

STAFF REPORT

REQUEST OF RODNEY CAIN FOR A ZONING
MAP AMENDMENT AND CONDITIONAL USE
PERMIT FOR PROPERTY LOCATED ON
U.S. 25, BOONE COUNTY,
KENTUCKY.

JULY 27, 1988

Applicant is requesting a Zoning Map Amendment from the present zoning of Industrial One (I-1) to Commercial One (C-1) and a Conditional Use Permit for a 0.9445 acre parcel located on the east side of Dixie Highway, (U.S. 25) approximately 1,100 feet south of the Mt. Zion Road intersection. The purpose of the request is to rezone the property for development of a convenience store, laundromat, and self service car wash facility. The proposed car wash is a Conditional Use in the C-1 zone.

SURROUNDING LAND USE AND ZONING, (FIGURE I)

NORTH: Single family residence (I-1)
Lakewood Mobile Home Park (zoned MHP)
EAST: Vacant property, Southern Railroad (I-1)
SOUTH: Vacant property (I-2)
WEST: Across U.S. 25, Don's Energy Shop, beauty parlor
(C-1)
Greenview Mobile Home Park (MHP)
White Pine Village Mobile Home Park (MHP)

EXISTING FEATURES OF THE SITE

The site is presently occupied by a vacant single family residence. A substantial portion of the site's frontage is paved with asphalt and concrete: however, this surface has deteriorated to the extent that it no longer provides a durable and dust free surface. Storm water runoff from the side drains to a swale adjacent Dixie Highway and to a pond near the railroad and mobile home park. There is an 8 inch water line located on the west side of Dixie Highway.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

This request must be reviewed on the basis of its relationship to the 1986 Boone County Comprehensive Plan. The Plan's "Future Land Use Map" proposes future development of the property as High Density Residential and Commercial (FIGURE II). The text of the Comprehensive Plan generally describes future development in the area:

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Land Use Element - "The Mt. Zion interchange will have the single largest impact on this area" (page L-21). Commercial activity associated with the interchange should be concentrated on the northeast quadrant. Most of the existing residential development is south of Mt. Zion although the Mobile Home Park Uses will experience pressure from high land values in the future. Any commercial development should occur carefully with attention paid to effects on traffic. This is important because increasing amounts of residential traffic will be entering the area from the west and additional industrial traffic from development along US 25 will need to access I-75 from the east (page L-21).

The Mt. Zion area is bisected by US 25, a major direction of growth from the Florence urban center. The fact that it runs parallel between I-75 and the railway makes it an ideal transportation connector. It also connects Walton and Florence. Because of the various land uses along US 25, it will carry a wide selection of traffic types. For this reason any traffic intensive or truck-oriented uses should locate near connections to the interstate (page L-21).

The Transportation Element of the Comprehensive Plan classifies Dixie Highway as a major arterial (page T-1). In addition, the Plan's transportation element refers to the need for strict access control along high volume roadways (page T-8).

The Plan's "Housing Element" discusses residential growth along Dixie Highway near Mt. Zion Road. The plan states that "Extensive residential development should not be permitted to the east of this new interchange because of Northern Kentucky Industrial Park traffic would avoid some of the traffic problems evident at the nearby US 42 interchange" (page H-21).

The Plan's "Business Activity Element" states that commercial development near the proposed Mt. Zion Road/I-75 and along Dixie Highway (page B-15).

The "Goals and Objectives" of the Comprehensive Plan state that "Commercial uses shall be developed at strategic locations relative to their trade areas with direct access and ample parking space" (page G-4). With regard to traffic issues, the Goals and Objectives state "Forms of access management shall be used to reduce vehicular traffic congestion wherever possible" (page G-6).

PROPOSED CONCEPT DEVELOPMENT PLAN

The Applicant has submitted a proposed development plan for review (FIGURE III). This plan indicates two proposed buildings: a 4000 square foot building for retail and laundry, and a 1730 square foot selfservice car wash. The plan proposes one access driveway located near the center of the site's frontage on Dixie Highway. The proposed access location and site layout allow for access management and driveway connections to property located north, south, and east of the site under review.

GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES

The proposed self service car wash is a Conditional Use in the C-1 zone. Therefore, if the Commission should recommend approval of the Zoning Map Amendment, they must also consider the seven general standards outlined by Section 263 of the Zoning Regulations (see Figure IV). Staff's review of these 7 standards is as follows:

1. This report previously outlined the Comprehensive Plan for the area of the site under review. Generally, commercial development with properly designed vehicular access is planned for this area.
2. Staff sees no reason why the proposed development would change the existing or intended character of the area.
3. With proper design of access, no hazard will be created.
4. The site presently lacks sanitary sewer service. However, it is staff's understanding that the Boone County Water and Sewer District has plans to develop sewer service for the area.
5. The development, as proposed, should not create additional strain on the public infrastructure. However, development of adjacent property may increase traffic which gains access through this site and therefore may require provision of turning Lanes on Dixie Highway.
6. If proper sanitary sewer service is provided, the proposed uses would not be detrimental to the neighborhood.

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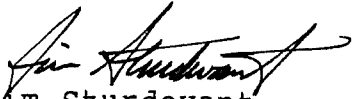
7. Staff believes that the design of vehichular access to the site could be designed to provide a more defined driveway lane to the rear of the property and for future access management connections to adjacent property.

STAFF CONCERNS

1. Access: The proposed plan has generally been designed to provide for proper access management. However, careful review of the Site Plan will be necessary and should require clearly defined access driveways to adjacent properties.
2. Staff believes that development of the proposed car wash may not be appropriate until public sewer service is provided.

CONCLUSION:

In summary, the major issues regarding this request are its relationship to the Comprehensive Plan, the standards applicable to Conditional Uses, design of access to the site, and timely provision of public sewer service. Should the Planning Commission and Fiscal Court approve the Zone Change request, no ammendment to the Boone County Comprehensive Plan will be necessary.


