

REQUEST OF TIMOTHY MCNEELY FOR A ZONING MAP AMENDMENT FOR PROPERTY
LOCATED ON MAHER ROAD, EAST OF U.S. 25, BOONE COUNTY, KENTUCKY

AUGUST 24, 1988

This is a request for a Zoning Map Amendment by Timothy McNeely to rezone a 46.21 acre tract from Rural Suburban Estates (RSE) to Rural Suburban (RS), to allow an increase in the future residential density from one dwelling unit per acre (or 40,000 square feet) to two dwelling units per acre (one dwelling unit per 20,000 square feet). The property is located on the north side of Maher Road, one mile east of the U.S. 25/Maher Road intersection, Boone County, and is owned by Lawrence Howe.

Surrounding Zoning and Land Uses

north: I-1; agricultural uses
south: RSE; single family residences and agricultural uses
east: Kenton County line
west: RSE; single family residences

Site Features

Currently, the site is mostly cleared agricultural land, with two heavily wooded hillsides. The majority of this site is rolling or sloping down to streambeds, with the site elevation varying between 900 and 820 feet. Soils are of the Faywood series with 12 to 20 percent slopes on the majority of the site, with the remainder being of the Rossmoyne series and steeply sloped Eden series. All of these soils are severely erodible and are best suited to hay, pasture, or woodland. Existing structures on the site include a single family residence and two barns. An overhead electric line also runs through the site.

Relationship to the Comprehensive Plan

The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of this property to be Low Density Residential (three or fewer dwelling units per acre) along Maher Road, constituting approximately 30% of the total acreage, and Industrial on the remainder of the site.

The Land Use Element of the Plan makes the following statements about the general area:

"The growth of this area will be impacted in several ways. The major influences will be the Northern Kentucky Industrial Park to the north, the proposed Mt. Zion interchange on I-75, the Hopeful Road connection to the Industrial Park, development pressures along US 25, and the Southern Railroad Line... The Industrial Park should expand southward... To the east of US 25 only light

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manufacturing should occur and southward expansion should be tempered by locational factors including the interchange access and association to the existing industrial park... 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 (pp. L-20, L-21)."

The Housing Element of the Plan makes the following statements about this area:

"A proposed interchange at Mt. Zion Road will ensure very easy access to the area. Extensive residential development should not be permitted to the east of this new interchange because of Northern Kentucky Industrial Park traffic (pp. H-20, H-21)."

However, among the Goals and Objectives for the Housing Element are the following:

1. A broad range of housing opportunities (e.g. size, type,) shall be provided at locations which meet the needs and desires of household types.
2. Housing opportunities in the county shall be fiscally sound, balanced against present and assumed commercial and industrial bases.
3. In order to offer the citizens of Boone County maximum chosen living environment, residential development plans shall be judged primarily on the basis of density (p. G-2).

The Business Activity Element of the Plan states:

"The Northern Kentucky Industrial Park still has some space for expansion at its southern edge. The location of the county's population involved in manufacturing correlates well with this proposed concentration of industry... the Union area contains a very high percentage of its people employed in manufacturing. Walton also has a fairly high percentage. This could have a reinforcing effect on the expansion of industry along the I-75/US 25 corridor. There are several good reasons to encourage the expansion of industrial development towards Walton, east of I-75. First, the landscape in this area is fairly level and the soils do not present a severe obstacle to development. Second, there are existing highway and rail facilities which

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provide good access for labor and the shipping of raw materials and finished products. In addition, there are existing interchanges along I-75 at KY 338 (Richwood), KY 16 at Walton, and a planned interchange at Mt. Zion Road. (p. B-16)."

Staff Concerns

1. The submitted Concept Development Plan indicates the location of two streets onto Maher Road. The Staff is concerned that the proposed location of the cul-de-sac will create a potentially hazardous traffic situation due to inadequate sight distance. Additionally, the proposed residential density increase will increase the amount of traffic on Maher Road, possibly increasing conflict with the Southern Railroad line, which crosses Maher Road approximately 3,500 feet to the west of the subject property.

