

REVIEW NO. \_\_\_\_\_

# ZONING MAP AMENDMENTS

BOONE COUNTY PLANNING COMMISSION  
(See Boone County Zoning Regulations)

## SECTION A (To be completed by applicant)

1. Name of Development \_\_\_\_\_ 206.2' frontage
2. Location of Development U.S.25; beginning 100' north of Circle Drive, then /
3. Total Acreage of Site 1.6288 acres
4. Current Zoning Suburban Residential 2 (SR-2)
5. Proposed Zoning (classification being requested) \_\_\_\_\_  
Commercial 1 (C-1)
6. Proposed Uses (please specify each use) All of the permitted uses for a C-1 district; the owner is making this application for the purpose of selling the property. As there is no present buyer, no specific use is yet planned.
7. Name of Applicant(s) John E. Shore  
Phone Number(s) c/o Timothy B. Theissen, Esq. (606) 581-6100
8. Address of Applicant(s) 50 East Rivercenter Blvd.  
Covington Kentucky 41011  
City State Zip
9. Name of Property Owner(s) Metro Prop Realty, Inc.  
Phone Number(s) c/o Timothy B. Theissen, Esq. (606) 581-6100
10. Address of Property Owner(s) 50 East Rivercenter Blvd.  
Covington Kentucky 41011  
City State Zip
11. Proposed Building Intensities (please specify) \_\_\_\_\_  
One hundred percent - one stage only.
12. Are there any existing buildings on the site? No  
How many? \_\_\_\_\_
13. Deed Book 182 Page No. 311 Group No. \_\_\_\_\_
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:

*File 4  
581-1120*

- 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: Florence City Coordinator, Bruce Janken

(COMPLETE OTHER SIDE OF APPLICATION)

**EXHIBIT "A"**

## STAFF REPORT

#3

Request of **John E. Shore** for a Zoning Map Amendment to change the current zoning designation of Suburban Residential Two (SR-2) and Urban Residential Two (UR-2) to Commercial One (C-1)

FEBRUARY 27, 1991

This is the request of John E. Shore for a Zoning Map Amendment to change the current zoning designation of Suburban Residential Two (SR-2) and Urban Residential Two (UR-2) to Commercial One (C-1). The 1.6288 acre tract, located on the west side of Dixie Highway (KY 25), approximately 100 feet north of Circle Drive in Florence, Kentucky. The property is presently owned by East Construction Company.

### **Surrounding Land Uses and Zoning:**

The properties immediately to the north, south and east of this site are zoned Suburban Residential Two (SR-2). The property to the west is zoned Suburban Residential Two (SR-2) and Urban Residential Two (UR-2). The nearest C-2 zoning district is located approximately 200 feet south of the applicant's property. The nearest Commercial Two (C-2) district is located just to the northeast of this site. Land uses of adjacent properties include:

- North: Medium density residential (single-family homes).
- South: High density residential (2 story apartment building), Circle Drive.
- East: Dixie Highway (U.S. 25), vacant land.
- West: High density residential (2 1/2 story apartment building), medium density residential (single-family homes), Fair Court, Louis Court.

### **Site Features:**

The Shore property has 210 feet of road frontage along Dixie Highway. The site is relatively level with little slope. Soils on the property include Rossmoyne silt loam, 0 to 6% slopes (RsB). The Soil Survey of Boone, Campbell, and Kenton Counties, Kentucky lists this variety as being moderate in its ability to support building locations.

### **Relationship to the Comprehensive Plan:**

The 1990 Boone County Comprehensive Plan Future Land Use Map indicates the future use of the property to be Urban Density Residential (UD), which the text describes as "residential uses that do not exceed twelve dwelling units per acres, unless that development is a Residential Planned Development, or part of an Employment Planned Development."

The overall Objective of the Business Activity Element of the Plan reads:

"Compact, efficient development patterns shall be encouraged for commercial and industrial development with adequate and maintained buffer spaces established between the business and other land usage."

Three specific objectives of the Commercial aspect of the Business Activity Element of the Plan state:

1. "Commercial uses shall be limited to strategic locations relative to their trade areas with direct access and ample parking space."
2. "Future commercial development shall be encouraged, whenever practical, to occur in the form of shopping centers or other compact aggregations having an integrated design."
3. "The large scale mixing of commercial and non-commercial uses shall occur in planned developments and replanned older areas where consideration can be given to assure compatibility with surrounding land uses. Small scale mixing of commercial and office uses in residential areas shall be carefully assessed and located so as to enhance the neighborhood."

Chapter 12, Land Use, discusses that high density residential uses should buffer commercial uses from single-family residential areas.

"Higher density residential development should only occur where it can serve as a buffer between industrial or commercial intrusion on single-family residential areas or where it is easily accessible."

