

REQUEST OF GLENN F. BAIRD ET.AL. (OWNER)
FOR A ZONING MAP AMENDMENT ON A ±0.5 ACRE SITE
LOCATED ON THE EAST SIDE OF UTTERBACK ROAD, FLORENCE, KENTUCKY

JUNE 28, 1989

This is a request of Glenn F. Baird et.al. (owner) to change the zoning in order to correct a potential zoning map error. The request is to rezone a ±0.5 acre portion of the 7.8 acre Baird property from Suburban Residential One (SR-1) to Commercial Two (C-2).

The site was the subject of an appeal to the Boone County Board of Adjustments of a zoning map interpretation made by the Zoning Administrator for Boone County that the ±0.5 acre site is zoned Suburban Residential One (SR-1). The appeal was withdrawn when it was discovered that the property had actually been previously annexed to the City of Florence and that the proper method of obtaining the applicant's desired zoning on the site was to request a Zoning Map Amendment. The 1974 annexation was hinged on the 7.8 acre site being entirely within one zoning district. The applicant is contending that this shows that the property should be entirely within one zoning district on the current map, hence, the Commercial Two (C-2) district. This request is somewhat hinged upon the Chelsea Moore Zoning Map Amendment request in that if the Chelsea Moore request is approved, then the 0.5 acre site of the Baird property would be separated from the other portion of the Suburban Residential One (SR-1) zoning along Utterback Road. If this request were approved, the entire 7.8 acre tract as shown in the applicant's submitted information would be zoned Commercial Two (C-2). The applicant contends that the 1980 Florence Zoning Map was incorrectly drawn and that the entire 7.8 acre property should have been zoned Commercial Two (C-2).

CHARACTERISTICS OF THE SITE

The ±0.5 acre site currently contains an older single-family residence and slopes from the east, down to Utterback Road. A Florence topographic map is attached to this report. The site is roughly triangular in shape with approximately 200-250 feet of frontage on Utterback Road.

Soils present on the site include Faywood Silty Clay (FdD3) usually found on 12-20 percent slopes and Rossmoyne Silt Loam (RsC) usually found on 6-12 percent slopes. Both soil types present moderate hazard of erosion.

SURROUNDING LAND USES AND ZONING

The ±7.3 acre remainder of the Baird property is undeveloped and includes a barn. This portion of the property is currently zoned Commercial Two (C-2). To the south and east is the Chelsea Moore property that is also undeveloped at this time. This property is wooded and is zoned Commercial Two (C-2) and Suburban Residential One (SR-1). The ±0.5 acre SR-1 portion of that property is also the subject of a Zoning Map Amendment. South of the site is a small single-family residential area on Utterback Road that is zoned Suburban Residential One (SR-1). Southwest of the site is Surfwood Drive, also zoned SR-1. This subdivision is situated higher than Utterback Road and separated by a branch of

=====

Utterback Creek and dense woodland. Directly west of the site is Yealey Elementary School, zoned Public Facilities (PF). North of the site is Buckingham Woods Subdivision (Achates Avenue) that is zoned Residential One-Family (R1F).

RELATIONSHIP TO COMPREHENSIVE PLAN

The 1986 Future Land Use Map depicts the subject ± 0.5 acre site and much of the 7.8 acre Baird property as Medium Density Residential, bordering future commercial uses.

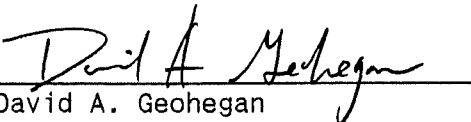
The Boone County Comprehensive Plan recommends in general that future commercial uses be developed at strategic locations and that buffer space be maintained between uses. The mixing of commercial and non-commercial uses is recommended to occur only in planned developments or replanned older areas. The Plan also calls for older residential areas with redeeming qualities to be preserved or rehabilitated where appropriate.

STAFF CONCERNS

1. The ± 0.5 acre site contains hilly topography and contains an existing residence. Staff questions whether the site is suitable for commercial uses or for part of a commercial use. The original intent of the zoning map, in Staff's opinion, was to create and protect the small residential area along Utterback Road.
2. Utterback Road is extremely narrow and in poor condition. It is not suitable for any commercial traffic unless completely reconstructed.

