

APPLICATION FOR ZONING ACTION

TO: Boone County Planning Commission City of Union Board of Adjustment
 City of Florence Board of Adjustment City of Walton Board of Adjustment
 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 Approval
 Conditional Use Permit Site Plan Review
 Concept Development Plan Historic District Overlay
 Preliminary Development Plan Sign Permit
 Change of Non-Conforming Use Appeal or Variance
 Design Review Board Hearing and Certificate of Appropriateness

Applicant: Ray Merkel, First Commercial Realty, Inc. Owner
 Agent

Address: 8172 Mall Road Center, Florence, KY 41042
Telephone: 371-9000

Location: 3625 Turfway, Erlanger, KY 41018 ^{Boone Co.}

Name of Owner: Solarcrete Corporation

Address of Owner: 3625 Turfway, Erlanger, KY 41018

Zone: 0-2 and SR-1 Area in Acres: 25

Description of Request: Rezone property to Industrial one, (i-1)

Owner's Signature: SOLARCRETE CORPORATION
By Bruce [Signature], President
Applicant's Signature: Ray Merkel

FOR PLANNING COMMISSION USE:
Date application and fee of \$ 294.00 Received: January 28, 1982
Referred to: _____ For Meeting Date: _____
Action: _____ Date: _____

Located generally in Boone County Group No. 2027 on the south side of Turfway Road (Racetrack Road), northeast of and near its intersection with Bonar Road and described thusly: BEGINNING at a stake, the northeast corner of Lot No. 3 of the Heaton Subdivision (Plat Book 6, page 57) in the south line (30 feet from centerline) of Turfway Road; thence along said line of Turfway Road, N 51-54-15 E 278.30 feet, N 60-18-15 E 273.23 feet, N 65-44-45 E 323.02 feet to a spike and stake (found May 5, 1979) therein; thence with the exterior lines of the original Heaton property tract of 35.35 acres, more or less, S 24-5-17 E 1220.0 feet to the intersection of the centerline of an old roadway with a branch or creek; thence running along the centerline of said old roadway (unimproved) S 86-55- W 196.9 feet, S 67-4 W 554.02 feet; thence running along the centerline of the improved section of the old Dry Creek Road S 87-25-46 W 322.47 feet to a railroad spike therein; thence with the east line of a 2550 square feet parcel partitioned off the Heaton property N 29-30-14 W 307.98 feet to a stake, N 23-5-10 W 376.39 feet to a stake on the southeast corner of Lot No. 1 of said Heaton Subdivision; thence with the east line thereof, N 42-0 W 170.0 feet to the south line of Turfway Road; thence therewith N 48-0 E 50.0 feet to the northwest corner of Lot No. 2 of said subdivision; thence with the southwest and southeast lines of said subdivision and Lots Nos. 2 and 3 thereof, S 42-0 E 170.0 feet to a stake, N 48-0 E 157.50 feet to a stake, N 1-40 E 76.034 feet to a stake, N 42-00 W 115.0 feet to the place of beginning, containing 25.7051 acres and subject to local highways and legal easements of record and in existence. The foregoing description was prepared by Nool Walton (Ky. Reg. P.E. and L. S) from surveys made by David G. Walton (Ky. Reg. P.E. and L. S) on May 9, 1979.

EXHIBIT "A"

Zone Change Request by the applicant
Ray Merkel, agent for Solarcrete
Corporation, owner.

This is a zone change request by Ray Merkel acting as agent for the property owner, the Solarcrete Corporation. This request is for a change from the current Office Two (O-2) and Suburban Residential One (SR-1) zoning to Industrial One (I-1) zoning for a 25.7051 acre tract located on the South side of Turfway Road about one quarter of a mile southwest of its intersection with Donaldson Road, Kentucky 236, and about 750 feet northeast of its intersection with O'Hara Lane, in Boone County.

As previously stated, the subject property is zoned Office Two (O-2) and Suburban Residential One (SR-1). To the East is current zoning of Public Facilities (PF). To the South is current zoning of Suburban Residential One (SR-1). To the West is current zoning of Suburban Residential One (SR-1) and Industrial One (I-1). And to the North is current zoning of Commercial Services (C-3).

Currently the most northeasterly corner of this 25+ plus acre tract has been developed as an office and warehouse facility. The remainder of the tract remains undeveloped with a lake on the most westerly portion of the site. Predominant use of adjoining sites to the North and West is residential. Adjoining properties to the South and East are currently a mixture of residential, agricultural, public facility, and undeveloped land uses.