**Staff Concerns:**

1. Staff is concerned that approval of this request may set a precedent for other future Zoning Map Amendment requests for commercial zoning districts along this portion of Dixie Highway (US 25). The Future Land Use Map of the 1990 Boone County Comprehensive Plan indicates that High Suburban Density (HSD) and Urban Density (UD) uses should be located along most of this portion of Dixie Highway.
2. Staff is concerned that the side and backyard setbacks that are illustrated on the Concept Development Plan may not be deep enough to adequately buffer the proposed use from the surrounding residential uses. Presently, the Plan shows only 20 foot side and backyard setbacks which are the minimum required setbacks in a C-1 zoning district. If this Zoning Map Amendment request is approved, the Planning Commission may want to request larger side and backyard setbacks. Staff also feels that the side and rear lot lines should be heavily landscaped with both trees and shrubs to provide an additional buffering effect.

3. A third concern is that the applicant has not illustrated any stormwater detention on the site. The submitted Concept Development Plan does not seem to have any additional space for a detention system.

**Conclusion:**

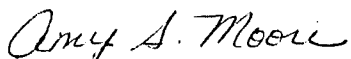
Attached to this Staff Report is a reduction of the Concept Development Plan that was submitted as part of this request by the applicant. Also attached are copies of portions of the current Zoning Map and the Future Land Use Map for the site.

The Boone County Planning Commission must evaluate this and all Zoning Map Amendment requests in terms of the three Findings of Fact prescribed in Article 3 of the Boone County Zoning Regulations, namely:

1. The map amendment is in agreement with the adopted comprehensive plan; or
2. The existing zoning classification is inappropriate and that the proposed zoning classification is appropriate; or
3. There have been major changes of an economic, physical, or social nature not anticipated in the adopted comprehensive plan that substantially alter the area's character.

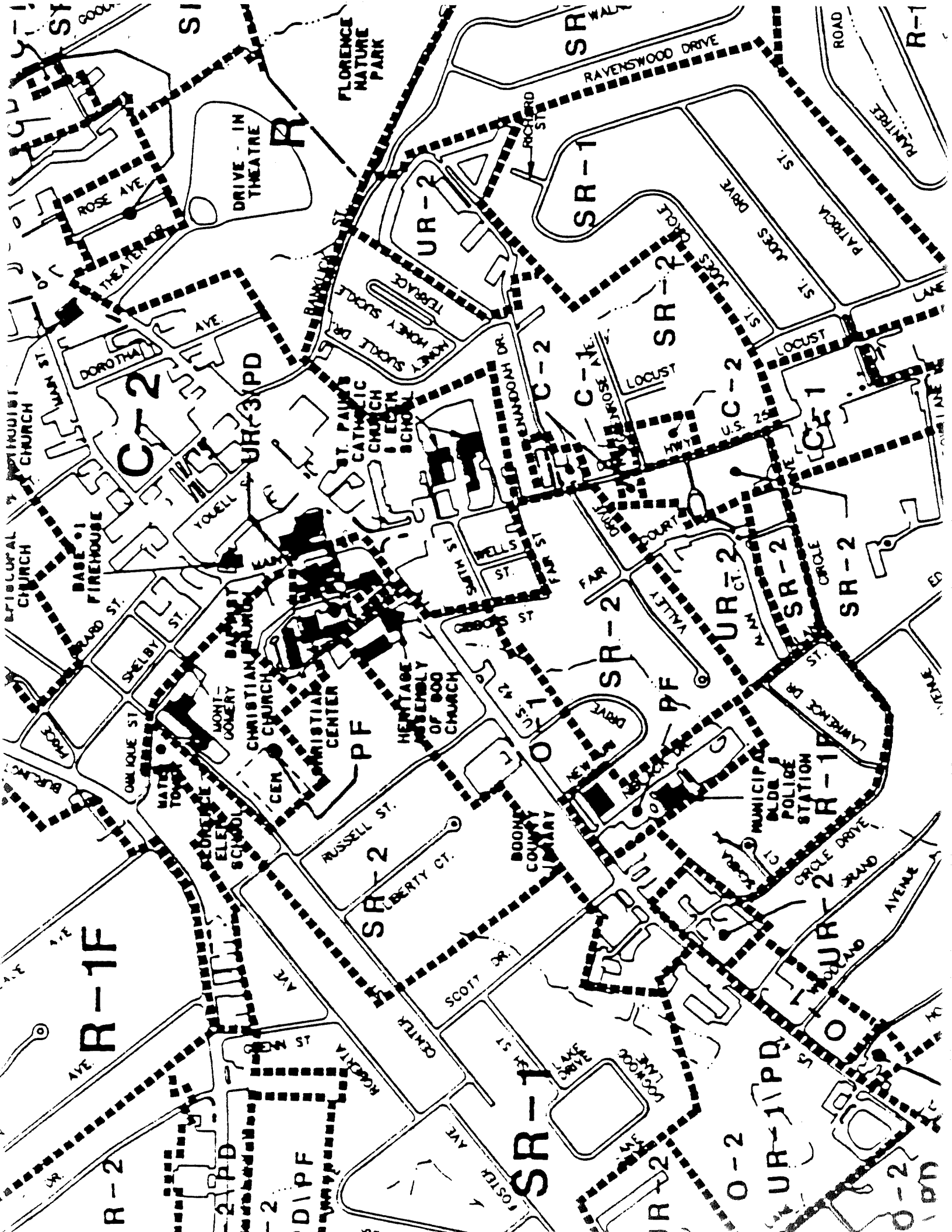
Should the Planning Commission recommend, and the City of Florence ultimately approve, this request for a Zoning Map Amendment, the Boone County Comprehensive Plan Future Land Use Map will need to be altered.