Should the Planning Commission recommend, and the Fiscal Court approve, this Zoning Map Amendment, the 1986 Boone County Comprehensive Plan Future Land Use Map would need to be adjusted.



Paul R. Miller,
Plans Examiner/Planner

:kat



U.S. 25

MAHER ROAD

ELECTRIC LINE

COUNTY LINE

44 ACs ± REMAINING PART OF 73 ACs.
I-1 ZONE

EXISTING ZONING BOUNDARY
N 75° 20' 11" E 1142.18

S 85° 18' 51" E 227.88'
N 82° 07' 56" E 195.00'

LAWRENCE HOWE
DB. 211, P. 512

46.21 ACRES

LAWRENCE HOWE
DB. 371, P. 131

FUTURE DEVELOPMENT

RSE ZONE
YANDIVER

LIST

N 3° 00' E 700.00'

235.38' 165.79'
S 84° 21' W 147.485'
M 82° 61' N 79° 33' W

SHORT
N 25° 30' E 386.82'
HOWE RES.

FUTURE STREET

ROLLING HILLS

344.00'
S 19° 15' W
MCCAULEY

60.00'
N 70° 45' W
SCHMIDT

83.08'
S 19° 15' W
FOGUE

201.02'
N 4° 51' E
PROPOSED FIRST SECTION

224.54'
N 71° 15' 42" W
FELFREY

417.00'
N 18° 44' 18" E
STACY

PROPOSED B STREET

PROPOSED SUBDIVISION

BOONE-KENTON CO. LINE

S 18° 18' W 417.00'
J BRAUN

MAHER ROAD

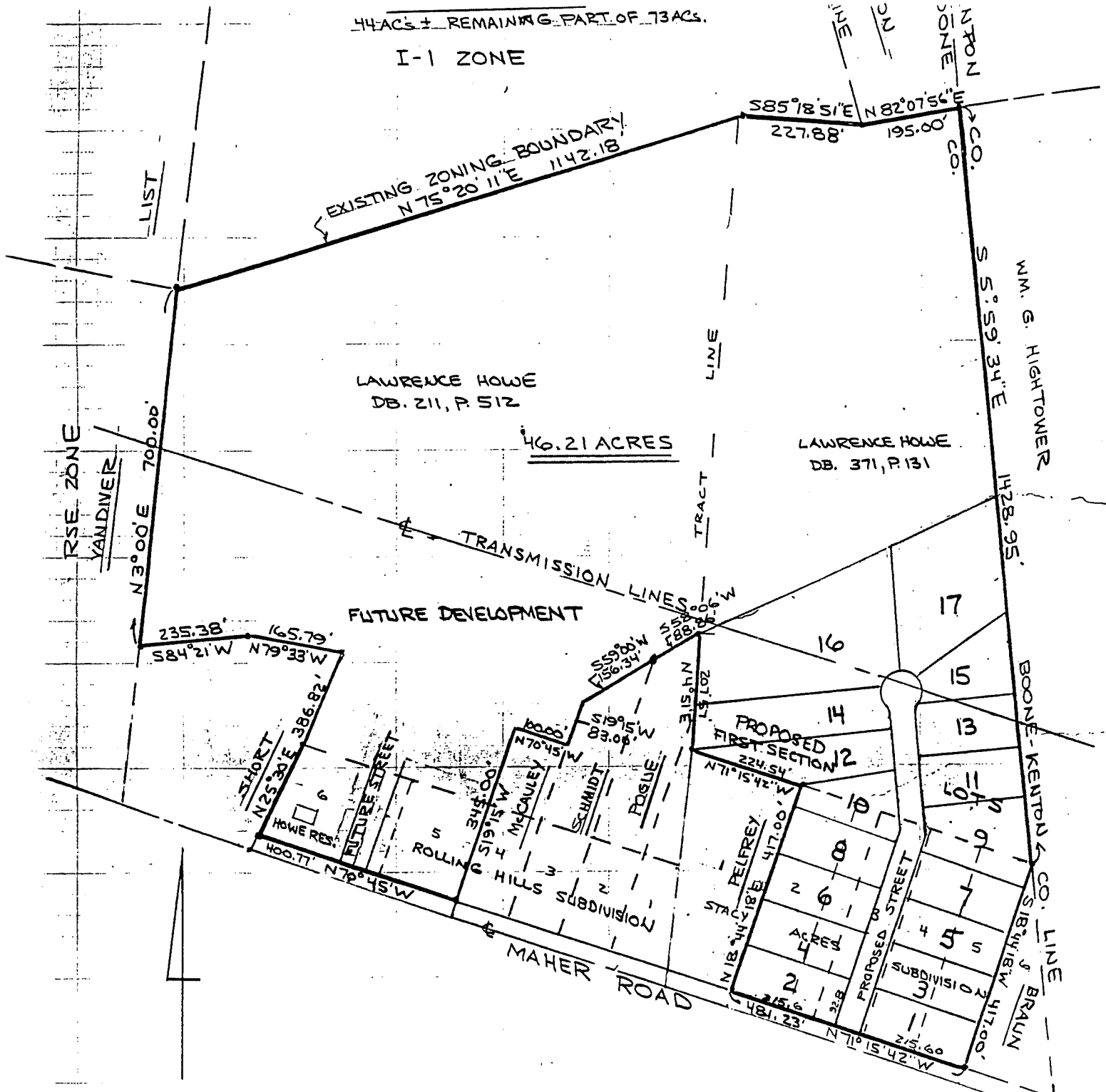
W.M. G. HIGHTOWER

BOONE-KENTON CO. LINE

MCNEELY ZONING MAP AMENDMENT

8-24-88

CONCEPT DEVELOPMENT PLAN



W
MDR

C

A
See

Detail Sheet 2
1886-0520-B

W

JUNE CT

OS

LDR

DR

GARDEN DR

HDR

GABRIEL DR

MICHAEL DR

OS

U.S. 25

LDR

ELECTRIC LINE

KENTON COUNTY LINE

DIXIE HWY 4300 MILE

OS

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APPLICATION FORM

ZONING MAP AMENDMENTS

BOONE COUNTY PLANNING COMMISSION
(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Name of Development _____