The Land Use Map of the Boone County Comprehensive Plan shows a planned future land use of Industrial and Environmentally Sensitive. According to the text of the Comprehensive Plan, "The planned industrial land use category includes all types of mineral extraction, power generation, warehousing, distribution centers and light and heavy manufacturing activities . . . Industrial uses are also planned in several areas in the vicinity of the Airport where higher levels of Airport noise make residential uses less desirable. These areas may be developed for industrial purposes once adequate infrastructure is made available or provided as part of the proposed development . . . East of the Airport, industrial development is planned to continue in the vicinity of the Mineola Industrial Park, including new development along Mineola Pike both north and south of I-275 when adequate

infrastructure is available or provided as part of the proposed development. Additional industrial uses are planned south of Donaldson Road on Turfway and O'Hara Roads." Adjoining properties to the east and north are planned for future industrial usage. Properties to the south are planned for future Public Facilities and Commercial usage. And to the west is planned future usage of adjoining properties as Commercial.

The Concept Development Plan, as submitted, indicates a planned use of the existing building and future phased additions, in three phases, with a total of 80,000 to 100,000 square feet. Phase One, with 20,000 to 30,000 square feet, would directly adjoin the existing building. Phases Two and Three, with 30,000 to 35,000 square feet each would directly adjoin the planned Phase One addition. These phases would involve about one-third of the site. The remaining two-thirds of the site is shown as future development area. This would include the existing lake on the west side of the property.

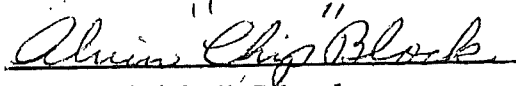
Water is currently supplied by a tap-in to the site off of an existing eight inch Boone County water main across the front of this site.

Sanitary sewage disposal is currently supplied by an on-site disposal system.

The applicant proposes any future utilities that are to be provided will be in accordance with all local, State and Federal regulations and requirements.

Access to the site is currently provided by way of a 30 foot wide access drive off of Turfway. The Concept Plan indicates that this will remain as the only access drive with future parking areas provided off of this drive. Turfway Road is currently maintained in good condition with a 30 foot wide asphalt surface.

In my opinion, this request would conform to the text and Land Use Map of the Boone County Comprehensive Plan and would not require any changes to the Comprehensive Plan should the request be recommended for approval by the Commission and/or approved by Boone County Fiscal Court.


Alvin "Chip" Block
Zoning Enforcement Officer

BOONE COUNTY PLANNING COMMISSION

MINUTES OF THE PUBLIC HEARING

FEBRUARY 24, 1982

Florence City Building

The meeting was called to order by Chairman Kroger. Members present were Mr. Barnett, Mr. Collins, Mr. Conkle, Mr. Godsey, Mr. Hasselbring, Mr. Jones and Mr. Viox. Also present were Mr. Wilson and Mr. Block. There were approximately thirty members of the public present.

One item appeared on the agenda: the request of Solarcrete Corporation by their agent, Ray Merkel, First Commercial Realty, Inc., for a zone change from Office Two (O-2) and Suburban Residential One (SR-1) to Industrial One (I-1) for a 25 acre tract located at 3625 Turfway, Erlanger, Boone County, Kentucky.

Mr. Block located the property on the map and gave the report of his findings, (copy attached.)

Mr. Merkel was present in behalf of the request and offered to answer any questions. Mr. Viox asked for more details regarding the Concept Development Plan, i.e., the floor levels of the proposed buildings, the traffic expectations, storm drainage and sanitary sewer system, and additional information regarding the company which is planning to purchase the property.

Mr. Bruce Poston, President of the Solarcrete Corporation, stated that the company considering the purchase of the property is the Van Melle Company which produces candy. He mentioned that they are a non-pollutive manufacturing facility with no noise level. The company, from the Netherlands, is over a hundred years old and the American subsidiary is run by American Management. They will provide a significant number of jobs in the area over the next three years. They are investing in the property for warehousing and future needs.

BOONE COUNTY PLANNING COMMISSION
PUBLIC HEARING MINUTES
FEBRUARY 24, 1982
Page Two

Mr. Poston continued that they are aware that the sewer and drainage facilities would have to comply with local codes as they expand. They have already been in contact with two local reputable builders regarding the first expansion phase scheduled for 1983, the concept of which is to use the same type of building form as the existing structure and simply add on to it. They are not planning to develop the whole property. He further mentioned that by employing up to 250 or 300 people over the next three years, they will be adding to the tax base of this area. They would not be distracting to the local area . . . the buildings would be for offices and warehouses.

Mr. Walter Kirkpatrick of 3718 O'Hara Road questioned the information given in Mr. Block's report in regards to the zoning of the area to the North of the property. Mr. Block redefined the property on the map and reiterated the findings included in his report. Mr. Kirkpatrick indicated that at a previous time, the residents of the area had come to the Planning Commission and certain promises had been made by a Mr. Bonar who developed the property, two trucking firms, and a person named Mr. Bruno. These promises contained in a three-page "covenant of agreements" were never kept, according to the residents. They indicated that heavier traffic flow, extended time frames for the traffic, damaged mail boxes, inadequate sewage facilities, etc. were among the constant problems they have experienced. Mr. Ralph Scheitz of 3630 O'Hara Road voiced these same complaints.