Respectfully submitted,



Amy S. Moore  
Planner I

ASM:kat



R-1F

R-2

R-3PD

C-2

SR-2

SR-1

UR-2

O-2

UR-3PD

O-2

O-2

C-2

UR-3PD

UR-2

SR-1

SR-2

C-2

SR-1

SR-2

UR-2

SR-2

SR-2

R-1F

UR-2

UR-3PD

O-2

EPISCOPAL CHURCH

BASE OF FIREHOUSE

WATER TOWER

CEM

CHRISTIAN CHURCH

CHRISTIAN CENTER

ROSE AVE

DOROTHEA AVE

YOUNG ST

OAKLOUGH ST

LIBERTY ST

ROBERTA AVE

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BOONE COUNTY PLANNING COMMISSION

Public Hearing Item #3  
February 27, 1991

Page 1

The Chairman introduced the last item on the Agenda:

3. Applicant: John E. Shore for  
Metro Properties Realty, Inc. (owner)  
Request: Zoning Map Amendment

The request of John E. Shore (applicant) for Metro Properties Realty, Inc. (owner) for a Zoning Map Amendment on a 1.62-acre site located north of Circle Drive and west of Dixie Highway, Florence, Kentucky. The request is to rezone the site from Suburban Residential Two (SR-2) to Commercial One (C-1).

Staff Member, Amy Moore, presented the Staff Report which included a slide presentation (see Staff Report). Mrs. Moore emphasized that all of the property around the subject piece of property is residential, but there is commercial property about 200 feet to the south and to the northeast across Dixie Highway.

Chairman Viox asked if the applicant was present.

Mr. Tim Theissen, an attorney representing the owners of the property, stated that the applicant will also address the Commission. Mr. Theissen stated that the site is 1.6 acres and is currently undeveloped. The front of the lot is about 200 feet wide and it is about 350 feet deep. The site is substantially level and little grading will be required. The site has been well maintained and contains a few trees. The architect has done everything he can to preserve the trees. The current zoning is SR-2 and it would allow them to build a 14-unit apartment building on the site. The property owners had the property listed for sale for many years and they have not had any reasonable offers and very little interest under its current zoning. He stated that there may be a feeling that there are enough apartments in the area and he believes that there may be an objection to that use. He stated that most of U.S. 25 between Industrial Road and U.S. 42 is going Commercial. There is on-going commercial use down the street.

Mr. Theissen stated that his client is hoping to zone the property commercial and then to sell it. They do not know who the developer will be. They do not have a buyer in mind. They want to get the zoning changed to C-1 in order to market the property.

Mr. Theissen stated that the property currently sits within an Urban Residential Zone, which has been the overall general future plan for this land for a long time. The lot was originally owned by the same company that developed the apartments. That company bought the property from Louise Reynolds who lives next door. All of the property was at one time the Reynolds' farm. The subject parcel was intended to be a part of the apartment development, but was not developed because people did not want to live on this busy street.

Mr. Theissen named some of the nearby commercial developments on U.S. 25 beginning at U.S. 42 including Century 21, a residential building converted to commercial for U.S. Auto Rental and a law office, this lot, Carter Insurance, Woodrock Associates, a bakery, a restaurant, etc.. On the other side of the street is Remke's, a strip center, auto glass company, and offices. He stated that there are three residences across the street from this lot. There is also an empty lot zoned commercial that is right across the street from the site. He stated that at one time they thought about going to C-2 and adjoining that lot. He stated that going in the other direction from the empty lot is Mark's Guns, General Rental Equipment, Jack & Jill Nursery, an accountant's office, a church, etc..

Mr. Theissen stated that their position is that while the general plan is that the site would be residential, the plan is outdated in that the entire street along U.S. 25 there is going commercial. They are asking for the lowest level of commercial, C-1, and it has the least offensive type of uses. The C-1 uses are geared to serving the nearby residents and this could be the first commercial use near a residential zone as it is the least offensive and serves the needs of the people living there. It is not the type of use that will draw customers from the other side of town. It is geared to the people who live around there and those driving by.