Jim Sturdevant
Plans Examiner/Planner

JES:kat

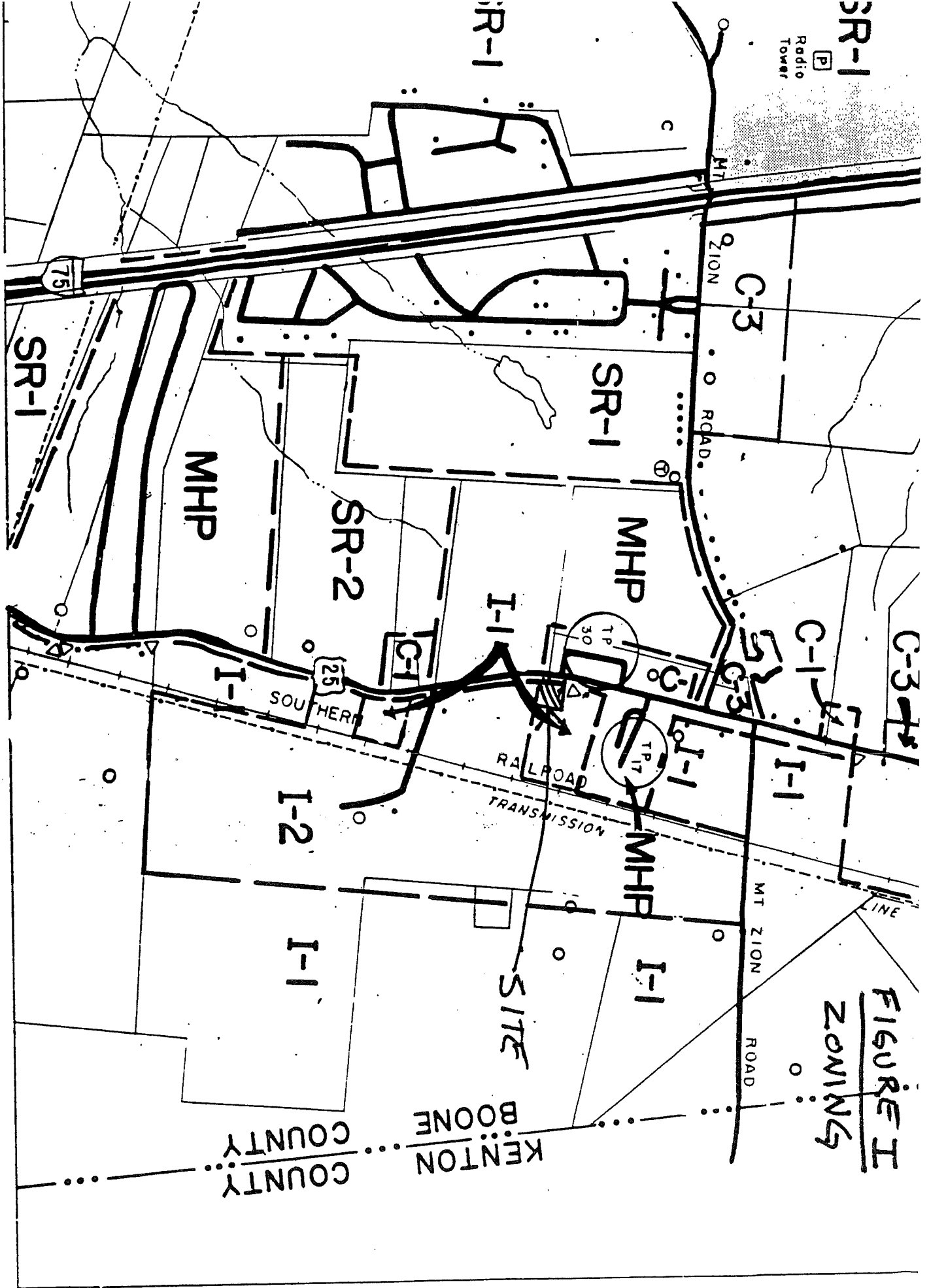


FIGURE I
