

## STAFF REPORT

#2

Request for Ben Wright (applicant)  
For  
the Utilization of an Underlying Zone in Planned Development  
located at 8501 U.S. 42, Boone County, Kentucky

JUNE 28, 1989

This is a request for the Utilization of an Underlying Zone in Planned Development. The applicant is seeking approval of a Concept Development Plan for the establishment of a Crafts & Garden Center business for Ben Wright. The site is a 0.45 acre site on the southern side of U.S. 42, approximately 525 feet west of the Hopeful & Weaver Road intersection with U.S. 42. The property is zoned Commercial Two/Planned Development (C-2/PD) and is owned by Robert G. Hill.

### Surrounding Land Uses and Zoning

North: C-2/PD; Florence Deposit Bank.

South: I-1: undeveloped land.

East: C-2/PD; Proposed Verona Bank Branch and the Boone Kenton Tobacco Warehouse, Guerren's Floor Covering, M & D Insulation, & Winnelson Company.

West: C-2/PD; undeveloped land.

### History Of The Site

The owner of the site, Mr. Robert Hill, appealed the Boone County Zoning Administrator's decision that stated that the site would be required to undergo the processes involved with Planned Development if the site were to be redeveloped. On December 9th, 1987 the Zoning Administrator's decision was upheld, therefore requiring the site to undergo Planned Development.

### Site Features

The site fronts approximately 100 feet on the south side of U.S. 42. The site is generally flat, with a relatively gentle downward slope to the rear of the site. The site is presently developed as Bob N' Nina's A-Z Store - Art, Craft, Gift, - N More. The current access driveway aisle and parking area is gravel with a curb cut onto U.S. 42 and a curb cut onto a private drive that is adjacent to the eastern edge of the site.

### Concept Development Plan

The submitted Concept Development Plan indicates a single access point to the site off U.S. 42. The access point will utilize the existing curb cut onto U.S. 42 and the curb cut onto the private drive serving the tobacco warehouse is planned to be closed. An asphalt parking lot is proposed for customer parking with provisions for nine (9) parking spaces. A fence is indicated on the eastern and southern property lines of the site. The area behind the garage will be maintained as gravel and the Applicant has indicated it will be utilized for

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the purposes of displaying landscaping and gardening products. The front yard will also be utilized for the display of landscaping and gardening products. The applicant also indicated that he will maintain the landscaping features between the fence and the private drive at the eastern property line.

Relationship To The Comprehensive Plan

The 1986 Boone County Comprehensive Plan Future Land Use Map indicates a future commercial land use for this particular site.

The Land Use Element of the Plan indicates that the general area around U.S. 42, Hopeful Road, and Pleasant Valley Road will develop land uses characterized by large scale residential subdivisions accompanied by commercial activity along U.S. 42 to serve the community needs of the area:

"A major residential development is planned along U.S. 42 from Pleasant Valley Road south towards Union. Known as the Farmview Subdivision, this huge residential development will greatly impact every public service and utility. The subdivision, which may increase the county's population by up to 10,000 persons, will need to contain commercially oriented developments, public areas and the necessary infrastructure to meet the residents needs. Every public service and utility needs to plan for the influx of individuals created by the proposed subdivision." (Page L-14)

The Land Use Element recognizes the scope of future residential and commercial development for this area around U.S. 42 and clearly indicates that every public service and utility must plan for the influx of individuals. The Land Use Element further recognizes the legitimate need for coordinating the commercial development with the residential in order to insure orderly growth:

"Commercial development in this section will remain near the arterial roads or close to the interstate. This consumer service and traffic oriented developments must be contained to specific areas adjacent to the arterial and interstate. The coordination of curb cuts and parking lot tie ins in the already developed areas must occur in order to maintain a reasonable ease of travel along these roads." (Page L-19)

In summary, the commercial use proposed in the Concept Development Plan is generally consistent with the recommendations of the Plan's Future Land Use Map and Land Use Element for the development of arterial commercial development along U.S. 42 with the stipulation of proper access management controls.