CONCLUSION

The Planning Commission and City of Florence need to review this request in terms of the three criteria necessary for a Zoning Map Amendment. Should the request be approved, the Future Land Use Map would need to be adjusted.



David A. Geohegan
Planner/Plans Examiner

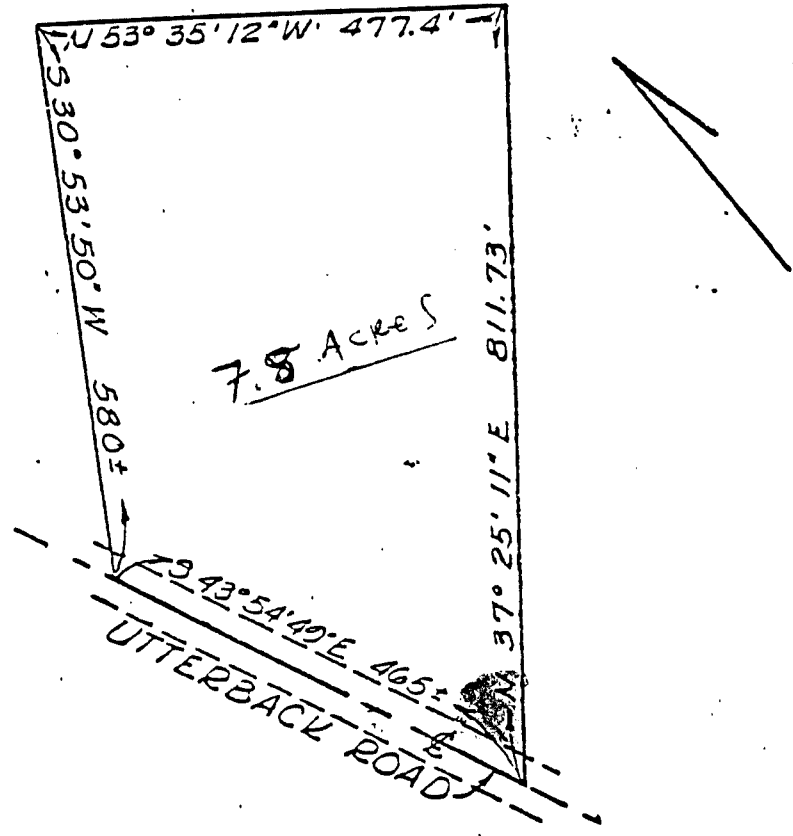
DAG:jdh

BAIRD

SUBMITTED BY
APPLICANT

NO. 5 (cont'd)

Of the applicants 7.8 acres which lies generally between Utterback Road and Connector Drive (see attached Exhibit "A" and Exhibit "B") there is a small portion (approximately .5 acres +,-) which is thought to be SR - 1. The applicant has met with the Planning and Zoning Staff which has issued an interpretation letter dated March 21, 1989 (see attached Exhibit "C") wherein it was the opinion of the Staff that the subject .5 acre (+, -) portion of the applicant's property is SR - 1. Initially, the applicant's application was filed before the Boone County Board of Adjustment, the applicant believing that the property in question was located in the unincorporated area of Boone County. This would be substantiated by the Official Zoning Map of the Boone County Planning and Zoning Commission. However, on closer inspection and review of various city records, it was determined that the 7.8 acres of the applicant was in fact incorporated into the city of Florence by annexation (see attached Exhibit "D"). Based upon the annexation of the applicant's property into the city of Florence it would appear to the applicant that the entire 7.8 acres is in fact zoned C-2. This would be consistent with the previous property owner's recollection that the property was zoned to the equivalent of C-2 prior to transfer to the present property owners in 1978 (applicant herein).



PLAT OF THE KENNER TRACT ANNEXED
TO THE CITY OF FLORENCE

SCALE: 1" = 200'

BAIRD



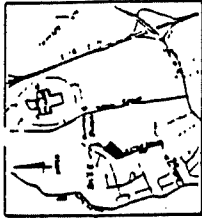
McGill Smith Punshon International, Inc.