2. Location of Development north side Maher Road one mile east U.S. 25
3. Total Acreage of Site 47.53 Acres
4. Current Zoning RSE
5. Proposed Zoning (classification being requested) RS
Residential
6. Proposed Uses (please specify each use) _____
Residential
7. Name of Applicant(s) Timothy McNeely
Phone Number(s) 586-6497
8. Address of Applicant(s) 6256 Main Street Burlington
Kentucky 41005
City State Zip
9. Name of Property Owner(s) Lawrence Howe
Phone Number(s) 283-2097
10. Address of Property Owner(s) 492 Maher Road
Walton, Kentucky 41094
City State Zip
11. Proposed Building Intensities (please specify) _____
1 dwelling per 20,000 SQ FT.
12. Are there any existing buildings on the site? yes
How many? One
13. Deed Book 211-512 Page No. DB 371-131 Group No. 2058
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 "B"

BOONE COUNTY PLANNING COMMISSION

Public Hearing Item #4
August 24, 1988

Page 1

Following a ten-minute recess, Mr. Barnett introduced the fourth item on the Agenda:

4. Applicant: Timothy McNeely for Lawrence Howe (owner)
Request: Zoning Map Amendment

This was a Public Hearing on the request of Timothy McNeely (applicant) for Lawrence Howe (owner) for a Zoning Map Amendemnt for a 47.53-acre site located on the north side of Maher Road and one mile east of U.S. 25, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estates (RSE) to Rural Suburban (RS).

Staff Member, Paul Miller, presented the Staff Report which included a slide presentation.