ZONING

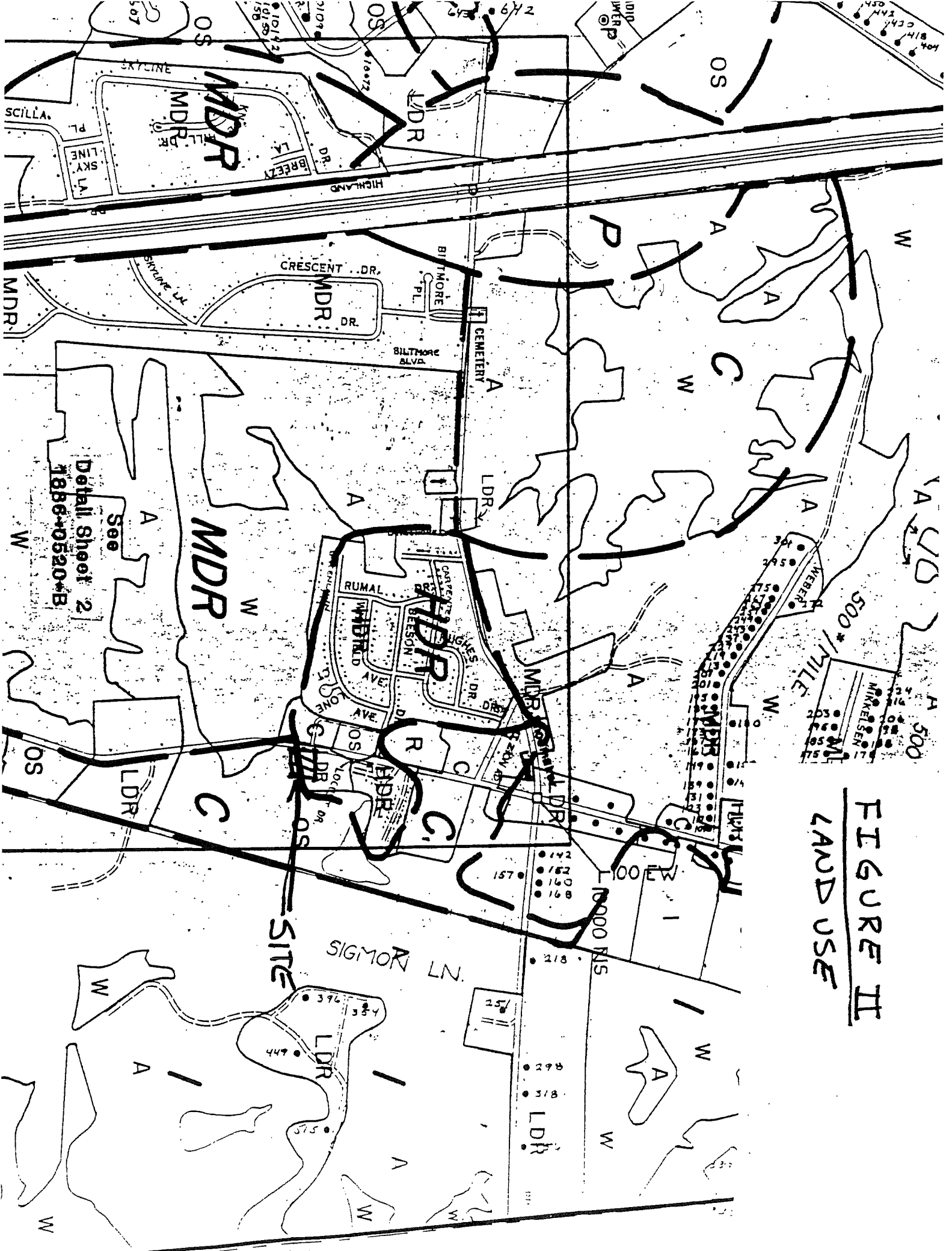
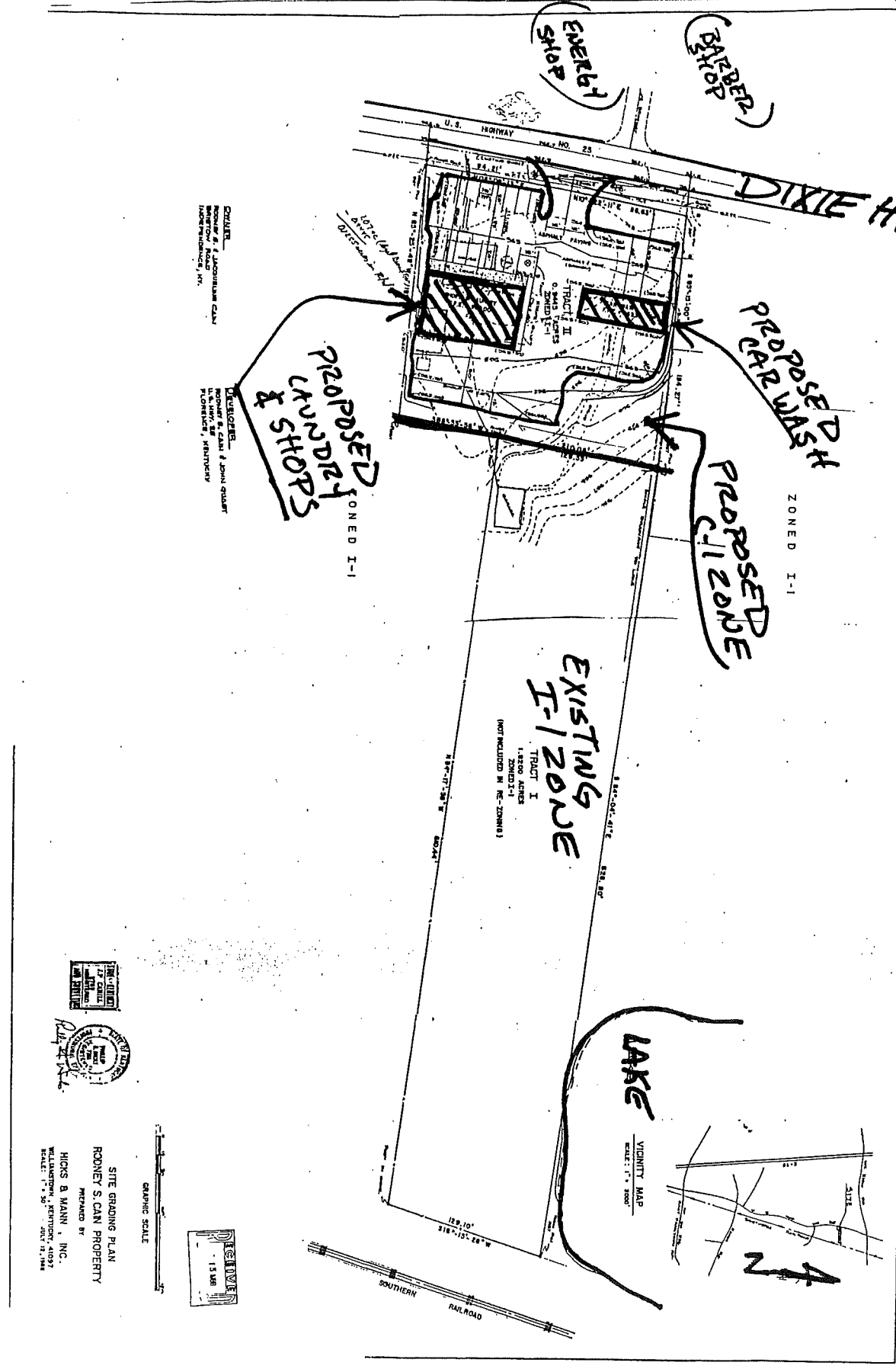