Ms. Olivia Weber of 3659 Turfway stated that she did not know when the current zoning had taken effect and that when she purchased her property, she was told it was residential.

Chairman Kroger explained to the residents that the current zoning ordinances and map had been adopted after numerous county-wide public hearings had been held in various locations, which were well publicized, and which resulted in the new regulations being adopted in July or August of 1980. He continued that the Commission will go back and review the records during the time frame mentioned to determine exactly what had transpired. He added that this Commission cannot enforce deed restrictions, nor regulate the traffic on the highways or roads involved.

Mr. Wilson was asked to explain further: if these promises were recorded in the County Clerk's Office as part of the deed restrictions, they could be enforceable, but not by this Commission.

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PUBLIC HEARING MINUTES
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Mr. John DiMuzio of 3633 Turfway, who is also Assistant Director at Camp Marydale, and therefore spoke as an adjacent property owner not only for himself, but also for the Passionist Nuns and the Diocese of Covington, mentioned that the emphasis of their entire program is on conservation and serenity and that Marydale houses a convent and a seminary. They are concerned about the development of this land, especially since there is no public sewer system and the area relies on septic tanks. They are concerned that the overflow and drainage would pollute the lake on their land, and also that the area would become even more commercialized.

The Applicant stated that the zoning determines what could be built on the property, but not necessarily what will be built. He continued that if it is zoned for a particular function, then the developer can spend money to expand the sewage system. He stated that they are not going to spend money on the sewer prior to knowing whether they will get the zoning change required.

Mr. Merkel showed the Commission and members of the public copies of the Concept Development Plan. Mr. Godsey questioned the planned usage of the area marked "future development." It was questioned why the entire parcel needed to be committed to Industrial Zoning when the planned development showed usage of only one third of the property.

Chairman Kroger asked Mr. Merkel to provide the Commission more information regarding the Concept Development Plan and then suggested that they meet with members of the Committee and residents of the area to further discuss the plans for development.

Mr. Merkel further explained the three-phase development plan submitted and stated that it would be impossible to make any more detailed plans regarding something so far in the future.

Mr. Tom Butler of 3837 O'Hara asked about the I-1 zoning and its permitted uses, to which Mr. Wilson responded that there are 38 permitted uses in I-1, and compared them with the I-2 and I-3 uses. Mr. Wilson further explained that if the Concept Development Plan is made a part of the zone change request, and if it is approved in that manner, then the applicant could not develop the property in any other way than that which was agreed upon by the Concept Development Plan. It would then be recorded in the County Clerk's Office thusly.

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PUBLIC HEARING MINUTES
FEBRUARY 24, 1982
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Mr. Viox stated that in his opinion the Concept Development Plan submitted does not achieve the level of information normally received and is not adequate to vote on for a zone change.

Mr. Wilson explained that the Commission could approve only Phase One of the Concept Development Plan with a stipulation that any subsequent phases of development would have to come back before the Commission for approval each time.

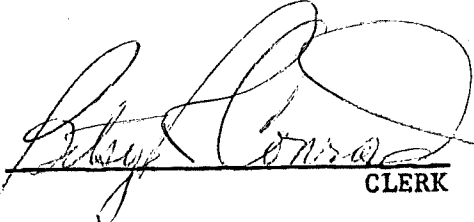
Mr. Kroger commented that the matter would be voted on at the next meeting of the Commission, March 3, 1982 and suggested that the representatives of the Applicant, the members of the Committee chaired by Mr. Godsey, and the residents of the area meet as soon as possible to discuss the matter in a workshop type session. It was agreed that the meeting would take place at the Solarcrete Office on Saturday, February 27, 1982, at 10:00 a.m.

Chairman Kroger declared the Public Hearing closed at 9:40 P.M.

APPROVED: _____

Respectfully submitted,

CHAIRMAN



CLERK

BOONE COUNTY PLANNING COMMISSION

MINUTES OF MEETING MARCH 3, 1982

Florence City Building

The meeting was called to order by Chairman Kroger. Roll call was taken showing twelve members present, two absent, those being Mr. Buse and Mr. Ingram. Also present were Mr. Wilson, Ms. Sullivan, Mr. Clark and Mr. Block. About 35 members of the public were present as well.

The minutes of the regular meeting of February 17, 1982 and the minutes of the public hearing on February 24, 1982 were reviewed and approved.

COMMUNICATIONS AND BILLS:

A communication from County Judge/Executive Terry Roberts dated February 24, 1982 was received, and the matter was referred to Staff.