Mr. Theissen stated that he is on the Kenton County Planning Commission. He stated that the statute the Commission needs to rule on is KRS 100.213. He stated that the lines on the Comprehensive Plan are not exact lines. They are not survey lines. The lines on the Comprehensive Plan can be referred to as "fuzzy". He noted that the zoning map has more rigid lines.

He stated that there are commercial uses across from them, north of them, and south of them. The Comprehensive Plan has never really addressed the needs of this area partly because there is an apartment building on one side and a house on the other. He stated that with the "fuzzy line approach" this project is not strictly against the Comprehensive Plan. He stated that this is a commercial thoroughfare and commercial uses are intended to be along highways like U.S. 25. They are in compliance with the Comprehensive Plan, other than the Land Use Plan Element. It is the goal of the Plan to have commercial uses along streets like this. They believe that the C-1 Zoning is appropriate and that the SR-2 Zoning is inappropriate. He stated that there would be as much, or more, opposition to a 14-unit apartment building and it may not be the appropriate use of this property. It would be poor planning to have an apartment building on a site that is going commercial. In regard to changes of an economic, social, or physical nature, he stated that anyone can see the changes over the last few years. He stated that U.S. 25 has always included some commercial and some residential zones. He noted residences in the area which have changed to commercial uses. He stated that with the recent developments along U.S. 25, particularly in this area, there is justification for a finding by the Commission that there have been changes of an economic, social and physical nature in the area which warrant a change of this site to commercial.

Mr. Theissen introduced Mr. Rick Soper, the architect who drew the plan. He stated that it is a concept plan and a worst-case scenario. Because they did not have specific users in mind, they asked Mr. Soper to figure out the maximum square footage and the parking, buffering, etc. requirements. The plan shows what could be built. The eventual user will be required to come to the necessary authorities for approval. Mr. Theissen displayed a copy of the plan.

Mr. Rick Soper stated that he is a land planner/site planner. The plan was generated in response to this site as a ratio of building development and appropriate parking for the site. He emphasized that this is a concept plan. In regard to the buffer, they showed compliance with the appropriate distances to the adjacent sites. There were several methods that could be used in regard to storm water detention -- underground or the lower southwest corner of the site -- which is approximately the corner where the apartment building is. They looked at the site from the standpoint that the U.S. 25 corridor is developing as commercial. They looked at locating a building in a position that it would not crowd the existing apartment building and respecting the need for distance behind

the building. They located the building to the rear and put the parking in the front so that the U.S. 25 corridor would appear to be more open. The parking-to-square-footage ratio has been maximized. They looked at locating one curb cut through a conversation with KDOT. The lighting and visibility along U.S. 25 have been taken into consideration. The existing grade and vegetation have been considered. They allowed room on each side for buffering and a fence. The fence to the houses would be four-feet high at the most. On the side to the apartment building, they looked at a six-foot high fence with vegetation. The idea with the building would be to have a structure that would be residential in character. He displayed photographs of sites showing residential character buildings. The building would be a block and bar joist type of construction.

Mr. Theissen emphasized that the photographs show four commercial developments larger than their proposed tenant's use. They are shown to help the Commission visualize what they have in mind.

Mr. Soper stated that, because of the adjacent development, low lighting would be an absolute necessity, as would be buffer for the lighting. They would put a combination of hedges or fencing around the entire parking lot to cut down the headlight glare.

Mr. Theissen indicated on the plan the location of a large tree which would be on an island in the parking lot. A sidewalk is also proposed along the side of the building for people coming from the apartments so that they do not have to drive their cars around. There are some trees to the rear of the site which they may not be able to maintain. Whatever trees can be maintained will be maintained. He stated that if the Reynolds' property were to be zoned commercial, then the fence might be removed. He stated that the fence is on the plan, but the Commission may not want it built.

Chairman Viox asked if there was anyone else present who wished to speak in behalf of the request. There being no one, he asked if there was anyone present who wished to speak in opposition to the request or who had questions.

Joan Henry, 4 Circle Drive, stated that the southwest corner of the property is not the apartment building -- it is her backyard. She indicated the location of her property on the plan. She stated that she will be looking out of her back porch at a brick wall. She commented that there are residences

between Fair Court and Circle Drive. Mrs. Henry stated that she did not think this request was right.

Mr. Soper stated that he made an error and was referring to the southeast corner in regard to the drainage.

Mrs. Henry stated that there is a manhole in her back yard.

In response to a request from Chairman Viox, Mr. Soper indicated on the plan where the lowest point is. He also indicated the location of a headwall and a pipe constructed by the state. He stated that the manhole on the southwest corner of the site is a sanitary sewer manhole that they would access for public sewer.