Engineers, Architects, Planners, Surveyors, Landscape Architects

2018 Boone County, KY
1000 3rd Street
Boone, KY 40309
Phone: 606-331-1007

Project No.	
Drawn By: AAL	
Date: 7-1-00	
Scale:	
Sheet No.:	
Total Sheets:	

Sheet No.	1170
Total	12
Project No.	0710
File No.	0709



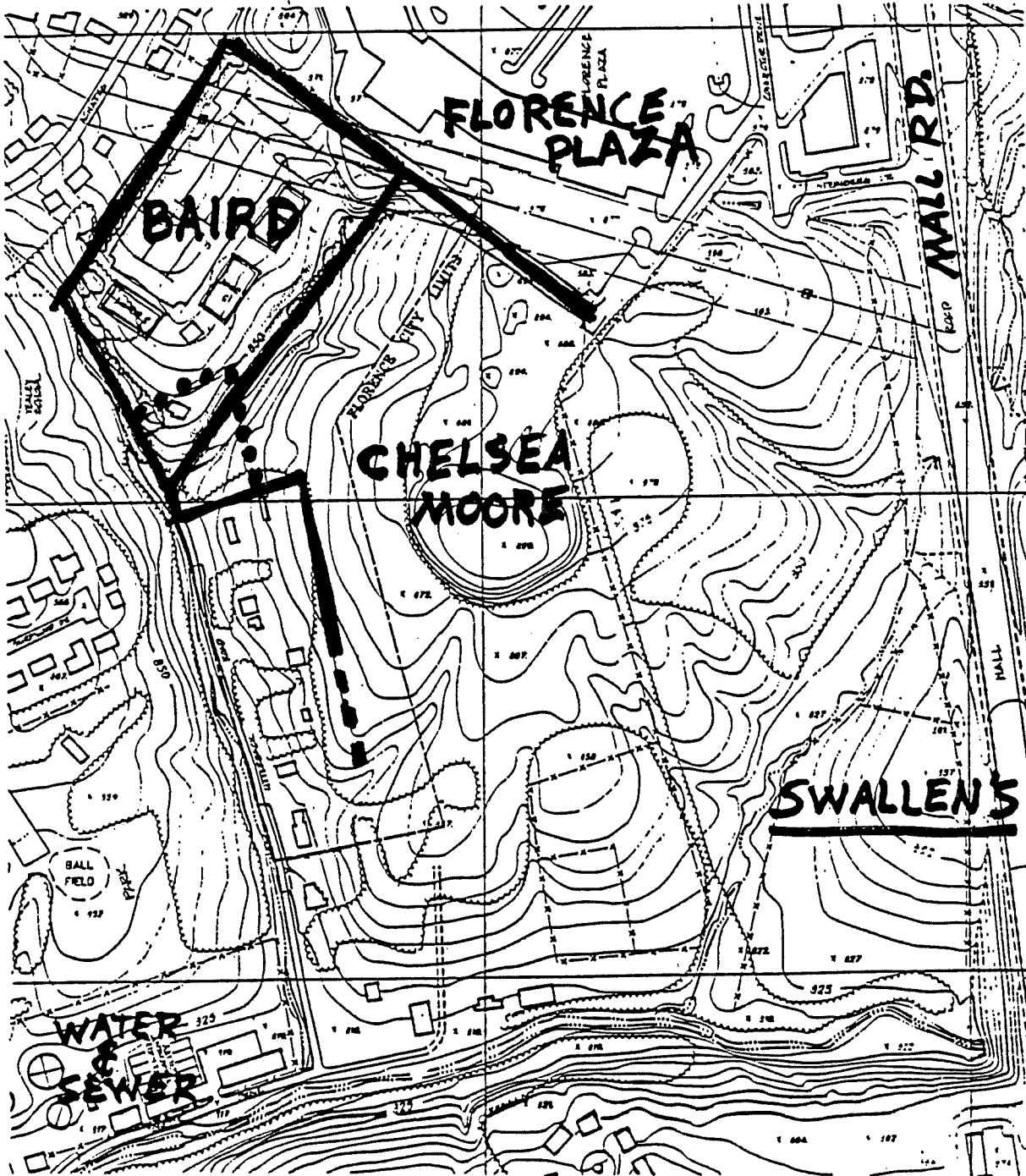
VICINITY MAP SCALE 1"=100'