A bill was presented from each of the following: The Boone County Recorder, \$208.34; Cincinnati Bell, \$94.47; Enquirer and Post, \$47.50; Urban Studies Center, \$7.00; Business Equipment Company for a typewriter, \$795.00; the Staff was to be paid salaries and reimbursements for expenses incurred; Mr. Clark submitted a bill for \$45.00 for professional services; and the monthly retainer for counsel was submitted. Mr. Jones moved that the bills be paid; Ms. Smith seconded, the motion carried unanimously.

The following receipts were accepted and given to Mr. Godsey on February 19, 1982:

City of Union	\$666.67
First quarter 1982 funding	
United Signs, Inc.	50.00
Sign Permit	
Mrs. Betty Schafstall	6.00
Copies	
Kreutzjans Construction Co.	50.00
Sign permit	
DaNite Sign Company	150.00
Sign permit	
United Signs, Inc.	50.00
Sign permit	
Cox's Service Station Maintenance & Sign Co., Inc.	100.00
Sign permit	

REPORTS OF OFFICERS:

The Treasurer's Report showed a current balance of \$13,072.60 in the checking account and a balance of \$499.38 in the savings account. This report was accepted and made a part of the minutes.

The Building Inspector Reports were read and made a part of the minutes: Florence permits No. 3403 through 3411, total construction costs of \$75,525.00. The County: eight building permits, total estimated construction, \$353,600.00.

The Enforcement Officer's Report was read, accepted, and made a part of the minutes.

Mr. Clark informed the Commission he has reviewed and approved for signature one convenience plat: 0.9476 acre parcel located on Commercial Square, Boone County to be conveyed by Hold, Inc. Plat stamped by James W. Berling, L.S., and dated February 19, 1982. This report was accepted and made a part of the minutes.

UNFINISHED BUSINESS:

The request of Solarcrete Corporation by their agent, Ray Merkel, First Commercial Realty, Inc., for a zone change from Office Two (O-2) and Suburban Residential One (SR-1) to Industrial One (I-1) for a 25 acre tract located at 3625 Turfway, Erlanger, Boone County, Kentucky.

Mr. Merkel stated that the proposal is in conformity with the County Comprehensive Plan. The Concept Development Plan submitted is for a period of seven to ten years. Each phase would be required to meet the specific requirements for site plan approval. The Van Melle Company has executed a contract to purchase the property subject to the zone change request. The Van Melle Company has been working with the State of Kentucky Economic Development Company and has received a commitment for industrial revenue bonds for the project.

Mr. Merkel introduced Mr. Bruce Poston, President of Solarcrete, Mr. Stanley Lane, legal counsel, and Mr. Larry Pohlgeers, President of the U.S. subsidiary of the Van Melle Company.

Chairman Kroger recognized Mr. Godsey, chairman of the Committee, who stated that the Committee could not make any recommendations at this time.

Chairman Kroger then asked for comments from the public present in opposition. None spoke.

Mr. Hasselbring questioned Mr. Merkel regarding the Concept Development Plan and the fact that 25 acres have been requested for zone change and yet the overall development planned, including the existing buildings, involves only ten acres. He stated that the impasse which occurred in the public hearing revolved around the remaining unplanned 15 acres.

Mr. Merkel responded that the Van Melle Company has a policy whereby they purchase larger tracts of land than they can envision using. Specific ideas as to expansion plans beyond a ten year period are impossible. The company wants to insure that if, in 30 years, they want to expand, they would not have to leave Boone County and search for property elsewhere.

Chairman Kroger mentioned that since the public hearing on February 24 and a special meeting on Saturday, February 27, the Committee and Staff have tried to make some determinations and answer some questions. He then called upon Ms. Sullivan to report on some recommended conditions should the Commission decide to approve the request. Ms. Sullivan recommended that the following measures would help to ensure that present land uses would be protected to the extent practicable from industrial land uses. Ms. Sullivan recommended certain measures to help ensure compatibility of present and future land uses if the change were approved. (See Attachment #1).

Chairman Kroger asked Mr. Merkel to determine the reaction of the principals to Ms. Sullivan's recommendations. He explained that such recommendations did not indicate that the membership of the Commission had reached a decision. If, however, the Commission adopted Staff recommendations, that those measures would have to be agreed upon by the principals, and included as part of the Concept Development Plan.

Mr. Godsey questioned details regarding the Concept Development Plan and a discussion was held regarding the details of the agreement in regards to the berms and holding tank. Mr. Viox questioned the expansion program outlined by Van Melle Company asking if the additional 15 acres would be used solely for candy manufacturing or if it would be leased out to another company.