FIGURE II
LAND USE

RODNEY CANN
 ZONE CHANGE AND
 ADDITIONAL USE PERMIT
 JULY 28, 1988

FIGURE III
 PROPOSED CONCEPT
 PLAN



OWNER:
 RODNEY S. CANN
 FLORENCE, MISSISSIPPI

DESIGNER:
 HICKS & MANN, INC.
 WILMINGTON, KENTUCKY 40397

PREPARED BY:
 HICKS & MANN, INC.
 WILMINGTON, KENTUCKY 40397
 DATE: JULY 11, 1988

APPROVED:
 [Signature]

FIGURE IV

at least one owner or owner by contract (option) or lessee with permission of the owner of property for which such conditional use is proposed. The Board may require the applicant to submit a site plan as detailed in Article 14, Section 1402 of these regulations.

Section 263

General Standards Applicable to All Conditional Uses

In addition to any specific requirements for conditionally permitted uses deemed appropriate by the Board of Adjustment and Zoning Appeals, the Board shall review the particular facts and circumstances of each proposed use and determine that the use is in fact a conditional use as established under the provisions of Articles 6-12 or 16. The Board may consider whether such use at the proposed location:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's comprehensive plan and/or the zoning order;
2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area;
3. Will be hazardous to existing or future neighboring uses;
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
5. Will create excessive additional requirements at public cost for public facilities and services and will be detrimental to the economic welfare of the community;
6. Will involve uses, activities, process, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

Section 264

Specific Standards Applicable to Conditional Uses

The Board shall consider the criteria for conditional uses as set forth in each zoning district.

McMillian Chair

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

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

Applicant: Rodney Cain Owner

Address: 445 Bristow Rd. Agent

Telephone: 356-9306 ^{John GAST 371-3343} 371-2211
WIS-WAY

Location: 10136 U.S. Highway 25, Florence

Name of Property Owner: Rodney Cain

Address of Property Owner: 445 Bristow Rd.

Zoning District: I-1 Area in Acres: ~~2.585~~ 1.07 TRACT

Deed Book: 319 Page Number: 169 Group Number: 2050

Description of Request: I Request a zoning change from I-1 to C-1 with a Conditional Use for property at 10136 Dixie Hwy. The area requested for change is listed in Book 319 Page 169. Tract 16 fronting on the east side of U.S. 25. Tract I Zoning in Book 319 Page 169 to Remain I-1

Applicant's Signature: [Signature]

Property Owner's Signature: [Signature]

Application Fee: \$393 FOR PLANNING COMMISSION USE ONLY Date Received: 7-2-83 By: [Signature]

Referred To: [Signature] Meeting Date: 7-14-83

Action Taken: [Signature] Date of Action: 7-14-83

EXHIBIT "A"

EXHIBIT "B"

BOONE COUNTY PLANNING COMMISSION

Public Hearing Item #2
July 27, 1988 - 8:00 P.M.

Page 1

The Chairman introduced the second item on the Agenda:

2. Applicant: Rodney Cain
Request: Zoning Map Amendment and Conditional Use Permit

This was a Public Hearing on the request of Rodney Cain for a Zoning Map Amendment and Conditional Use Permit to develop a retail center, laundromat, and self-service car wash. The 1.07-acre site is presently zoned Industrial One (I-1) and is requested to be rezoned Commercial One (C-1) and is located at 10136 Dixie Highway, Boone County, Kentucky.

Staff Member, Jim Sturdevant, presented the Staff Report (see Staff Report).

The Chairman asked if the applicant was present.