OFFICE
2100 6th
316 CAS
755 A

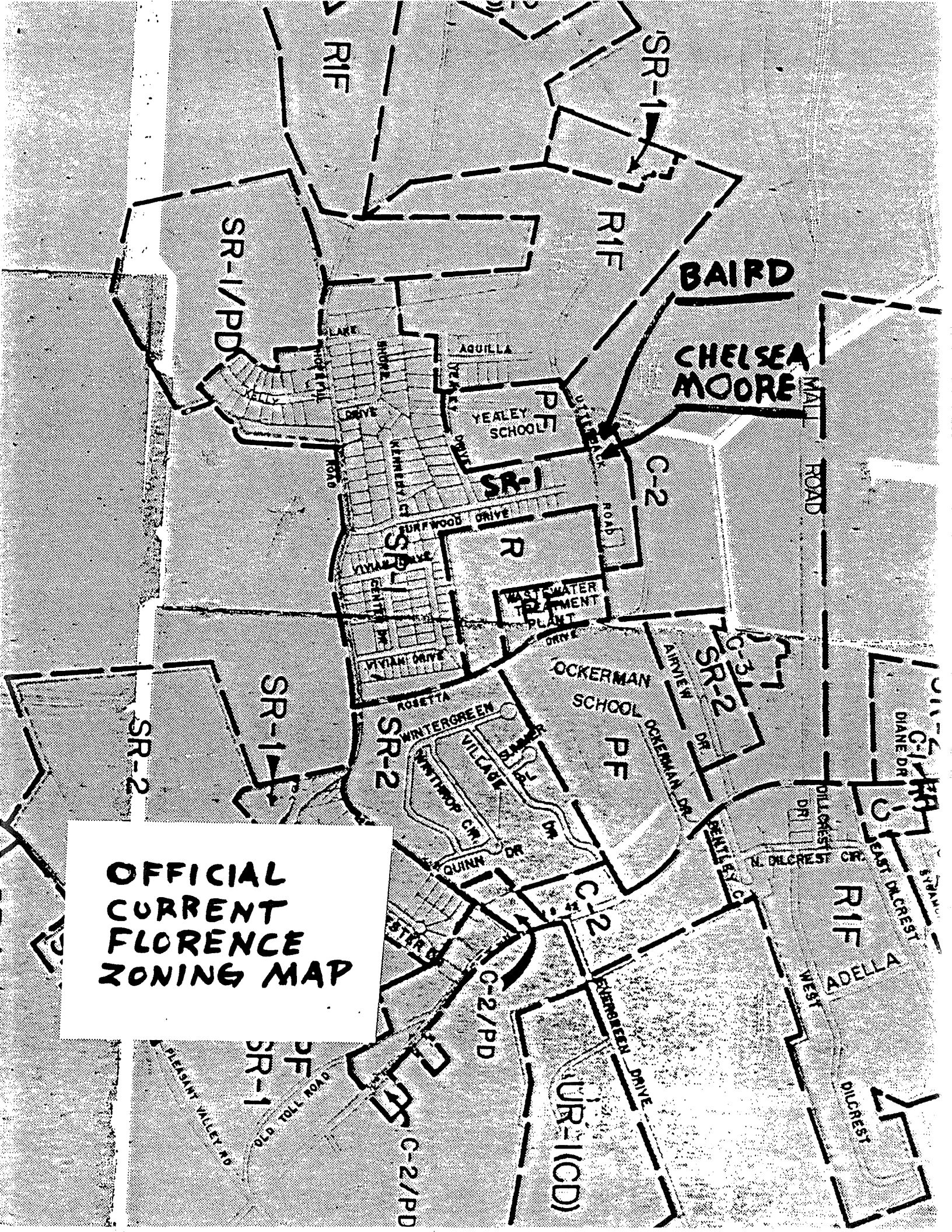
3/4"=1"