Mr. Pohlgeers responded that the company has two types of business: candy and bakery goods. The first concept of development included up to 90,000 square feet, and now they are considering 150,000 to 160,000 square feet. After the

B.C.P.C. MINUTES
March 3, 1982
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first three phases, planned to be entirely candy, a decision would be made, based on the economic conditions, to either expand or possibly sell the balance of the land.

At Chairman Kroger's query, Mr. Pohlgeers agreed that the Staff conditions would be acceptable if the entire parcel would be rezoned to Industrial One. Mr. Viox clarified that the berms would be landscaped, and that the holding tank would emit no discharge and would be pumped out periodically.

Mr. Shafer questioned if only ten acres could be rezoned rather than the entire tract. Mr. Wilson said that the Commission would definitely lose some bargaining power on future development of the property if the other 15 acres were to be zoned Industrial One. He further clarified the issue of deed restrictions and the Concept Development Plan.

Mr. Poston thanked members of the Commission and Staff for working out recommendations that would be more acceptable to all parties involved. Further discussion was held regarding the times indicated for construction of the berms.

Chairman Kroger noted that the conditions forming the Concept Development Plan and contained within the Staff Report were acknowledged and agreed to by Solarcrete representatives and Van Melle Company. Mr. Wilson ascertained that the applicants fully understood that these stipulations would be made of record in the County Clerk's office.

Ms. Smith made a motion that, by Resolution, the Commission approve a zone change for Solarcrete Corporation from Office Two (O-2) and Suburban Residential One (SR-1) to Industrial One (I-1) the 25 acre tract located at 3625 Turfway, Erlanger, Boone County, Kentucky and with Findings of Fact as stipulated by the Staff report. (Attachment #1). Mr. Godsey seconded the motion. A roll call vote was taken, ten votes aye, two votes nay, those two being Mr. Jones and Mr. Shafer. The motion carried.

Mr. Wilson commented that this Commission is a recommending body and not empowered to pass legislation, and that the approval was simply a recommendation to the Fiscal Court.

A zoning violation by Charles Hall at the corner of Kentucky Route 20 and Bluebird Lane, Boone County, Kentucky, was next on the agenda. Mr. and Mrs. Charles Hall were present as requested.

- (4) The request of Michael J. Ellert for Wiltom Enterprises for Site Plan Review to construct ITT Continental Baking Company (Wonder Bread) Thrift Store at southeast corner of Hopeful Road and Kentucky Route 18, on a 0.4338 acre tract of land zoned C-2.

Chairman Kroger then read resolutions commending five retiring Commission members. Mr. Viox made the motion that these resolutions be made, Mr. Shafer seconded, motion carried unanimously.

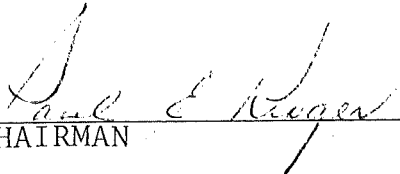
Mrs. Irene Patrick, Fiscal Court Commissioner, was present and commented that she felt the public present earlier at the Solarcrete portion of the meeting did not understand what a Concept Development Plan entailed. She also commented that she thought perhaps the County should have an impounding lot for vehicles.

Chairman Kroger noted that future Commission meetings would be held in the new Boone County Administration Building.

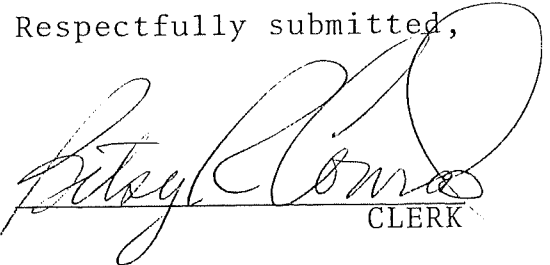
Mr. Shafer made a motion which was carried for adjournment. The meeting adjourned at 10:40 p.m.

APPROVED: 3-17-82

Respectfully submitted,



CHAIRMAN



CLERK

BOONE COUNTY PLANNING COMMISSION

3/3/82

RECOMMENDED CONDITIONS FOR I-1 ZONING APPROVAL

SOLARCRETE CORPORATION

3625 Turfway, Erlanger, Boone County, Kentucky 41018

- * Holding tank to be constructed as part of Phase I or upon initial expansion, or upon a significant increase in personnel.
- * 4½ to 5 foot landscaped berm along northeastern and eastern industrial activity, constructed in conjunction with phased development. Berm and landscaping along the Dimuzio property line to be done immediately.
- * 75 foot setback on southern property boundary.
- * 4½ to 5 foot landscaped berm along southern and southwestern borders of industrial activity on the site; construction to be phased with expansion, i.e., subsequent to Phases I, II and III.
- * Landscaped berms with conifers (6 to 8 foot at planting, at appropriate intervals not to exceed 5 feet) to provide maximum protection from noise, light and activity. Maintain landscaping in good condition, replacing dead or damaged growth as soon as possible.
- * Submit to Boone County Planning Commission a detailed concept development plan, including any berm construction and landscaping particulars, sewage treatment, etc., prior to construction of all new development on the site subsequent to Phase III.