Staff Concerns

The Staff has a serious concern regarding the number of curb cuts onto U.S. 42 in this general area. The Access Management Regulations classifies this portion of U.S. 42 as an Access Class I Arterial. Access Class I roadways are capable

of providing medium to high speeds and traffic volumes over medium to long distances. Furthermore, direct access to an Access Class I roadway is subordinate to providing service to through traffic.

"Private direct access to a Class I roadway shall be permitted only when the property in question has no other reasonable access to the public roadway network." (Page 17a-1, 1986 Boone County Zoning Regulations)

The Concept Development Plan indicates the closing of the curb cut onto the private drive adjacent to the site's eastern boundary and utilizing the existing curb cut onto U.S. 42 as the sole point of ingress and egress. The Staff strongly believes that the more appropriate configuration would be the closing of the curb cut onto U.S. 42 and relying on the curb cut onto the private drive as the sole point of ingress and egress.

The Staff's access management concerns are based on the close spacing of curb cuts on this portion of U.S. 42. Due to the numerous lots along U.S. 42, shared common points of ingress and egress should be encouraged to prevent the diminishing of U.S. 42's efficiency as a major arterial roadway. The Staff believes that if access management regulations are not enforced, recent road improvements to increase U.S. 42's efficiency will be compromised.

The applicant recognizes the access management difficulties created by the Concept Development Plan's proposal for the curb cut onto U.S. 42. The applicant has indicated a willingness to work with Staff in resolving the access management difficulties however, he feels that the elimination of the U.S. 42 curb cut unfairly restricts his site. The applicant is open to the idea of creating a second curb cut onto the private drive but is opposed to the elimination of the U.S. 42 curb cut. The Staff is currently attempting to contact the owner of the private drive, Mr. Shirlye Elliot, to explore the possibility of creating a permanent easement that would allow the applicant to maintain a curb cut onto the private drive. Mr. Elliot is out of town until June 29th, 1989. The Staff will then resume attempts to contact Mr. Elliot at this time.

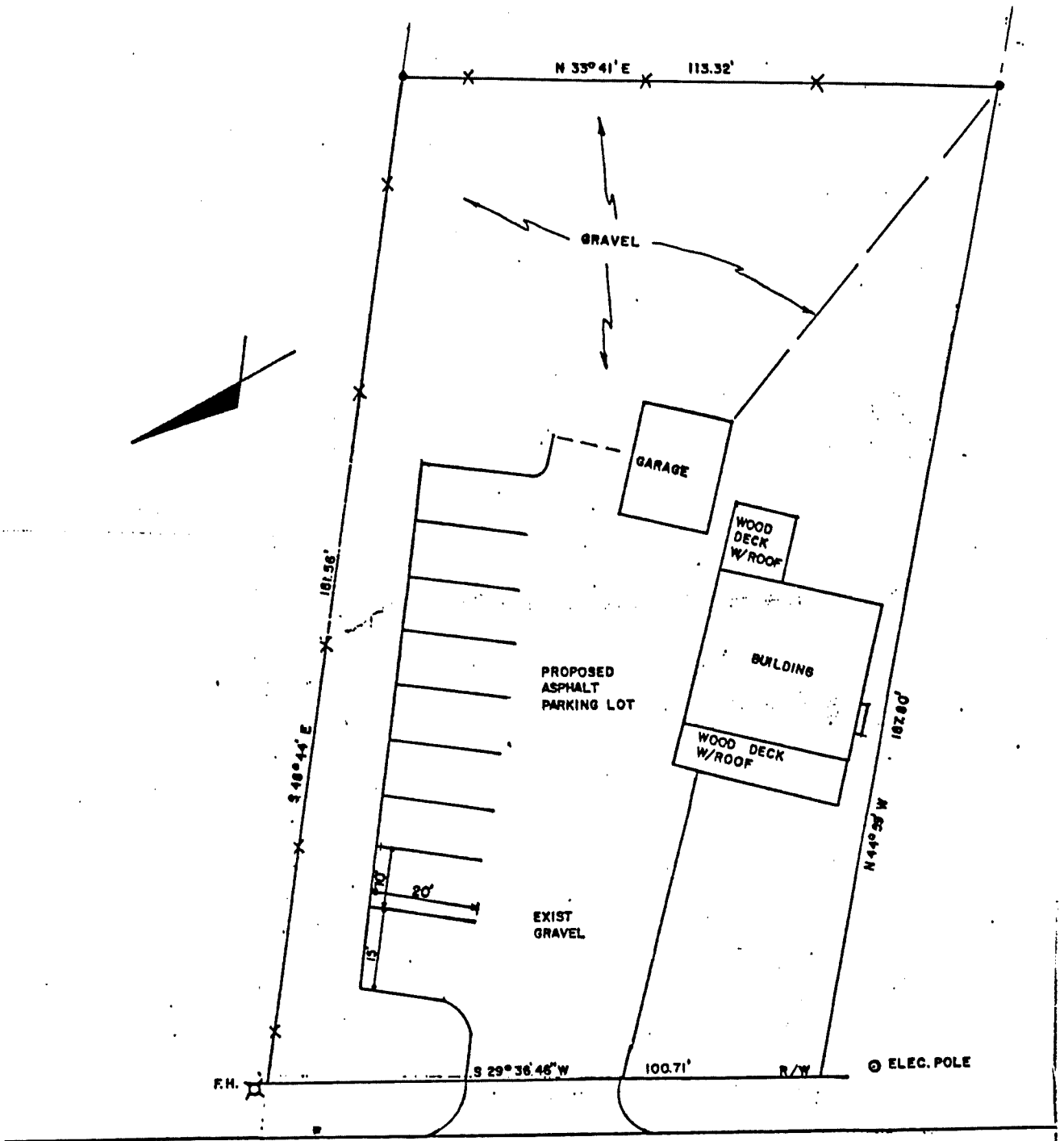
If a permanent easement cannot be created and the applicant must rely on the curb cut onto U.S. 42 as his sole point of ingress and egress, the Staff feels that the U.S. 42 curb cut should be designated as temporary until such an opportunity arises for shared access, thereby resolving access management difficulties.