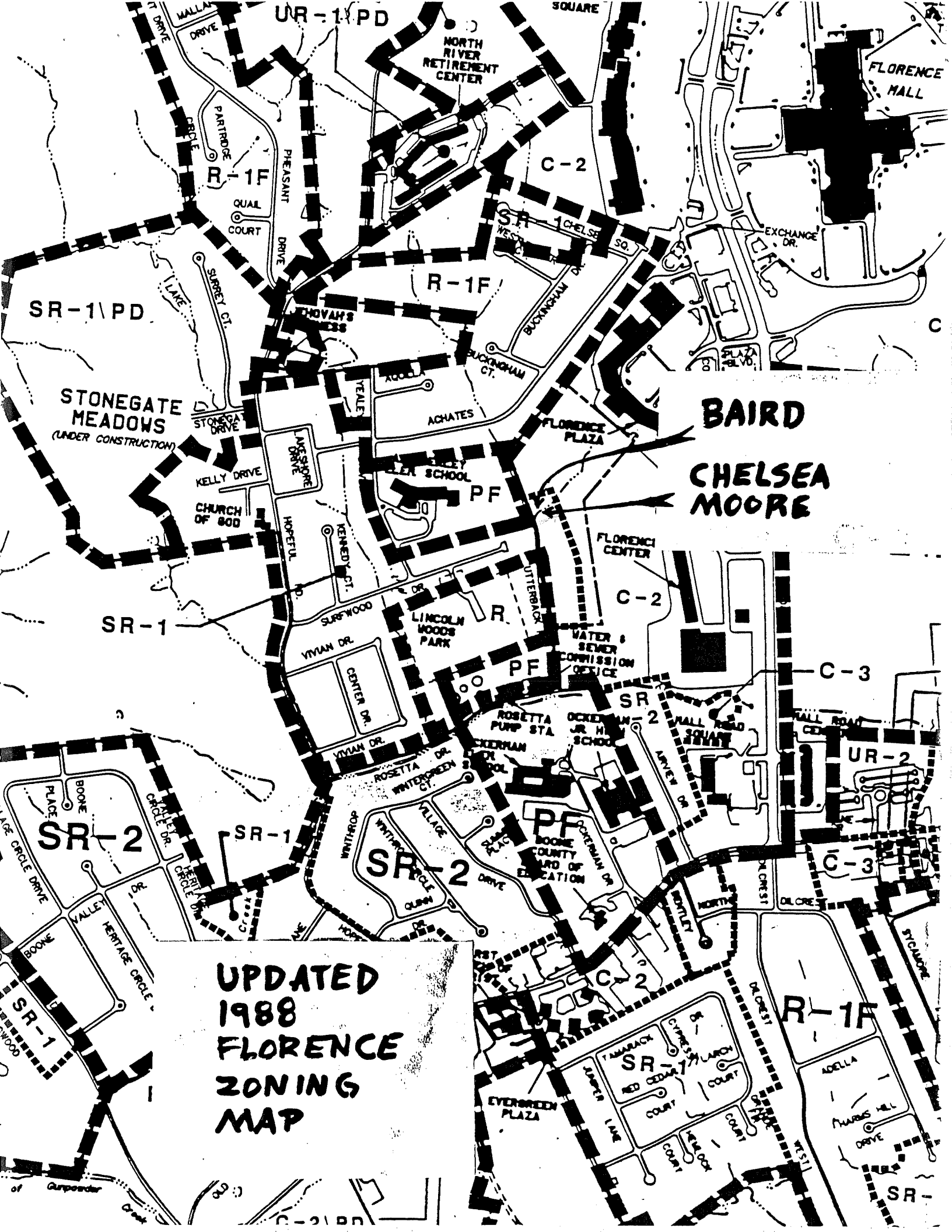


YEALY SCHOOL



**OFFICIAL
CURRENT
FLORENCE
ZONING MAP**





UR-1 PD

NORTH RIVER RETIREMENT CENTER

FLORENCE MALL

R-1F

C-2

SR-1 PD

R-1F

SR-1 CHelsea

EXCHANGE DR.

STONEGATE MEADOWS (UNDER CONSTRUCTION)

BAIRD

CHELSEA MOORE

CHURCH OF 800

ACHATES

FLORENCE PLAZA

SR-1

PF

FLORENCE CENTER

C-2

LINCOLN WOODS PARK

WATER & SEWER COMMISSION OFFICE

C-3

ROSETTA PURP STA

ROCKMAN JR HIGH SCHOOL

UR-2

SR-2

SR-1

SR-2

PF

BOONE COUNTY BOARD OF EDUCATION

C-3

UPDATED 1988 FLORENCE ZONING MAP

R-1F

EVERGREEN PLAZA

SR

RED CEDAR COURT

ADILLA

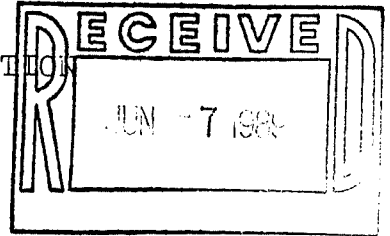
MARSH HILL DRIVE

SR-

APPLICATION FORM

ZONING MAP AMENDMENTS / CORRECTIONS

BOONE COUNTY PLANNING COMMISSION
(See Boone County Zoning Regulations)



