with trees and underbrush and the slope of the terrain is damaging to Wiseway's present showroom. This area will be cleaned and gently sloped tying the 2 parcels together.

While Wiseway, Inc. has no immediate plans for building construction on this parcel, they do intend to utilize this property

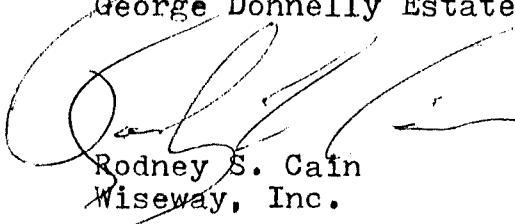
in the same manner as they have the adjacent property on which Wiseway, Inc. now operates. Part of the property to the rear will be used as an expansion of their outdoor storage facilities and the balance will be maintained and kept for future expansion and development.

Wiseway, Inc. is a locally owned and operated business employing approximately 30 persons in Boone County. We feel the addition of this parcel to their existing property will not only benefit Wiseway, Inc. but all of Boone County and be of immediate aesthetic value to the neighborhood.

Respectfully submitted



Larry Burcham, Agent  
George Donnelly Estate



Rodney S. Cain  
Wiseway, Inc.