#### Conclusions

In summary, the opinion of the Staff is that the subject site lies within the parameters outlined by the Plan's Future Land Use Map and the Land Use Element. This area has been designated with a Planned Development Overlay Zoning District and must undergo procedures outlined in Article 15 in the 1986 Boone County Zoning Regulations. Concerns to be addressed in a Planned Development are appropriate land uses and access management.

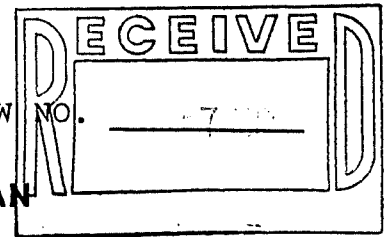
J. Brian Fogle  
J. Brian Fogle,  
Plans Examiner/Planner

Douglas S. Powell  
Douglas S. Powell,  
Transportation Planner



U.S. 42

S 29° 36' 46" W



REVIEW NO. 7

APPLICATION FORM

CHANGE IN CONCEPT DEVELOPMENT PLAN OR

THE UTILIZATION OF AN UNDERLYING ZONE IN PLANNED DEVELOPMENT

BOONE COUNTY PLANNING COMMISSION  
(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check one:   
 Change in Concept Dev. Plan   
 Utilization of an Underlying Zone in Planned Development
2. Name of Development CONCEPT PLAN FOR BEN WRIGHT
3. Location of Development US 42
4. Total Acreage of Site 0.45 AC
5. Current Zoning CZ/PP
6. Date of Zone Change or Approved Concept Development Plan (if applicable) \_\_\_\_\_
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) \_\_\_\_\_
8. Proposed Uses (please specify each use)   
NURSERY RETAIL (CRAFTS & GARDEN CENTER)
9. Name of Applicant(s) BEN WRIGHT   
 Phone Number(s) 525-6678
10. Address of Applicant(s) 1007 BURLINGTON PK   
FLORENCE KY 41042   
 City State Zip
11. Name of Property Owner(s) ROBERT G. HILL   
PO BOX 551   
 Phone Number(s) \_\_\_\_\_
12. Address of Property Owner(s) PO Box 551   
FLORENCE KY 41042   
 City State Zip
13. Proposed Building Intensities (please specify)   
Approx 900 SF
14. Are there any existing buildings on the site? YES   
 How many? 2
15. Deed Book 187 Page No. 524 Group No. 171
16. Have you had a pre-application meeting with BCPC staff? YES