Mr. John Quast stated that they are proposing an 80' x 50' retail center with a laundromat and retail-oriented businesses, but not necessarily a Convenient Store. Another building, which is 72' x 24', will be a self-service car wash with four bays. The drainage is toward a lake at the back of the property. They propose a swale on the northern part of the property to direct the drainage toward the lake. The laundromat will help relieve some of the traffic on U.S. 25 going to Florence to do laundry as there are about 250 mobile homes nearby and they only place they have to go to do laundry is down U.S. 42 or Turfway Road. They have city water and electric. They have talked with Boone County Sewer Department and Mr. Kroger and they are looking at a pumping station which will also serve the mobile home park. He stated that this area is developing into a small commercial area.

Chairman Viox asked if there was anyone else present in favor of the request. There being no one, he asked if there was anyone present in opposition.

Mr. Gene Hancock stated that he owns the shopping center directly across from where the Convenient Store is located. They have a 2.2-acre parcel. He stated that Mr. Cain, Mr. Rue of the mobile home park, and he had talked about developing a similar project. He stated that all he has to do on his property is get a building permit. He intends to develop his property in the future and this will saturate the area. He stated that he is opposed to another project like his, but agrees the neighborhood is going commercial.

Mr. Hal Baumgartner, who owns two acres to the north of the site, stated that he has lived there for 53 years and there were sewage problems years ago. He stated that there is no where to put the water from the laundromat and the car wash. He stated that the sewer is about nine tenths of a mile from this property. The water will destroy his neighbor's fishing lake. He

took the owner of the trailer court to court years ago due to the drainage onto his property. The owner put in a sewage disposal plant at that time.

Mr. Lester Signer, owner of property about 200 feet east of the site that includes a fishing lake, stated that in 1974 and 1975 he had the Soil Conservation Department out and there was 140 acres of surface drain onto the southern portion of his property. He stated that he will have a problem with the waste water unless there are sewers and he is against the project.

Chairman Viox asked if there were any further comments from the applicant.

Mr. Rodney Cain stated that there is no intention of doing the project without sewers. It is being engineered and surveyed and they are talking about putting in a force main on the east edge of the industrial property. This would be a direct main to the sewer with no effluent. They would not consider doing the project without sewers.

Mr. Baumgartner noted that the trailer court was permitted to go in with a septic tank and the Board of Health said it should not have been permitted. He stated that he would like assurance that this project will not happen until the sewer is in.

Mr. Gene Hancock stated that he does not think either of them should apply for zoning or a building permit until the sewers are there.

The Chairman asked if there were any questions from the Commission.

Mr. Sharp questioned when the sewer line would be in place. Mr. Cain discussed the connector line under construction. He stated that they have no problem in getting the sewers once the zoning is in place. When the zone change is granted, all the effluent from the car wash and the laundromat, all effluent waste water other than surface water, and wastewater from the mobile home park, will go into the sewer.


Mr. DeLong asked if the applicant was willing to agree that the sewer line is to be in place before the facility is in operation. Mr. Cain stated that he is agreeable. Mr. DeLong asked that the Staff see if the access points could be aligned and consider starting access management in this location.

Mr. Gene Hancock stated that the area has a history of water supply problems. Chairman Viox advised him regarding the new transmission line which will resolve the water pressure problem.

The Chairman asked if there were any further comments. There being none, he advised that this item will be on the Agenda for the Business Meeting on August 3, 1988 at 8 P.M. and closed this Public Hearing.

APPROVED:

ATTEST:



Jan Hancock, Recording Secretary

William R. Viox, Chairman

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

August 3, 1988

8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:40 P.M..

COMMISSION MEMBERS PRESENT:

Mr. Larry Barnett, Vice Chairman
Mr. Fred Burch
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
Mrs. Carol Smith
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Charles Moore

Mr. Viox noted that each member had received a copy of the Minutes of the Business Meeting of July 20, 1988 and the Public Hearings of July 27, 1988 and 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. Damstrom seconded the motion and it carried unanimously.

2. Zoning Map Amendment and Conditional Use Permit

The request of Don Conrad (applicant) for Norman H. and Ruth Arlinghaus (owners) to set a Public Hearing date for a continuance of a Zoning Map Amendment and a Conditional Use Permit request, which was originally scheduled for June 29, 1988 but not held. The request is to rezone the site from Suburban Residential Two (SR-2) to Commercial Two (C-2) and for a Conditional Use Permit to operate a gasoline service station and a car wash. The site is located at the southeast corner of KY 18 and Ridge Avenue, Boone County, Kentucky.