SECTION A (To be completed by applicant)

1. Name of Development Glenn F. Baird
2. Location of Development off Connector Dr. & Utter Back Rd. Flor., KY
3. Total Acreage of Site 7.8 acre (±)
4. Current Zoning C-2 and Questionable SR-1
5. Proposed Zoning (classification being requested) C-2
6. Proposed Uses (please specify each use) C-2; no specific use proposed at this time.
7. Name of Applicant(s) Glenn F. Baird, et al
Phone Number(s) 371-2100
8. Address of Applicant(s) 7621 Dixie Highway
Florence, Kentucky 41042
City State Zip
9. Name of Property Owner(s) Glenn F. Baird, et al
Phone Number(s) 371-2100
10. Address of Property Owner(s) 7621 Dixie Highway
Florence, Kentucky 41042
City State Zip
11. Proposed Building Intensities (please specify) N/A
12. Are there any existing buildings on the site? YES
How many? TWO (2)
13. Deed Book 380 Page No. 255-274 Group No. 2040
14. Have you had a pre-application meeting with BCPC staff? YES
15. 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: _____

(COMPLETE OTHER SIDE OF APPLICATION)

EXHIBIT "A"

Group No. 2040 Lying and being in Boone County, Kentucky, about one and one-half mile S.W. of Florence, Kentucky, and described as follows:

BEGINNING at corner of Lucy Tanner in Rhoda Snyder's line marked by a hickory tree; thence with said Rhoda Snyder's line Northerly 553 feet to a watergap; thence Westerly 74 feet; thence Northerly 677 feet to a corner of Ezra Tanner; thence with Ezra Tanner's line Easterly 481 feet; thence down the creek road southerly 847 feet to a watergap; thence Westerly 39 feet; thence Southerly 775 feet; thence leaving the road and branch and running Westerly 361 feet to the place of beginning; containing twelve and eighty-five hundredths (12.85) acres.

EXCEPTION: There is excepted from this conveyance a 5.06 parcel of land heretofore conveyed by Ronald L. Kenner, et al., to Scottsdale Investment Corporation by deed recorded in Deed Book 154, page 404, in the Office of the Boone County Court Clerk, Burlington, Kentucky.

Deed reference: Deed Book 283, page 293.

EXHIBIT "B"

BOONE COUNTY PLANNING COMMISSION

Public Hearing Items #3 and #4
June 28, 1989 - 8:00 P.M.

Page 1

Mr. Fred Burch, Vice Chairman, stated that Public Hearings Items #3 and #4 could be conducted simultaneously. Mr. Duncan and Mr. Nienaber, attorneys, were in agreement.

Mr. Burch introduced Agenda Items #3 and #4:

3. Applicant: Glenn F. Baird, et al (owners)
Request: Zoning Map Amendment

The request of Glenn F. Baird, et al (owners) for a Zoning Map Amendment on a 7.8-acre site located off Connector Drive and Utterback Road, Florence, Kentucky. The purpose of the request is to change the current zoning of Suburban Residential One (SR-1) to Commercial Two (C-2) on an approximate 0.5-acre portion of the 7.8-acre site.

4. Applicant: Chelsea Moore Corporation (owner)
Request: Zoning Map Amendment

The request of Chelsea Moore Corporation (owner) for a Zoning Map Amendment on a 20.44-acre site between Utterback Road and Connector Drive, Florence, Kentucky. The purpose of the request is to change the current zoning of Suburban Residential One (SR-1) to Commercial Two (C-2) on an approximate 0.5-acre portion of the 20.44-acre site.

Staff Member, Dave Geohegan, presented the Staff Reports (see Staff Reports).

Mr. Mike Duncan, attorney with Ziegler & Schneider in Florence, stated that he represents Chelsea Moore Corporation.

Mr. Tom Nienaber, attorney, stated that he represents the group owning the 7.8-acre site.