SAS:bc

3/3/82

BOONE COUNTY PLANNING COMMISSION

MARCH 3, 1982

FINDINGS OF FACT

REGARDING REQUEST OF SOLARCRETE CORPORATION FOR ZONING MAP AMENDMENT FOR A 25 ACRE TRACT LOCATED AT 3625 TURFWAY, ERLANGER, BOONE COUNTY, KENTUCKY; FROM OFFICE TWO (O-2) AND SUBURBAN RESIDENTIAL ONE (SR-1) to INDUSTRIAL ONE (I-1).

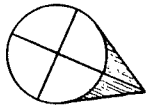
- . The requested zoning map change is in conformance with the Boone County Comprehensive Plan.
- . The following measures are necessary and will be taken to ensure that environmentally sensitive recreational land as well as existing residential land uses in the area will not be derogated:
 - . Holding tank to be constructed as part of Phase I or upon initial expansion, or upon a significant increase in personnel.
 - . 4½ to 5 foot landscaped berm along north-eastern and eastern industrial activity, constructed in conjunction with phased development. Berm and landscaping along the Dimuzio property line to be done immediately.
 - . 75 foot setback on southern property boundary.
 - . 4½ to 5 foot landscaped berm along southern and southwestern borders of industrial activity on the site; construction to be phased with expansion, i.e., subsequent to Phases I, II and III.
 - . Landscaped berms with conifers (6 to 8 foot at planting, at appropriate intervals not to exceed 5 feet) to provide maximum protection from noise, light and activity. Maintain landscaping in good condition, replacing dead or damaged growth as soon as possible.

BOONE COUNTY PLANNING COMMISSION
FINDINGS OF FACT: SOLARCRETE REQUEST
MARCH 3, 1982
Page Two

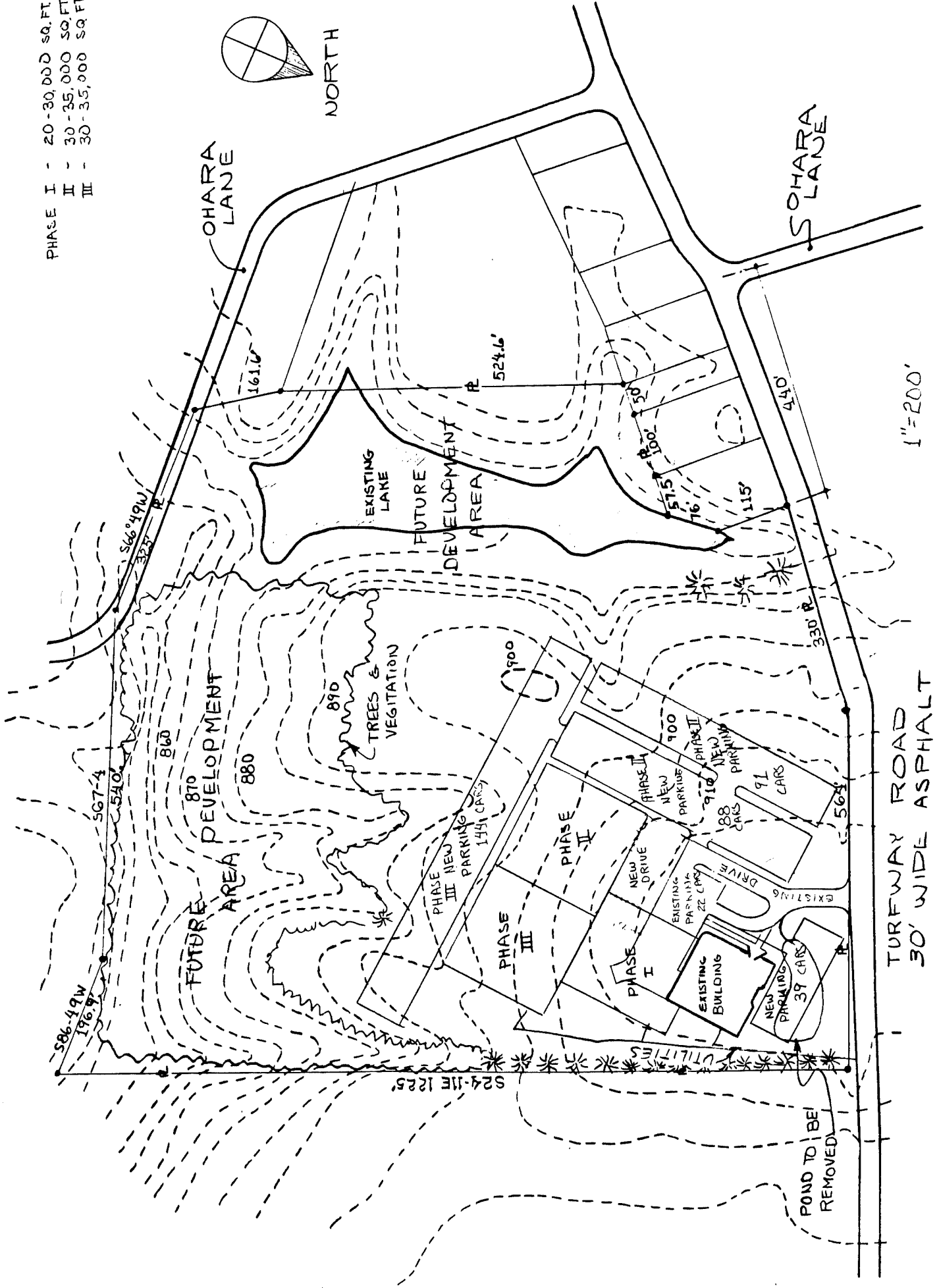
- . Submission to the Boone County Planning Commission of a detailed concept development plan, including any berm construction and landscaping particulars, sewage treatment, etc., prior to construction of all new development on the site subsequent to Phase III.