Frances Mayhan, 8 Circle Drive, stated that she already has a problem with drainage from the apartments. This property is higher than her back yard and she would have a drainage problem. There would also be noise and litter, and cars running up and down. She has a stressful job and wants peace and rest at home in the evenings. She is a widow and has lived here over 30 years. She cannot afford to relocate. She stated that there are many empty retail facilities. She cannot think of any use that could go in here that would serve the neighborhood since they already have grocery stores and gas stations. She questioned, "Why ruin another neighborhood?". Mrs. Mayhan stated that there is no on-street parking now because of cars from the apartment buildings parking on the streets as they do not have two spaces for each unit. She stated that if this is a dry cleaning establishment they would have to smell the fluid. There are a lot of sick and elderly people on the street and this would be a hardship for all of them. She indicated the location of her property on the map.

Lucretia Henderson, 4 Circle Drive, stated that in Miami they put up lovely apartments and walls, but behind the buffer there was garbage and crime. It ruined that neighborhood and it will happen here. There would be a place for kids and drugs. They want to keep the neighborhood fairly decent. She stated that they do not need the traffic jams and the people can use the lot like they have been doing.

Susanna Toll stated that Louis Reynolds is her mother. She has resided in this area all her life and her mother has lived there over 40 years. She stated that she has to go with her neighbors. She does not want to look out and see a shopping center where she has grown up. She does not think they need a shopping center. An office building would not be too bad, but you would still look out your window and see a wall or another

building. She does not want to cause problems and wants the property to be left alone.

Chairman Viox asked if there was anyone else present who wished to speak. There being no response, he asked if there were any comments from the Commission.

Mr. Greene questioned what they would suggest the use of the property be and Mrs. Mayhan stated that it could be used for recreational uses.

Mr. Collins questioned if it were possible that, having sold off this acreage, the eight apartment units on Circle Drive are not in compliance.

Mr. Theissen advised that this lot and another lot were excluded from the acreage of the Florence Apartments. The lot was not used for determining density and is available for other development.

Mr. Tulley added that the apartments are older than ten years and would be pre-existing. Counselor Wilson advised that if the apartments pre-date 1980, it is a pre-existing situation even if they do not conform. Counselor Wilson asked if the subject lot was ever part of the 8-unit multi-family development on Circle Drive.

Mr. Theissen stated that he does not believe the sites were ever co-owned, unless you go back to Mrs. Reynolds' ownership.

Mr. McMillian questioned how they would get to the back of the lot and get supplies into the building. He noted that there is no place for a dumpster and the sidewalk is in the drive area.

Mr. Theissen stated that there is no place for access to the back. They left this out because of the residential properties. The deliveries will have to come in through the front. There will not be any headlights coming around the back. In regard to the location of the dumpster, he stated that this is a concept plan and locating the dumpster is not required at this point. There will have to be a waste disposal system.

Mrs. Moore stated that this is just a concept plan and when the Site Plan comes through, the building can be changed provided it generally meets the plan -- unless conditions are imposed regarding the structure of the building, the fencing, landscaping, etc..

Public Hearing Item #3  
February 27, 1991

There being no further comments, Chairman Viox stated that this item will be on the Agenda for the Business Meeting on March 6, 1991 at 8 P.M.. The Chairman closed this Public Hearing.

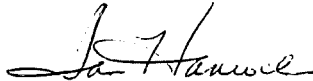
APPROVED:



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William R. Viox, Chairman

Attest:



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Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

March 20, 1991

8:00 P.M.

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Mr. William Viox, Chairman, called the meeting to order at 8:05 P.M..

COMMISSION MEMBERS PRESENT:

Mr. Fred Burch, Vice Chairman  
Mr. Lawrence Collins  
Mr. Phil Damstrom  
Mr. Melvin DeLong  
Mr. R. N. Greene  
Mr. Rector Jones  
Mr. Robert Kirby, Jr.  
Mr. Don McMillian  
Mr. Barry Neltner  
Mr. Thurman Owens  
Mr. Robert Ries  
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 stated that each member had received a copy of the Minutes of the Business Meeting of March 6, 1991 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. Jones seconded the motion and it carried unanimously.

2. Zoning Map Amendment

The request of John E. Shore (applicant) for Metro Properties Realty, Inc. (owner) for a Zoning Map Amendment on a 1.62-acre site located north of Circle Drive and west of Dixie Highway, Florence, Kentucky. The request is to rezone the site from Suburban Residential Two (SR-2) to Commercial One (C-1).

Staff Member, Amy Moore, read the Committee Report which recommended approval of the request based on the findings of fact, but subject to six conditions (see Committee Report). She stated that Mr. Jones abstained from signing the Committee Report.

Mr. Jones advised that he abstained from signing the report as his son-in-law owns the property across the street, which is the same as this property.

Mr. Tim Theissen, attorney, stated that he believes the applicant will not have any problem with the conditions and will accept them. They are within the realm of their anticipated use. Mr. Theissen referred to Condition #3, which says that all of the twenty-foot buffer will be landscaped, and to Condition #5, which says that they will have shared access with the property to the north. He stated that they will not be able to landscape the buffer on the access drive and was told by Staff that this would be a normal understanding.