Mr. Duncan stated that approximately a year ago, Chelsea Moore requested a zoning determination. They have 20.44 acres of property left that remain undeveloped. The property lies generally behind the various centers on Mall Road, with access off Connector Road next to Damon's. They understood the property to be commercial and marketed it as commercial. Last year, a prospective buyer wanted to be sure that all the property was commercial. Mr. Duncan indicated the location of the property on the drawing. He stated that zoning maps are drawn to such a scale that it is difficult to be precise. Mr. Corielle of Chelsea Moore came to the Zoning Commission with a plat and asked that the zoning lines be drawn. He indicated on the drawing a green line drawn by Dave Geohegan of the Staff indicating where the lines are. Mr. Corielle produced overlays and enlarged transparencies to convince the Zoning Administrator that the line should be where the pink line is shown on the drawing. They appealed to the Boone County Board of Adjustments. The city map shows the area to

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

July 5, 1989

8:00 P.M.

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.

5. Zoning Map Amendment

The request of Glenn F. Baird, et al (owners) for a Zoning Map Amendment on a 7.8-acre site located off Connector Drive and Utterback Road, Florence, Kentucky. The purpose of the request is to change the current zoning of Suburban Residential One (SR-1) to Commercial Two (C-2) on a one-half acre (approx.) portion of the 7.8-acre site.

Mr. Gerald Newton, Director, read the Committee Report which recommended approval of the request based on the findings of fact, without conditions (see Committee Report).

Mr. Barnett moved by resolution to the City of Florence that the request be approved based on the Staff and Committee Reports. Mr. DeLong seconded the motion and it carried unanimously.

6. Zoning Map Amendment

The request of Chelsea Moore Corporation (owner) for a Zoning Map Amendment on a 20.44-acre site between Utterback Road and Connector Drive, Florence, Kentucky. The purpose of the request is to change the current zoning of Suburban Residential One (SR-1) to Commercial Two (C-2) on a one-half acre (approx.) portion of the 20.44-acre site.

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

Mr. Barnett moved by resolution to the City of Florence that the request be approved based on the Staff and Committee Reports. Mr. Jones seconded the motion and it carried unanimously.

7. Site Plan Review

The request of James W. Berling for Dean C. Stallings (owner) for Site Plan Review to make site improvements to the Richwood Flea Market. The 18-acre (approx.) site is located south of Frogtown Road on U.S. 25, Boone County, Kentucky and is zoned Industrial One (I-1).

Staff Member, Tom Breidenstein, presented the Staff Report (see Staff Report).

Mr. Gerald Newton, Director, read the Committee Report which recommended approval of the request based on the Staff Report.

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

Mrs. Thelma Castellini stated that this used to be a weekend market and is now open almost everyday. The traffic is backed up southbound and northbound on U.S. 25. She stated that it is a two-lane road with a hill and questioned if a holding lane on U.S. 25 had been considered.

EXHIBIT "C"

COMMITTEE REPORT

#5

TO: Boone County Planning Commission
FROM: Larry Barnett, Committee Chairman
DATE: July 5, 1989
RE: Request of Glenn F. Baird, et al (owners) for a Zoning Map Amendment on a 7.8 acre site located off Connector Drive and Utterback Road, Florence, Kentucky. The purpose of the request is to change the current zoning of Suburban Residential One (SR-1) to Commercial Two (C-2) on \pm 0.5 acre portion of the 7.8 acre site.

REMARKS:

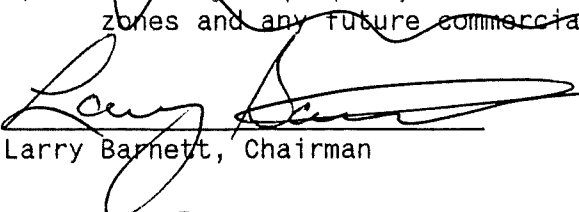
We, the Committee, recommend approval of the request based upon the following findings of fact with the following condition. For the purpose of clarification, the area affected by this recommendation lies directly north of the Chelsea Moore property and measures 200 feet on the west edge, 200 feet on the north edge, 40 feet on the east edge, and 250 feet on the south edge.

Findings of Fact


- 1) The applicant has sufficiently shown that the existing zoning of Suburban Residential One (SR-1) is inappropriate and that the requested zoning of Commercial Two (C-2) is appropriate on the \pm 0.5 acre site. The requested Commercial Two zoning would enable the entire Glenn F. Baird property to be developed under one development plan and to have consistent buffer yard provisions for its perimeter. The applicant has proposed that no vehicular access other than potential emergency vehicle access would occur onto Rosetta Lane (Utterback Road). The existing zoning of Suburban Residential One (SR-1) would not allow for new residential development of the \pm 0.5 acre site by itself because of the significant topographic constraints.