SAS:bc

- PHASE I - 20-30,000 SQ. FT.
- II - 30-35,000 SQ. FT.
- III - 30-35,000 SQ. FT.

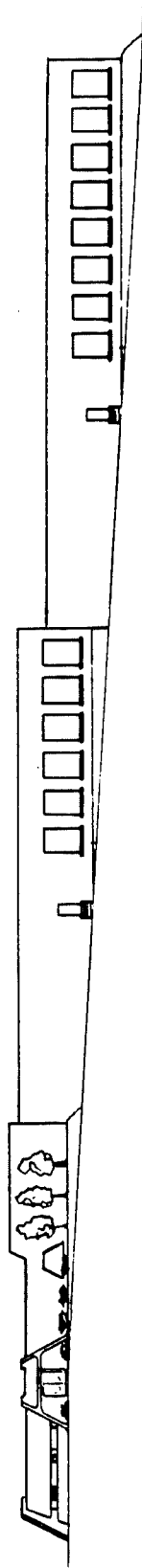


NORTH



TURFWAY ROAD
30' WIDE ASPHALT

1"=200'



WEST ELEVATION

ACKNOWLEDGMENT OF CONCEPT DEVELOPMENT
PLAN AS CONDITIONS TO ZONE CHANGE

This Acknowledgment of a Concept Development Plan as conditions to a zone change for certain real estate signed this 24th day of March, 1982, by Bruce Poston, President of Solarcrete, Inc. , and Larry Pohlgeers, President of the U.S. Subsidiary of the Van Melle Company, Inc.

W I T N E S S E T H :

1. That Bruce Poston, President of Solarcrete, Inc. has requested and obtained a zone change for certain real estate located in Boone County, Kentucky, this zone change being from Office Two (O-2) and Suburban Residential One (SR-1) to Industrial One (I-1). However, this zone change is limited to a Concept Development Plan submitted to the Boone County Planning Commission. The real estate for this zone change is more particularly described as follows:

(See Attachment "A")

This legal description has been furnished by Ray Merkel, agent of Solarcrete, Inc.

2. The Concept Development Plan submitted and agreed to by Bruce Poston, President of Solarcrete, Inc., and Larry Pohlgeers, President of the U.S. Subsidiary of the Van Melle Company, Inc., limits and restricts the use and development of this property according to the following terms and conditions: (See Attachment "B").

3. The Applicant and owners of the property agree that the Concept Development Plan submitted are conditions to the zone change of this property.

4. This Acknowledgment is to be recorded as conditions on the zone change only in the event the zone change

is granted by the legislative body having jurisdiction. However, it shall be signed by the applicant and property owners at the time the Boone County Planning Commission makes its recommendations on the zone change to the legislative body.

5. The Concept Development Plan restricting the use and development of this property is on record at the office of the Boone County Planning Commission and consists of drawings, renderings, graphs, surveying and engineering studies and any conditions agreed to by the applicant for the zone change and property owners set forth in the minutes or records of the Boone County Planning Commission.

6. Applicant and property owners agree and consent to this Acknowledgment of Concept Development Plan as conditions to their zone change being made of record in the office of the Boone County Clerk in Burlington, Kentucky, and runs with the land and is binding on all successors in title.