(COMPLETE OTHER SIDE OF APPLICATION)

APPLICATION FORM  
CHANGE IN CONCEPT DEVELOPMENT PLAN  
THE UTILIZATION OF AN UNDERLYING ZONE IN PLANNED DEVELOPMENT

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

- \_\_\_\_\_ Boone County Water and Sewer District
- \_\_\_\_\_ Florence Water and Sewer Commission
- \_\_\_\_\_ Union Light Heat and Power
- \_\_\_\_\_ Cincinnati Bell
- \_\_\_\_\_ Owen County Rural Electric
- \_\_\_\_\_ Boone County Road Department
- \_\_\_\_\_ Kentucky Transportation Cabinet
- \_\_\_\_\_ City of Florence Public Works Department
- \_\_\_\_\_ City of Walton Public Works Department
- \_\_\_\_\_ Northern Kentucky Health District
- \_\_\_\_\_ U.S. Soil Conservation Service
- \_\_\_\_\_ Local School District
- \_\_\_\_\_ Local Fire District
- \_\_\_\_\_ Other: \_\_\_\_\_

18. Are you also applying for:

- No Conditional Use Permit
- NO Dimensional Variance

19. Applicant's Signature(s): Ben R. Wright

20. Property Owner's Signature(s): \_\_\_\_\_

21. Have you submitted a Concept Development Plan? YES

SECTION B (To be completed by BCPC Staff)

- 1. Date Received 06-07-89
- 2. Fee Received \$32.00 #199821
- 3. Check what has been submitted:
  - Application  Fee  Legal Description
  - Concept Development  Addresses of Adjoining
  - Plan  Property Owners
- 5 No. of copies of plan received\*\*
- 4. Is application complete?  Yes \_\_\_\_\_ No
- 5. Staff Reviewer \_\_\_\_\_
- 6. Committee Chairman \_\_\_\_\_
- 7. Scheduled Public Hearing Date \_\_\_\_\_
- 8. Boone County Planning Commission Action:
  - \_\_\_\_\_ Approval
  - \_\_\_\_\_ Approval With Conditions
  - \_\_\_\_\_ Disapproval
- 9. Other: \_\_\_\_\_

\*\* FIVE (5) COPIES REQUIRED  
BCPC:7/11/88

EXHIBIT "A"



**VIOX & VIOX, P.S.C.**

CONSULTING ENGINEERS & SURVEYORS

488 ERLANGER ROAD

ERLANGER, KENTUCKY 41018

PHONE: (606) 727 - 3283

**JAMES H. VIOX, III, P.E.**

KY. REG. NO. 6880

KY. LAND SURVEYOR NO. 797

**WILLIAM R. VIOX, P.E.**

KY. REG. NO. 9209

KY. LAND SURVEYOR NO. 1781

DESCRIPTION

Ben Wright's Crafts & Garden Center

A parcel of land lying on the southeasterly side of U.S. 42 in Florence, Boone County, Kentucky and being more particularly described as follows:

BEGINNING at a point in the southeasterly right-of-way line of U.S. 42 (said point being on the common lot line between Lots 2 and 3 of Sugartit Subdivision), said point being the most southwesterly corner of Russel and Betty Rankin, and running thence:

S 48-44 E, a distance of 181.56 feet, to a point, thence  
S 33-41 W, a distance of 113.32 feet, to a point, thence  
N 44-59 W, a distance of 187.8 feet, to a point, thence  
N 29-36-46 E, along the southeasterly right-of-way line of  
U.S. 42, a distance of 171 feet, to the place of beginning,  
and containing 0.45 acres more or less.

6/7/89

EXHIBIT "B"

BOONE COUNTY PLANNING COMMISSION

Public Hearing Item #2  
June 28, 1989 - 8:00 P.M.