Mr. Tim McNeely stated that they are requesting the zone change to Rural Suburban for two dwelling units per acre. He stated that there had been two lots of a previous subdivision and four lots of Stacy Acres Subdivision had been platted with street access. The two access points are approximately 950 feet apart. The proposed lots will front on the proposed street, eliminating 3 driveway access points. Maher Road is a county road with a speed limit of 35 MPH. They meet the minimum site distance requirements. They will be able to tap into a 15" sewer main running across the property. There will be individual septic tanks. He stated that the proposed amendment is in compliance with the Comprehensive Plan.

At this time, Mr. Miller completed the Staff Report.

Mr. Barnett asked if there were any comments or questions.

Mr. Dan Smith stated that he is opposed to the request. He stated that Maher Road is 2.5 miles long with one mile in Boone County and .9 of a mile is zoned for one house per acre. He wants the neighborhood to stay the way it is. He stated that he lives on Maher Road and that there have been major accidents in front of his house. He noted his concerns in regard to the roadway.

Mr. Tom Meyer stated that he lives at the top of the hill on Maher Road. One of the proposed access points would be right across from his driveway, which is at the top of a 65 degree hill. He noted his concerns for safety. He stated that every house on Maher Road has at least one acre.

Mr. John Arnett, representing Jean Short of 448 Maher Road, stated that Mrs. Short is concerned that the developer will develop 94 houses on the property. There is a tremendous traffic problem at the east end of Maher Road and at the other end there is a railroad track with a flashing light. Mrs. Short is concerned about the additional fire and police protection needed as this site is not in the City of Florence. She is also concerned about the water and sewer. Her son was not permitted to build on his property without Mrs. Short conveying part of her property to create a one-acre lot. She is also concerned about the impact on the school system. Mrs. Short is opposed to the request.

Mr. McNeely stated that there would be individual cisterns. The first phase of the development would be in two parts, there would be seventeen lots in the first phase for a five-year development.

Kathleen Pogue Cook, a resident of Maher Road, agreed with the comments made. She questioned the damming of the creek which is affecting her property. She stated that Mr. Sturgill had been present but had not been able to stay. He was told that he had to build a larger and more expensive house to be in keeping with the neighborhood. He was also told that this development would only be four lots with road frontage. The proposed roads are under the crest of the hill and are dangerous.

Mr. McNeely advised that there is an existing tract of 73 acres. The 46 acres is the front portion towards Maher Road. The owner still owns the industrial acreage to the rear. He stated that he does not know anything about the damming of the creek.

Mrs. Cook asked if a petition signed by the residents would be helpful in opposing this request.

Counselor Wilson advised her that the Commission cannot guide her in presenting her case.

In response to questions from Mr. Meyer, Mr. McNeely advised that Stacey Acres is a small subdivision with six one-acre lots, two of which have been sold. There are four lots in the center and the access point remaining, which are a part of this request. Part of the reason for the requested zone change is the new sewer line which would be adequate for this development.

Mr. Sharp questioned what has changed in the area that would justify this zone change.

Mr. McNeely stated that in consideration of the lay of the land and the topography, it would be almost impossible to turn the lots around due to the transmission line going through the lots.

Mr. Barnett repeated Mr. Sharp's question asking what has changed.

Mr. McNeely replied that the sewer line has been constructed.

Mr. Damstrom asked if the transmission line easement created a problem in developing Lots #13, #14, and #16.

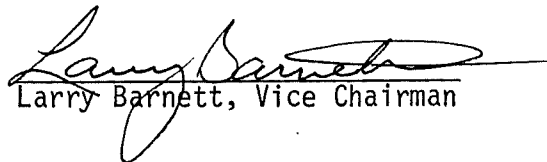
Staff Member, Paul Miller, advised that construction cannot occur in the 100-foot easement right-of-way. It is possible that Lot #15 may not be a buildable lot.

Counselor Wilson advised that such an easement generally allows for driveways or concrete paving over the easement.