Counselor Wilson asked if Mr. Theissen was saying that there was no objection to the conditions. Mr. Theissen stated that this was correct.

Mr. Sharp stated that the access drive will not be put in unless the property to the north is developed.

Mr. Costello stated that the intent was to have the buffer area along the north property line designed in such a way that there would have to be minor modification to the curb cut when the adjoining property is developed. He stated that there is a need to be reasonable and that they will get as much of the landscaping in as possible and modify it in the future.

Mr. Collins moved by resolution to the City of Florence that the request be approved based on the Staff and Committee Reports. Mr. Sharp seconded the motion.

Mr. Neltner noted the residential nature of the areas around the building and asked if they would be sensitive to the residential area in their construction.

Mr. Theissen replied, "Absolutely". He stated that their goal is to have a residential looking commercial use with masonry and hip roofs which will be appropriate in the area.

Mr. Ries questioned the type of trees they will plant. Mr. Theissen advised that the code requires two rows of white pine trees that are 8 feet tall and spaced six feet on center.

Mr. Ries stated that the residents were concerned about the drainage. Mr. Theissen stated that Condition #6 addresses this concern and they will be required to comply with the code. He stated that with the additional buffer on the south side, they will be able to have a sophisticated stormwater retention system which will slow down the flow to the drain.

Mr. Ries commented that the residents were present at the Public Hearing but did not attend this meeting. Mr. Theissen advised that they had not heard further from the residents, but had given them their cards.

Mr. DeLong stated that there are many children in the neighborhood behind this site and asked that they make sure the children are not injured during development. Mr. Theissen stated that he would relay this concern to the property owner.

There being no further discussion, Chairman Viox asked for a vote on the motion made by Mr. Collins which found all voting members in favor. Mr. Jones abstained. The motion carried.

10. Preliminary Development Plan Review

The request of Towne Building Group, Inc. (owner) for a revision of a previously approved Preliminary Development Plan for Saddlebrook Farms Subdivision located off Weaver Road, Boone County, Kentucky. The 131.49-acre site is zoned Suburban Residential Two/Planned Development (SR-2/PD).

Assistant Director, Kevin Costello, presented the Staff Report (see Staff Report).

Mr. Costello read the Committee Report which recommended approval of the request based on the Staff Report (see Committee Report).

Mr. Kirby moved that the request be approved based on the Staff and Committee Reports. Mrs. Smith seconded the motion.

Chairman Viox stated that he would abstain from voting in regard to this request as he has provided engineering services for this site.

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

**EXHIBIT "B"**

## COMMITTEE REPORT

#2

TO: Boone County Planning Commission

FROM: Larry Collins, Chairman

DATE: March 20, 1991

RE: Request of John E. Shore (applicant) for Metro Properties Realty, Inc. (owner) for a Zoning Map Amendment on 1.62 acre site located north of Circle Drive and west of Dixie Highway, Florence, Kentucky. The request is to rezone the site from Suburban Residential Two (SR-2) to Commercial One (C-1).

### REMARKS:

We, the Committee, based on the statements made and facts gathered at the February 27, 1991 Public Hearing, recommend approval of this request based on the following Findings of Fact and subject to the following Conditions:

### Findings of Fact

1. The Committee believes that although the proposed Zoning Map Amendment is not in agreement with the 1990 Boone County Comprehensive Plan Future Land Use Map, the proposed zoning is appropriate for the site. The six conditions listed below shall be applied to the approval of the request to adequately buffer the adjoining residential land uses from the future commercial use.
2. The Committee believes that the current zoning of Suburban Residential-Two and Urban Residential-Two (SR-2/UR-2) is inappropriate given the size of this individual parcel and the proposed zoning of Commercial One (C-1) is appropriate. Other references to the Boone County Comprehensive Plan are made in the Staff Report.

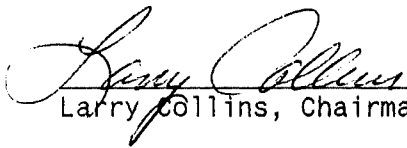
The applicant and property owner are being asked to include the following conditions as part of the Concept Development Plan in order to address concerns and clarify questions raised at the February 27, 1991 Public Hearing.

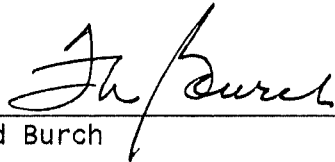
### Conditions


1. A landscaping plan for the site will be approved by the Boone County Planning Commission in conjunction with Site Plan approval. This plan will include the planting of trees along the southern property line to buffer the proposed commercial use from the existing residents to the south of the 1.6288 acre site.
2. Any proposed building on the site will not be more than 15,000 square feet in size.