Page 1

Mr. Burch opened the Public Hearing for the second item on the agenda:

2. Applicant: Ben Wright for Robert Hill (owner)  
Request: Utilization of an Underlying Zone

The request of Ben Wright (applicant) for Robert Hill (owner) for the Utilization of an Underlying Zone in Planned Development on a 0.45-acre parcel located south of U.S. 42 and west of the proposed Verona Bank, Florence, Kentucky. The proposed use is a nursery and crafts center and the parcel is zoned Commercial Two/Planned Development (C-2/PD).

Staff Member, Brian Fogle, presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Burch asked the applicant for his presentation at this time.

Mr. Wright stated that he owns Wrightway Nursery on KY 18 and wanted a small garden center on the other side of town. They thought they could do what they wanted under the present zone, but they were wrong. He would like to do a better job of access management, but cannot do away with the curb cut on U.S. 42. He could eliminate the side exit on the private road.

Mr. Burch asked if there was anyone else present who wished to speak or who had questions. There was no response.

At this time, Mr. Doug Powell, Transportation Planner, presented the Staff's concerns in regard to the traffic (see Staff Report). Using a diagram of U.S. 42 as provided by the Highway Department showing how the road would be built, Mr. Powell explained Staff's proposal in regard to the site.

Mr. Jim Viox stated that the site has a curb cut recently put in by the Highway Department. There was a gift shop on the site at that time. This use probably generates less traffic than the gift shop. He stated that Mr. Wright does not have the right to use the private driveway to the Tobacco Warehouse and may not be able to secure that right. They feel that they should retain the right to their curb cut. In response to comments from Mr. McMillian, Mr. Viox added that he is in favor of access management. However, the Staff should have had some influence in the design of U.S. 42.

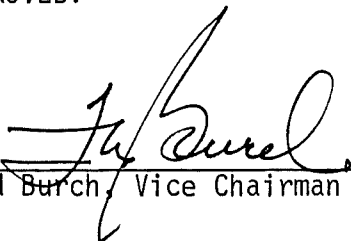
In response to comments from Mr. Collins, Mr. Wright stated that he would be opposed to a frontage road due to the size of the site.

In response to Mr. Collins' questions concerning a driveway connection between the two properties, Mr. Powell stated that there would not be enough room for a driveway aisle and parking. Mr. Fogle added that the applicant proposes to use the front as a display area. Staff has suggested closing the curb cut on U.S. 42 and a permanent curb cut on the private drive. The owner of the private drive is currently out of town and Staff has not been able to contact him.

Mr. Wright stated that they would then have to participate in the maintenance of the private road and the private curb cut. His curb cut is newly constructed and does not involve maintenance costs. He noted that the State felt that the curb cut should be there.

There being no further comments, Mr. Burch stated that this item will be on the Agenda for the Business Meeting on July 5, 1989 at 8:00 P.M. and closed this Public Hearing.

APPROVED:

  
Fred Burch, Vice Chairman

Attest:

  
Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

July 5, 1989

8:00 P.M.

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Mr. William Viox, Chairman, called the meeting to order at 8:45 P.M..

COMMISSION MEMBERS PRESENT:

Mr. Larry Barnett  
Mr. Fred Burch, Vice Chairman  
Mrs. Rita Bushelman  
Mr. Lawrence Collins  
Mr. Phil Damstrom  
Mr. Melvin DeLong  
Mr. R. N. Greene  
Mr. Rector Jones  
Mr. Don McMillian  
Mr. Charles Moore  
Mr. Barry Neltner  
Mr. Ralph Rush  
Mr. Floyd Sharp  
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

Mrs. Carol Smith

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Viox noted that each member had received copies of the Minutes of the Business Meeting of June 21, 1989 and the Public Hearings of June 28, 1989. He asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. McMillian moved that they be approved as mailed. Mr. Jones seconded the motion and it carried unanimously.

Mr. Gerald Newton, Director, read the Committee Report which recommended deferral of the request until the July 19, 1989 Business Meeting (see Committee Report).

Mr. Jones moved that the request be deferred until the July 19, 1989 Business Meeting based on the Committee Report. Mr. Moore seconded the motion and it carried unanimously.

### 3. Zoning Map Amendment

The request of Tom Runyon (applicant) for a Zoning Map Amendment on a 12.83-acre site located between Limaburg Road and KY 237, Boone County, Kentucky. The request is to rezone the site from Recreation (R) to Suburban Residential Two/Planned Development (SR-2/PD) for 80 to 126 townhomes and nine single-family residential lots.