Mr. Gerald Newton, Director, read the Committee Report which recommended deferral of the request until the August 17, 1988 Business Meeting based on the applicant's request.

There being no discussion, Mr. McMillian moved that the request be deferred until the August 17, 1988 Business Meeting based on the Committee Report. Mr. Greene seconded the motion and it carried unanimously.

3. Zoning Map Amendment

The request of Bill Bramble Realty, Inc. for Dennis and Ruth Kennedy (owners) for a Zoning Map Amendment and Variances in minimum landscape buffer yard driveway width requirements. The request is to rezone a 9.34-acre parcel located at 828 Donaldson Road, Boone County, Kentucky from Suburban Residential One (SR-1) to Office One (O-1).

Mr. Gerald Newton, Director, read the Committee Report which recommended deferral of the request until the August 17, 1988 Business Meeting based on the applicant's request.

There being no discussion, Mr. Barnett moved that the request be deferred until the August 17, 1988 Business Meeting based on the Committee Report. Mr. Neltner seconded the motion and it carried unanimously.

4. Zoning Map Amendment and Conditional Use Permit

The request of Rodney Cain for a Zoning Map Amendment and Conditional Use Permit to develop a retail center, laundromat, and self-service car wash. The 1.07-acre site is presently zoned Industrial One (I-1) and is requested to be zoned Commercial One (C-1) and is located at 10136 Dixie Highway, Boone County, Kentucky.

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).

Mr. Cain stated that he is agreeable to the conditions in the Committee Report.

There being no discussion, Mr. Barnett moved that the request be approved by resolution to the Boone County Fiscal Court. Mr. Jones seconded the motion and it carried unanimously.

5. Zoning Map Amendment and Conditional Use Permit

The request of Michael Dooling (owner by option) for a Zoning Map Amendment and Conditional Use Permit to allow development of a marina and related service and sales facilities. The 2.532-acre site is presently zoned Industrial Three (I-3) and is proposed to be rezoned Recreation (R). The site is located at Aurora Ferry Road and the Ohio River, Boone County, Kentucky.

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).

The Chairman asked if there was a representative of the applicant present.

Ms. Ann McBee, attorney for the applicant, stated that Mr. Dooling was agreeable to the conditions and willing to comply. She noted that Mr. Dooling was present.

There being no discussion, Mr. Barnett moved by resolution to the Boone County Fiscal Court that the request be approved based on the Committee Report, including the conditions. Mr. Jones seconded the motion and it carried unanimously.

6. Zoning Text Amendment

The request of Michael Bryant (dba Delightful Days RV Center) for a Zoning Text Amendment to allow the sale of recreational vehicles as a Conditional Use in Commercial Two (C-2) zoning districts.

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

Mr. Ray Faust, representing the applicant, stated that they had no comments to make.

There being no discussion, Mr. Barnett moved that the request be approved by resolution to the cities of Walton, Union, Florence, and the county. Mrs. Smith seconded the motion and it carried unanimously.

EXHIBIT "C"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Donald McMillian, Chairman

DATE: August 3, 1988

RE: Request of Rodney Cain for a Zoning Map Amendment and Conditional Use Permit to develop a retail center, laundromat and self-service car wash. The 1.07 acre site is presently zoned Industrial One (I-1) and is requested to be rezoned Commercial One (C-1) and is located at 10136 Dixie Highway, Boone County, Kentucky.

REMARKS:

We, the Committee, recommend approval of the Zoning Map Amendment and Conditional Use Permit requests based upon the following findings of fact and subject to the conditions below.

FINDINGS OF FACT

1. The proposed zoning classification, Commercial One (C-1), is in agreement with the Boone County Comprehensive Plan, which recommends that a portion of the site and general area be developed for commercial uses.
2. The proposed uses and submitted Concept Development Plan are neighborhood oriented and will serve the businesses and residences located along Dixie Highway, which is an objective of the Boone County Comprehensive Plan.
3. The Committee believes that the proposed car wash as a Conditional Use if properly designed and maintained meets the seven standards applicable to all Conditional Uses.