3. The property will have at least a 40 foot wide buffer along the southern property line. No parking will be located within the buffer zone. At least half of the 40 foot wide buffer and all of the 20 foot buffer will be landscaped.
4. The developer will retain as much of the existing vegetation on the site as is possible.
5. The site will have a shared access point from Dixie Highway (US 25) with the property immediately to the north if that property is developed in the future.
6. When the property is developed, the approved Site Plan will meet the stormwater requirements of the Boone County Zoning Regulations and the City of Florence that are current at the time of development. This will be done to prevent the stormwater created on the site from running off onto any adjoining property.


A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request.


  
Larry Collins, Chairman

  
Fred Burch

  
Phil Damstrom

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Rector Jones

  
Barry Nettner

  
Carol Smith

  
Floyd Sharp

LC:kat

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FLORENCE CITY COUNCIL

MINUTES - REGULAR MEETING

JULY 9, 1991

The City Council of the City of Florence, Kentucky met in Regular Session on Tuesday, July 9, 1991 at 7:30 p.m. in the Florence Municipal Building with Mayor Evelyn Kalb presiding in the Chair.

Mayor Kalb called the meeting to order and following the invocation given by Councilmember Metzger, declared the Regular Session to be open for the presentation of all City business.

The roll was called and the following members registered present: James Collins, William Hudson, Dr. Ferd Metzger, and Byron Mohr. Absent was William Bailey.

Also present were City Coordinator Bruce Janken, City Coordinator Roger Rolfes, City Attorney Hugh O. Skees, Public Services Director Greg Tindle, Finance Director Ronald Epling, Fire Chief Richard Albers, Police Chief Charles Callen, Assistant Police Chief Thomas Kathman, EMS Director James Butler, Florence Water & Sewer General Manager Harold Hedges, and City Clerk's Assistant Marlene Brown.

Mayor Kalb called for a motion to approve the minutes of the June 25, 1991 Regular Meeting of Council. Councilmember Hudson so moved, with second from Councilmember Collins, and unanimous approval of Council.

Mayor Kalb called for a motion to approve the minutes of the June 26, 1991 Special Meeting of Council. Councilmember Collins so moved, with second from Councilmember Metzger, and unanimous approval of Council.

Mayor Kalb presented the next agenda item:

**CONSIDERATION OF RECOMMENDATION FROM BOONE COUNTY PLANNING COMMISSION REGARDING REQUEST OF JOHN E. SHORE (APPLICANT) FOR METRO PROPERTIES REALTY, INC. (OWNER) FOR A ZONING MAP AMENDMENT FOR A 1.62 ACRE SITE NORTH OF CIRCLE DRIVE AND WEST OF DIXIE HIGHWAY.**

Councilmember Metzger moved, with second from Councilmember Hudson, that this item be placed on the agenda for action. Council approved by unanimous vote.

Councilmember Metzger reported on the meeting held with the residents and the representatives of Metro Properties on July 5, 1991 for the purpose of working out agreeable solution or conditions acceptable to the adjoining property owners and Mr. Shore and/or members of the law firm of Strauss & Troy. He stated that at the request of Councilmember Bailey, he chaired this meeting with Mr. Janken, Mr. Jay Fossitt of Strauss & Troy and eight neighborhood members, and that they had reviewed the zoning process and the conditions that were placed on the property by the Planning Conditions and the City of Florence. He continued, stating that concerns expressed in the meeting involved buffering, increased traffic on Circle Drive at Dixie Highway, ingress/egress to the rear of the property from Fair Court, the intensity of the development on the apartment sides to the rear, and whether the subject property was part of that development and was incorporated in a green belt that was to remain to buffer the apartment complex from the neighborhood. He stated the neighbors also requested that any conditions agreed to by both parties be recorded in the sales agreement for the property. He continued that in reviewing the unacceptable types of businesses which would adversely affect the property values, they requested prohibiting laundry and dry cleaning establishments, gas service stations, hardware stores, restaurants that serve alcoholic beverages, convenience stores,

liquor stores, veterinary services, beauty, barber and tanning salons, and hat cleaning services. Councilmember Metzger reported that Mr. Fossitt noted these objections without comment regarding the willingness of the property owner to agree to them, and that there seemed to be little evidence of the neighbors' willingness to compromise without these conditions. Councilmember Metzger recalled that this subject had been discussed numerous times at the Planning Commission and City Council.

Councilmember Metzger moved, with second from Councilmember Hudson, that the request be denied. Councilmember Collins asked for an explanation on the greenbelt; Mr. Janken responded that he had been unable to find anything in writing regarding a requirement for a greenbelt. Ms. Frances Mahan, property owner of 8 Circle Drive, added that she had not had sufficient time to research all the deeds. Mr. Janken advised that he had found the original plot plan for the 144 units in the Building Inspection Department, and that it had been signed by Thomas Angel, Boone County Planning Commission Chairman, dated July 1, 1968. He stated that his research of records and minutes failed to reveal the zone change information. Councilmember Metzger asked whether the subject property was part of the apartment development; Mr. Janken advised the plot plan indicated a "Part A" and "Part B" and indicated screened plantings all along Fair Court including the rear of the subject property.