Mr. Gerald Newton, Director, read the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). He stated that the applicant has agreed to the conditions.

Mr. Collins moved that the request be approved based on the Staff and Committee Reports. Mr. Burch seconded the motion.

Mr. McMillian questioned whether there has been a decision as to whether there will be 80 or 126 townhomes. Mr. Newton advised that the recommendation is in regard to a range of 80 to 126 units.

Chairman Viox stated that he will abstain from voting in regard to this item as the firm he is employed by is involved in the project.

The Chairman asked for a vote on the motion made by Mr. Collins which found all voting members in favor. Chairman Viox abstained. The motion carried.

### 4. Utilization of an Underlying Zone

The request of Ben Wright (applicant) for Robert Hill (owner) for the Utilization of an Underlying Zone in Planned Development on a 0.45-acre parcel located south of U.S. 42 and west of the proposed Verona Bank, Florence, Kentucky. The proposed use is a nursery and crafts center and the parcel is zoned Commercial Two/Planned Development (C-2/PD).

Mr. Gerald Newton, Director, read the Committee Report which recommended approval of the request based on the findings of fact (see Committee Report).

Mr. Jones moved that the request be approved based on the Staff and Committee Reports. Mr. Rush seconded the motion. Chairman Viox stated that he would abstain from voting in regard to this request as Viox & Viox has been involved in the project.

The Chairman asked for a vote on the motion made by Mr. Jones which found all voting members in favor. The Chairman abstained. The motion carried.

EXHIBIT "C"

COMMITTEE REPORT

#4

TO: Boone County Planning Commission

FROM: Larry Barnett, Chairman

DATE: July 5, 1989

RE: Request of Ben Wright (applicant) for Robert Hill (owner) for the Utilization of an Underlying Zone in Planned Development on a 0.45 acre on the southern side of U.S. 42, approximately 525 feet west of the Hopeful & Weaver Road intersection with U.S. 42, Florence, Kentucky. The proposed use is a nursery and crafts center and the parcel is zoned Commercial Two/Planned Development (C-2/PD).

REMARKS:


We, the Committee, based on the statements made and facts gathered at the June 28, 1989 Public Hearing, recommend approval of this Concept Development Plan, based on the following findings of fact.

Findings of Fact

1. The proposed use of this property is in conformance with the 1986 Boone County Comprehensive Plan, which indicates the future use of this property to be commercial. Further, the type of commercial use proposed, a nursery and crafts center, is an use which is permitted in the underlying Commercial Two (C-2) zoning district.
2. Although the existing curb cut off U.S. 42 does not follow access management guidelines, the presence of the curb is not deemed to be critical at this time due to the limited scope of the proposed commercial use. Should the property ever be redeveloped, significantly altered, or a change in use occur, the elimination of the U.S. 42 curb cut will need to be re-examined at such time.