Mrs. Brenda Morgan noted her concerns for an increase in the school population and the traffic. She stated that there are many large trucks on the road.

There being no further comments or questions, Mr. Barnett advised that this item will be on the Agenda for the Business Meeting on September 7, 1988 at 8 P.M. and closed this Public Hearing.

APPROVED:


Larry Barnett, Vice Chairman

ATTEST:


Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

September 7, 1988 8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:20 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. Dale Wilson

Chairman Viox noted that each member had received a copy of the Minutes of the Business Meeting of August 17, 1988 and the Public Hearings of August 24, 1988 and asked if there were any comments or corrections.

Mrs. Bushelman noted a correction to Public Hearing Item #2, the request of Raymond Erpenbeck for DBS Corporation and KSK Enterprises. The developer is "Mr. Schreiber", not Mr. Schroeder.

There being no further corrections, Mr. McMillian moved that the Minutes of the Public Hearings be approved as amended and that the Minutes of the Business Meeting be approved. Mrs. Smith seconded the motion and it carried unanimously.

Mr. Gerald Newton, Director, read the Committee Report which recommended deferral of the request until the September 21, 1988 Business Meeting (see Committee Report).

There being no discussion, Mr. Burch moved that the request be deferred until the September 21, 1988 Business Meeting. Mr. Neltner seconded the motion and it carried unanimously.

5. Zoning Map Amendment

The request of Timothy McNeely (applicant) for Lawrence Howe (owner) for a Zoning Map Amendment for a 47.53-acre site located on the north side of Maher Road and one mile east of US 25, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estates (RSE) to Rural Suburban (RS).

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).

Chairman Viox asked if the applicant was present.

Mr. Tim McNeely stated that he is in agreement with the conditions.

The Chairman asked if a representative of the community would like to summarize their position.

Mr. Tom Meyer, 587 Maher Road, stated that they want the development to conform with the neighborhood by being one-acre or larger lots. He noted that the proposed entrance is at a 70-degree hill and there are always accidents there. Maher Road is a two-lane road.

There being no further comments, Mr. Moore moved by resolution to the Boone County Fiscal Court that the request be approved based on the Committee Report. Mrs. Smith seconded the motion.

Mr. Collins noted that there is sewer in the area but no public water. He questioned if they would be permitted to tap into the sewer since there is no metering. Mr. McNeely stated that they have not resolved this problem.

Mr. Lawrence Howe stated that Mr. Paul Kroger had indicated that they would try to get water out to them within a year. There has been a tap made into the sewer line by one house.

Mr. Dale Schmidt, a resident of Maher Road, stated that there is no water on Maher Road. They have cisterns. Not many water trucks operate in the area.

In response to questions from the Chairman, Mr. Newton advised that utilities are addressed at the Preliminary Plat stage. Water and sewer must be provided to the lots before development is approved. Permits will not be issued without the utilities.

Mr. Damstrom noted his concerns for fire protection at the higher density if there is no city water.

Mr. Schmidt stated that he was on the Fire Department for 18 years. The area is in a Zone 10 with higher insurance rates. He noted that there is no water and Walton is 7 miles away. Florence is 4 miles.

Ms. Cathleen Cook stated that it has not been established who authorized the sewer line to be built. She stated that it is convenient that the line is there and now the applicant wants rezoning.

Mr. Newton advised that it is a Kenton County line built in response to the need to serve the industrial development in the Richwood area. The Commission did not authorize the line.

There being no further discussion, Chairman Viox asked for a vote on the motion made by Mr. Moore which found Mr. Barnett, Mr. Burch, Mr. Greene, Mr. Jones, Mr. McMillian, Mr. Moore, Mr. Neltner, Mrs. Smith, and Chairman Viox in favor. Mrs. Bushelman, Mr. Collins, Mr. Damstrom, Mr. DeLong, Mr. Rush, and Mr. Sharp were opposed. The motion carried by a vote of 9 to 6.