Mayor Kalb recognized Mr. Timothy Theissen, attorney representing Mr. John Shore, partner and owner of Metro Prop Realty, owner of the property. Mr. Theissen stated that the existing parking lot is not part of the rezoning request. He stated that the apartment site, the subject property, and another site were originally owned by the same people, and that one site had been removed from the development, and conveyed out before the apartments were developed. Mr. Theissen asked Council to consider not approving the motion for denial, stating that the Planning Commission process had been extended by a month because of conditions to insure appropriate development of the properties to which the applicant willingly agreed. He recalled that Council had discussed this request several times, formulating additional conditions each of which had been agreed to by the applicant. He stated that those conditions give substantial protection to all of the adjoining properties. He stated that this property will eventually be developed commercially, as well as adjacent properties. He stated that while he understood the concerns regarding the lack of a particular user, the whole idea of zoning is to allow for certain types of appropriate uses. He stated that his client has bent over backwards to insure the protection of the residents, agreeing to a 40-foot landscaped and fenced buffer to protect and improve the conditions of these property owners, adding that their existing drainage problems will be solved with the development of the site. He stated that some of their new conditions are not reasonable and fair. He stated that the greenbelt concern was discussed at the Planning Commission and that they have all the records of the apartment development, that the subject property was never part of the development plan for the apartment site, that the land was titled separately. He added that the request for elimination of some of the listed uses from the residents was not justifiable, and that such elimination would make the development not worth while. He stated that they had agreed to eliminating the dry cleaning and gas service stations because they felt those were reasonable requests because of possible odor and potential environmental contamination. He stated that they now opposed a veterinary office use, which is probably permitted in a lot of professional office zones, and not an offensive use. He added that a barber, beauty shop or hardware store would not create a lot of smell or traffic on their street. He stated that his client had already agreed that there would be no pedestrian or

vehicular traffic accessing the property from Fair Court. He stated he would agree to the restriction against hat cleaning. He added that their objections seemed to be raised in an effort to stop the zone change, and that they are excessive and unjustified. He stated that these uses are currently existing along Dixie Highway, and that with adequate buffering as agreed to, any negative impact of those uses would be overcome.

Mayor Kalb asked if anyone in the audience desired recognition with respect to this subject; Mayor Kalb recognized Ms. Frances Mahan of Circle Drive. Ms. Mahan stated the residents have experienced problems with a former barber shop at the corner of Circle and Dixie, and that police records would indicate the problems experienced with a convenience store in that vicinity with regard to "druggies" and gangs. She asked Council to deny this request for the welfare, peace of mind and survival of the neighborhood.

Councilmember Mohr asked Councilmember Hudson regarding his impressions of the meeting which had been held with the residents; Councilmember Hudson responded that much research had been conducted with regard to this request, that Council has not often granted zone changes without a definite user proposal, that they tried to work out a compromise, that he had concerns that restrictions placed on a site would in the future be forgotten, that the depth of the property was more than the depth of the other commercial properties along the Highway, and that he felt it was best to deny the request for the sake of neighboring residential properties.

Roll call vote was taken on the motion to deny this request. Council approved the motion of denial unanimously.

**MAYOR'S REPORT:**

Mayor Kalb reported that she had requested members of the Technical Advisory Committee of the Aviation Noise Abatement Committee to attend this meeting to update Council on activities. She introduced Messrs. Robert Hoffman, Harvey Richardson, and John Burton. Mr. Hoffman stated that the Committee's mission is to address three types of problems: 1) operations, i.e., how arrivals and departures are tracked and routed, 2) zoning and planning to ensure that residential developments do not occur in non-compatible areas, and 3) where to find money to fund the purchase assurance program in a fair and timely manner.

Mr. Burton stated, with regard to the operational problems, that the Committee must make sure proposed plans do not adversely impact interstate commerce, and must develop plans which adversely impact the least number of residents possible. He displayed a map indicating the most populated areas, and noted that the only Boone County area which remains largely undeveloped is along I-275. He continued that the sub-committee is going to recommend at the July 10 meeting that the Airport extend the west runway from 7,800 feet to 10,000 feet, the same length as the new runway. He stated this would allow the nighttime cargo flights to take off westwardly, but cautioned that this would not happen quickly because of the necessity to conduct an environmental assessment study. He stated that since residential development exists all around the airport, someone will get noise, but that the committee has tried to develop a flight track to the Mall water tower with a left turn to I-75 and the Industrial Park to provide relief to the homes off the east and west sides of Florence as well as Saddlebrook and developments to the south.