7. As part of the Concept Development Plan, the existing building structure and support facilities, including paved parking areas and the street, will be used in the development. Further, that as long as the structure and facilities are used as part of the development set forth in the Concept Development Plan, that use shall constitute and satisfy the substantial construction requirement of Section 303 of the Boone County Zoning Regulations.

IN WITNESS WHEREOF, the applicant for this zone change and the property owners have set their hands this 24th day of March, 1982.

APPLICANT:

PROPERTY OWNERS:

Solarcrete Corp. by
Boone J. [Signature], President

Solarcrete Corp. by
Boone J. [Signature], President

INTENDED GRANTEE:

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed and sworn to before me this 24th day of March, 1982, by Bruce Poston, President of Solarcrete, Inc., as Applicant and property owner, and Larry Pohlgeers, President of the U.S. Subsidiary of the Van Melle Company, Inc., as intended grantee of the property.

Clair M. Tanner

NOTARY PUBLIC, State at Large

My Commission Expires:
MY COMMISSION EXPIRES SEPTEMBER 25, 1984

This instrument was prepared by:

FOR: VINCENT & SKBES
Attorneys at Law
240 Main Street
Florence, Kentucky 41042
NO TITLE EXAMINATION

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

I, _____, Clerk of the County Court in and for the County and State aforesaid, do certify that the foregoing Acknowledgment of Concept Development Plan as conditions to the zone change signed by _____, as Applicant and property owner was this _____ day of March, 1982, produced to me, certified as above and lodged for record at _____ o'clock ____ M.

Whereupon, the same with foregoing and this certificate

have been duly recorded in my office.

Given under my hand this _____ day of March,
1982.

CLERK

BY: _____
D.C.

Located generally in Boone County Group No. 2027 on the south side of Turfway Road (Racetrack Road), northeast of and near its intersection with Bonar Road and described thusly: BEGINNING at a stake, the northeast corner of Lot No. 3 of the Heaton Subdivision (Plat Book 6, page 57) in the south line (30 feet from centerline) of Turfway Road; thence along said line of Turfway Road, N 51-54-15 E 278.30 feet, N 60-18-15 E 273.23 feet, N 65-44-45 E 323.02 feet to a spike and stake (found May 5, 1979) therein; thence with the exterior lines of the original Heaton property tract of 35.35 acres, more or less, S 24-5-17 E 1220.0 feet to the intersection of the centerline of an old roadway with a branch or creek; thence running along the centerline of said roadway (unimproved) S 86-55- W 196.9 feet, S 67-4 W 554.02 feet; thence running along the centerline of the improved section of the old Dry Creek Road S 87-25-46 W 322.47 feet to a railroad spike therein; thence with the east line of a 2550 square feet parcel partitioned off the Heaton property N 29-30-14 W 307.98 feet to a stake, N 23-5-10 W 376.39 feet to a stake on the southeast corner of Lot No. 1 of said Heaton Subdivision; thence with the east line thereof, N 42-0 W 170.0 feet to the south line of Turfway Road; thence therewith N 48-0 E 50.0 feet to the northwest corner of Lot No. 2 of said subdivision; thence with the southwest and southeast lines of said subdivision and Lots Nos. 2 and 3 thereof, S 42-0 E 170.0 feet to a stake, N 48-0 E 157.50 feet to a stake, N 1-40 E 76.034 feet to a stake, N 42-00 W 115.0 feet to the place of beginning, containing 25.7051 acres and subject to local highways and legal easements of record and in existence. The foregoing description was prepared by Nool Walton (Ky. Reg. P.E. and L. S) from surveys made by David G. Walton (Ky. Reg. P.E. and L. S) on May 9, 1979.

259/291
Being the same property conveyed in Deed Book 259, Page 294

RECOMMENDED CONDITIONS FOR I-1 ZONING APPROVAL

SOLARCRETE CORPORATION

3625 Turfway, Erlanger, Boone County, Kentucky 41018

- * Holding tank to be constructed as part of Phase I or upon initial expansion, or upon a significant increase in personnel.
- * 4½ to 5 foot landscaped berm along northeastern and eastern industrial activity, constructed in conjunction with phased development. Berm and landscaping along the Dimuzio property line to be done immediately.
- * 75 foot setback on southern property boundary.
- * 4½ to 5 foot landscaped berm along southern and southwestern borders of industrial activity on the site; construction to be phased with expansion, i.e., subsequent to Phases I, II and III.
- * Landscaped berms with conifers (6 to 8 foot at planting, at appropriate intervals not to exceed 5 feet) to provide maximum protection from noise, light and activity. Maintain landscaping in good condition, replacing dead or damaged growth as soon as possible.
- * Submit to Boone County Planning Commission a detailed concept development plan, including any berm construction and landscaping particulars, sewage treatment, etc., prior to construction of all new development on the site subsequent to Phase III.

SAS:bc

3/3/82