6. Annexation Request by the City of Florence

The request of the City of Florence to annex a 7.07-acre site owned by Dr. Glenn F. Baird and located on the north side of old US 42 and west of Pleasant Valley Road, Boone County, Kentucky. The site is zoned Rural Suburban (RS). A Public Hearing has been held to determine the impact of annexation upon the current zoning.

Mr. Gerald Newton, Director, read the Committee Report which indicated there would be no effect upon the current zoning based on the findings of fact (see Committee Report).

The Chairman asked if there was anyone present from the City of Florence who wished to speak. There being no one, Mr. Collins moved that the request be approved based on the Committee Report. Mr. Burch seconded the motion and it carried unanimously.

EXHIBIT "C"

COMMITTEE REPORT

5

TO: Boone County Planning Commission

FROM: Rector Jones, Chairman

DATE: September 7, 1988

RE: Request of Timothy McNeely (applicant) for Lawrence Howe (owner) for a Zoning Map Amendment for a 47.53 acre site located on the north side of Maher Road and one mile east of U.S. 25, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estates (RSE) to Rural Suburban (RS).

REMARKS:

We the Committee, based upon the statements made and facts gathered at the August 24, 1988 Public Hearing, recommend approval of this Zoning Map Amendment based on the following findings of fact and subject to the following conditions.

Findings of Fact

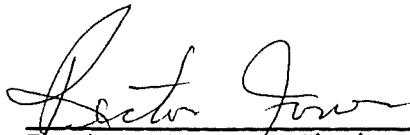
1. The proposed zone change from Rural Suburban Estates (RSE) to Rural Suburban (RS) is in agreement with a portion of the 1986 Boone County Comprehensive Plan Future Land Use Map, which indicates the future use of this property to be Low Density Residential on approximately 30% of the subject property which fronts on Maher Road. The residential density proposed by the applicant is within the range anticipated by the Low Density Residential classification.
2. The recent installation of sanitary sewer service to the subject property represents a major change of a physical nature not anticipated in the Comprehensive Plan which substantially alters the area's character, making the remaining 70% of the subject property suitable to Low Density Residential use as proposed by the applicant.
3. The proposed residential use of the property is compatible with the existing residential character and residential zoning of surrounding properties. Also, the possible access points from the subject property to Maher Road suggests residential rather than industrial uses, which would have a greater impact on present and future traffic.

Conditions

The applicant and property owners are being asked to agree to include the following conditions as part of the Concept Development Plan in order to clarify the plan presented at the August 24, 1988 Public Hearing. Further, these conditions are intended to clarify the suitable uses and development for the presented plan

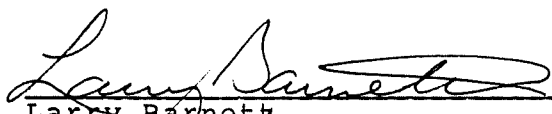
1. The proposed location of streets to access residential lots on the subject property may have problems with sight distance. The applicant shall coordinate phasing and construction of the proposed streets to access Maher Road with the County to insure, at a minimum, that adequate signage of the presence of the subdivision streets will be placed at appropriate locations in order to warn traffic on Maher Road.
2. Any changes to the proposed development as presented at the August 24, 1988 Public Hearing, and as amended by this Committee Report, must be reviewed by the Planning Commission's Technical Committee as to whether the proposed changes constitute a major or minor change to the approved plan. If the Technical Committee determines any changes to be major, a new application and Public Hearing will be required.

The Committee recommends that the Future Land Use Map of the 1986 Boone County Comprehensive Plan be amended to reflect low density residential use on the whole of the subject property.




Rector Jones, Chairman

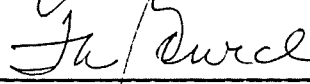
Donald McMillian



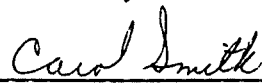
Larry Barnett



Barry Neitner



Fred Burch



Carol Smith

PRM:kat

LAWRENCE HOWE
44 ACs ± REMAINING PART OF 73 ACs.