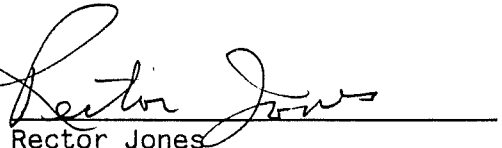
Conditions

- 1) The subject property is to be used as a buffer area between the residential zones and any future commercial development.

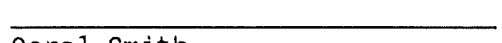

Larry Barnett, Chairman


Fred Burch


Phil Damstrom


Rector Jones


Barry Nelther


Carol Smith

LB:bds

P+2

ORDINANCE NO. 0-23-89

AN ORDINANCE ADOPTING AND APPROVING A REZONING OF CERTAIN REAL ESTATE LOCATED IN THE CITY OF FLORENCE, KENTUCKY, SUCH ZONE CHANGE BEING FOR A 0.5 ACRE PORTION OF A 7.8 ACRE TRACT LOCATED NEAR UTTERBACK ROAD, THIS ZONE CHANGE BEING FROM ITS PRESENT ZONE OF SUBURBAN RESIDENTIAL ONE (SR-1) TO COMMERCIAL TWO (C-2), AND BEING SUBJECT TO AGREED CONDITIONS AS PART OF A DEVELOPMENT PLAN FOR THE SUBJECT PROPERTY. (GLEN F. BAIRD, ET AL, PROPERTY)

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

WHEREAS, the Boone County Planning Commission has recommended that a requested zone change for certain property within the city limits of Florence, Kentucky, be granted, this zone change being from the current zoning of Suburban Residential One (SR-1) to Commercial Two (C-2), and

WHEREAS, the property owner has agreed to a condition for this rezoning as part of a development plan and City Council of Florence, Kentucky, has reviewed this request along with certain findings of the Commission.

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

SECTION I

That certain real estate located in the City of Florence, Kentucky, which is presently zoned Suburban Residential One (SR-1), located along or near Utterback Road shall be and the same is hereby rezoned to Commercial Two (C-2), subject to the agreed condition by the property owner as part of its development plan, such real estate being more particularly described in Exhibit "A", and the condition being more particularly set forth in Exhibit "B", both such exhibits being attached hereto and incorporated by reference as if fully set out.

SECTION II

That the zoning map of Boone County, Kentucky, as it applies to the City of Florence, Kentucky, shall be amended or changed to reflect the rezoning of the subject property.

SECTION III

That the recommendation of the Boone County Planning Commission regarding this zone change shall be and is hereby

adopted and approved by City Council of Florence, Kentucky, which accepts the findings of the Boone County Planning Commission for this zone change.

SECTION IV

That this Council is aware and acknowledges that the Commission has recommended and approved a change in the land use map of the comprehensive plan upon this City Council approving this zone change application. To the extent required by law, this City Council approves the change to the land use map as set forth in the recommendation and approval by the Commission, such change to the land use map to make this property designated as commercial.

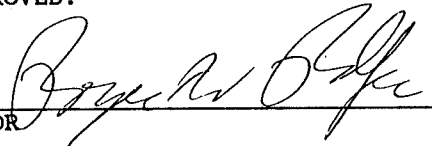
SECTION V

That in the event the rezoning of this property would be held invalid by any court of proper jurisdiction, such invalidity shall not affect the validity of any of the other zoning regulations, zoning map and comprehensive plan provisions as they are severable from this rezoning on this particular piece of property, and are intended to continue to have effect irregardless of any invalidity relating to this particular rezoning.

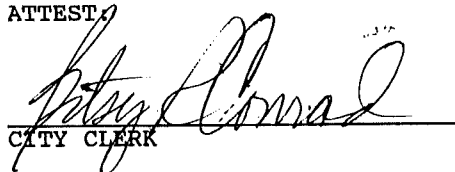
PASSED AND APPROVED ON FIRST READING THIS 22nd DAY OF August, 1989.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED THIS 12th DAY OF September 1989.

APPROVED:


MAYOR

ATTEST


CITY CLERK