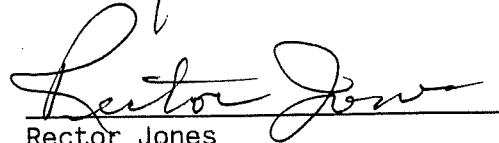
Larry Barnett, Chairman



Fred Burch



Phil Damstrom



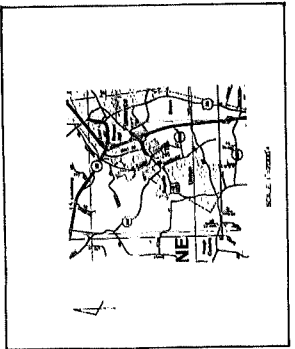
Rector Jones



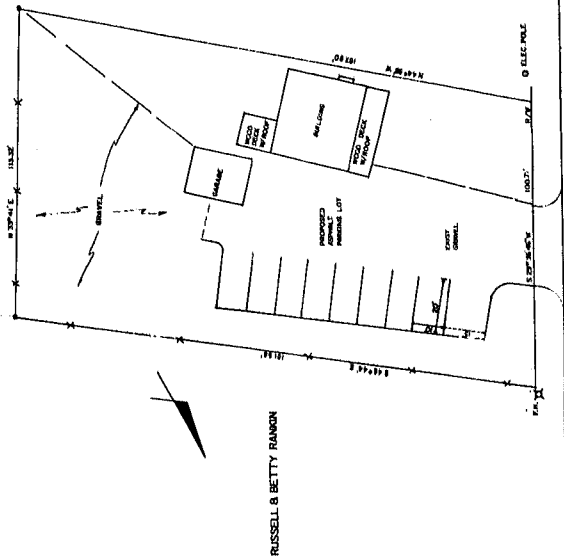
Barry Nelther

\_\_\_\_\_  
Carol Smith

LB:kat



CONVICTED TO  
CRIMINAL JUSTICE  
LINK LAND CO.



Approved by  
BOONE COUNTY  
PLANNING COMMISSION

CONCEPT PLAN  
FOR  
BEN WRIGHT  
FLORENCE, BOONE CO., KENTUCKY  
SCALE: 1" = 20'  
JUNE 6, 1989

**VIOX & VIOX P.S.C.**  
CONSULTING ENGINEERS & SURVEYORS  
488 ENLANDER ROAD  
ENLANDER, KENTUCKY 41018  
PHONE: (606) 737-2893



U.S. 42  
3.2875' ±

FLORENCE DEPOSIT BANK

ORDINANCE NO. 02289

AN ORDINANCE ADOPTING AND APPROVING THE UTILIZATION OF AN UNDERLYING ZONE THAT ZONE BEING COMMERCIAL TWO/PLANNED DEVELOPMENT (C-2/PD), ON A 0.45 ACRE SITE GENERALLY LOCATED SOUTH OF U.S. 42 AND WEST OF THE PROPOSED VERONA BANK, FLORENCE, KENTUCKY. (BEN WRIGHT - ROBERT HILL PROPERTY) R-21-89

WHEREAS, the City of Florence, Kentucky, is a member of a county wide planning unit, known as Boone County Planning Commission, and

WHEREAS, the Boone County Planning Commission has recommended that a request of Ben Wright (Applicant) for Robert Hill (Owner) for the utilization of an underlying zone be granted, and

WHEREAS, the recommendation from the Boone County Planning Commission is based upon certain findings and conditions attached to its resolution of recommendation, all of which have been reviewed by the City Council of Florence, Kentucky.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FLORENCE, KENTUCKY, AS FOLLOWS:

SECTION I

That the request for the real estate which is more particularly described below shall be and is hereby approved for the utilization of an underlying zone in a commercial two/planned development (C-2/PD), on a 0.45 acre site generally located south of U.S 42 and west of the proposed Verona Bank, Florence, Kentucky. The real estate which is the subject to of this request for approval for the utilization of an underlying zone in a commercial two/planned development (C-2/PD) zone is more particularly described in attached Exhibit "A".

SECTION II

That this approval is granted subject to the conditions, terms and provisions of the Boone County Planning Commission recommendation, including the committee report made a part of that recommendation, a copy of that recommendation and

committee report being attached marked Exhibit "B" and incorporated herein as if fully set out, such recommendation being in the form of Resolution No. R-29-89 of the Boone County Planning Commission along with the Committee report, both of which are dated July 5, 1989.

SECTION III

Publication of this ordinance is hereby authorized to be by summary publication, in accordance with Kentucky law.

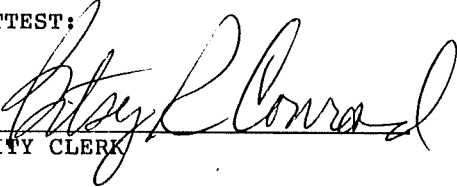
PASSED AND APPROVED ON FIRST READING THIS 8<sup>th</sup> DAY OF August, 1989.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 22<sup>nd</sup> DAY OF August, 1989.

APPROVED:

  
MAYOR

ATTEST:

  
CITY CLERK



# VIOX & VIOX, P.S.C.

CONSULTING ENGINEERS & SURVEYORS

488 ERLANGER ROAD  
ERLANGER, KENTUCKY 41018  
PHONE: (606) 727 - 3293

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