I-1 ZONE

EXISTING ZONING BOUNDARY
N 75° 20' 11" E 1142.18'

LAWRENCE HOWE
DB. 211, P. 512

46.21 ACRES

LAWRENCE HOWE
DB. 371, P. 131

FUTURE DEVELOPMENT

PROPOSED FIRST SECTION

CONCEPT DEVELOPMENT PLAN
LAWRENCE HOWE PROPERTY

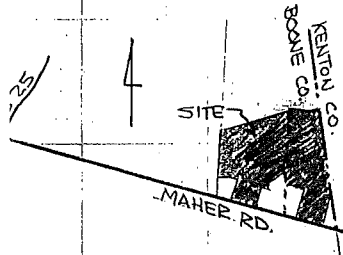
BOONE COUNTY KENTUCKY

NORTH SIDE MAHER ROAD
ONE MILE EAST US. 25

AUG. 15, 1988

1" = 200'

TIMOTHY R. McNEELY
Registered Land Surveyor
6256 Main Street
Burlington, KY 41005 Ph. 804-8497



Vicinity MAP
1" = 2000'

ORDINANCE 920.165

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 RURAL SUBURBAN ESTATES (RSE) TO RURAL SUBURBAN (RS) FOR A 47.53 ACRE SITE GENERALLY LOCATED ON THE NORTH SIDE OF MAHER ROAD AND ONE MILE EAST OF U.S. 25, BOONE COUNTY, KENTUCKY, SUCH MAP AMENDMENT BEING REQUESTED BY TIMOTHY MCNEELY (APPLICANT) FOR LAWRENCE HOWE (OWNER), AS RECOMMENDED FOR APPROVAL BY THE BOONE COUNTY PLANNING COMMISSION VIA RESOLUTION R-46-88.

WHEREAS, the Boone County Fiscal Court received a request for approval for a Zoning Map Amendment to the Boone County zoning map and such Zoning Map Amendment being a zone change from Rural Suburban Estates (RSE) to Rural Suburban (RS) for a 47.53 acre site generally located on the north side of Maher Road and one mile east of U.S. 25, 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.

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 Rural suburban Estates (RSE) to Rural Suburban (RS) for a 47.53 acre site generally located on the north side of Maher Road and one mile east of U.S. 25, 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."

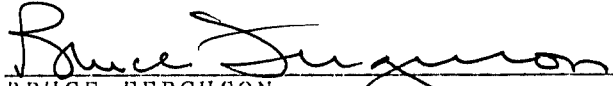
SECTION II

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 sixth day of October, 19 88.

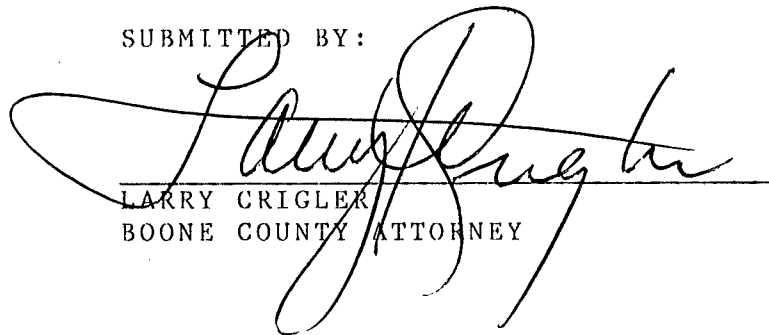
Adopted by the Fiscal Court of Boone County after Second Reading at a regular meeting on the eighth day of November, 19 88, and on the same occasion signed in open session by the County Judge/Executive as evidence of his approval, attested under seal by the County Fiscal Court Clerk and declared to be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


BRUCE FERGUSON
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST:


R. SCOTT KIMMICH
FISCAL COURT CLERK

SUBMITTED BY:


LARRY CRIGLER
BOONE COUNTY ATTORNEY

12/21/88
DATE PUBLISHED