The applicant is being asked to agree to include these items as part of the Concept Development Plan in order to clarify the plan presented at the July 27, 1988 Public Hearing. Further, these conditions are intended to clarify the suitable uses and development for the presented plan.

CONDITIONS

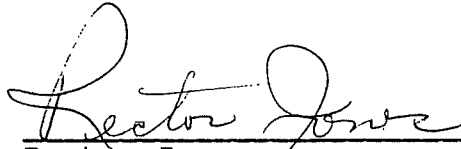
1. The applicant shall be required to connect into a proposed public sanitary sewer line per the Boone County Water and Sewer District's approval prior to the occupancy of any proposed buildings on the site.

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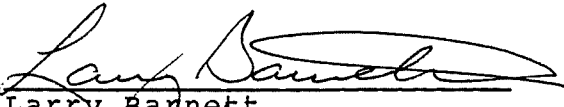
2. The applicant shall be required to have proper internal traffic circulation or an interior road system to the eastern undeveloped portion of the site, which is currently zoned Industrial One (I-1).
3. The applicant shall be required to have shared access with both parcels to the north and south when these adjoining properties are developed and if the future uses are compatible.



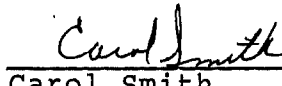
Donald McMillian, Chairman



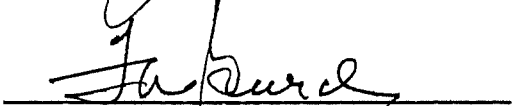
Rector Jones



Larry Barnett



Carol Smith



Fred Burch

KPC:kat

ORDINANCE 920.163

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT ADOPTING A MAP AMENDMENT TO THE BOONE COUNTY, KENTUCKY, ZONING MAP, SUCH MAP AMENDMENT BEING A ZONE CHANGE FROM INDUSTRIAL ONE (I-1) TO COMMERCIAL ONE (C-1) FOR A 1.07 ACRE SITE LOCATED AT 10136 DIXIE HIGHWAY, BOONE COUNTY, KENTUCKY AS REQUESTED BY RODNEY CAIN. THE INTENDED USE IS A RETAIL CENTER, LAUNDROMAT AND SELF-SERVICE CAR WASH. THIS ORDINANCE BEING RECOMMENDED FOR APPROVAL BY THE BOONE COUNTY PLANNING & ZONING COMMISSION VIA RESOLUTION R-41-88.

WHEREAS, the Boone County Fiscal Court received a request for approval for a Conditional Use Permit and a Zoning Map Amendment to the Boone County zoning map and such Zoning Map Amendment being a zone change from Industrial One (I-1) to Commercial One (C-1) for a 1.07 acre site located at 10136 Dixie Highway, Boone County, Kentucky, which is more particularly described below; and,

WHEREAS, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and made findings recommending approval for the zoning map amendment and conditional use permit.

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

SECTION I

That the zoning map amendment for the real estate which is more particularly described below shall be and is hereby recommended for approval, this Zoning Map Amendment being a zone change from Industrial One (I-1) to Commercial One (C) for a 1.07 acre site located at 10136 Dixie Highway, Boone County, Kentucky. The real estate which is the subject of this zoning map amendment recommendation for approval is more particularly described in attached "Exhibit A."

SECTION II

That as a basis for the recommendation of approval and adoption of the zone change request the findings of fact of the Boone County Planning and Zoning Commission as set forth in its Minutes and official records for this zone change request, and the finding of facts of the Boone County Fiscal Court, if any, and any conditions and/or stipulations mandated by the Boone County Fiscal Court, if any, as set forth in its Minutes and official records for this zone change request, shall be and are hereby incorporated by reference as if fully set out in the Ordinance (ATTACHED - EXHIBITS "B" AND "C")

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

Introduced, seconded and given First Reading on the ninth day of September, 19 88.

Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the twentieth day of September, 19 88, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be in full force and effect.

Bruce Ferguson
BRUCE FERGUSON
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:

R. Scott Kimmich
R. SCOTT KIMMICH
FISCAL COURT CLERK

SUBMITTED BY:
Larry Crigler
LARRY CRIGLER
BOONE COUNTY ATTORNEY

DATE PUBLISHED