

APPLICATION FORM

**CHANGE IN CONCEPT DEVELOPMENT PLAN
OR
THE UTILIZATION OF AN UNDERLYING ZONE IN PLANNED DEVELOPMENT**
BOONE COUNTY PLANNING COMMISSION
(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check one:
 Change in Concept Dev. Plan
 Utilization of an Underlying Zone in Planned Development
2. Name of Development BARLOW CUTLER PROPERTY / HAMPTON RIDGE
3. Location of Development 1002 CAYTON ROAD
4. Total Acreage of Site 10.407 GROSS ACRES
5. Current Zoning SRI WITH PUD OVERLAY
6. Date of Zone Change or Approved Concept Development Plan (if applicable) Aug. 1, 1990 (Plan Date)
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) NA
8. Proposed Uses (please specify each use)
ADDITION OF FENCE TO CAYTON RD. SCREENING AND
MODIFICATION OF PLANT MATERIAL, at 1057 & 1073 (REAR)
HAMPSHIRE PLACE, HAMPTON RIDGE SUB., SEC. 1.
9. Name of Applicant(s) JAMES L. BARLOW, SR.
 Phone Number(s) (606) 272-3423
10. Address of Applicant(s) 2130 CUSTER DRIVE
LEXINGTON, KENTUCKY 40517
 City State Zip
11. Name of Property Owner(s) SAME
 Phone Number(s) _____
12. Address of Property Owner(s) SAME
 City State Zip
13. Proposed Building Intensities (please specify) 3.9 D.U. / GROSS ACRE.
14. Are there any existing buildings on the site? YES
 How many? _____
15. Deed Book 13 Page No. 11D Group No. 2032
16. Have you had a pre-application meeting with BCPC staff? YES

(COMPLETE OTHER SIDE OF APPLICATION)

EXHIBIT "A"

STAFF REPORT

Request of James L. Barlow for a Change in a previously approved Concept Development Plan and Conditions for Hampton Ridge Subdivision located off Cayton Road, Boone County, Kentucky.

December 16, 1992

This request is for a Change in Concept Development Plan and Conditions on a 10.487 acre site located off Cayton Road, Boone County, Kentucky. The request is alter the landscape buffer requirement that is to be located at the south side of Hampton Ridge Subdivision along Cayton Road.

HISTORY OF THE SITE

A Zoning Map Amendment for a 9.7 acre tract which is included in this 10.487 acre site was previously recommended for approval by the Planning Commission on April 25, 1990. The requested zoning was Suburban Residential One/Planned Development (SR-1/PD). The Concept Development Plan illustrated the construction of fifty-nine (59) single family dwelling units. The request was subsequently withdrawn by the applicants while it was before the Boone County Fiscal Court.

A second Zoning Map Amendment for the entire 10.487 acre site was approved by the Boone County Planning Commission on September 5, 1990. The Concept Development Plan included one existing single family dwelling unit and the construction of forty (40) additional single family dwelling units with attached garages. A 2.0 acre tract of open space was illustrated near the north end of the subdivision. A bermed, landscaped area was also located along the south end of the property, screening the subdivision along Cayton Road. (See Exhibit #1)

Three conditions were agreed upon by the applicant as part of the Zoning Map Amendment approval. These conditions include:

1. The applicants agree to work with Staff to insure the preservation of existing tree stands where appropriate, and where indicated by the Concept Development Plan. The disturb limits shall be clearly marked on the Preliminary Development Plan phase of development. Prior to any development taking place, the disturb limit will be flagged on site by the applicants and Staff. Existing trees along the property lines shall not be disturbed and will be maintained throughout the construction of the subdivision. The streets and parking areas will be landscaped as shown on the Concept Development Plan.

2. The applicants agree to work with Staff to develop a plan to screen the subdivision from Cayton Road, as part of the Preliminary Development Plan. The existing trees near the southwest corner of the property will be retained where possible as part of the screening/buffering plan. An earthen berm and landscaping will be incorporated into the plan.
3. The applicants agree that the homes built will be of the type shown at the Public Hearing.

On July 7, 1992, a Zoning Complaint Report was submitted to the Planning Commission from an adjoining property owner of the Hampton Ridge Subdivision regarding the landscape buffer that had not yet been constructed along Cayton Road. A short while later, fence poles were installed within the landscaped buffer area. Upon further review by the Planning Commission, it was determined that the applicant would like to revise the landscape buffer requirement. Between September 11, 1992 and September 16, 1992, three revised landscaping plan proposals were submitted. The applicant then met with the Zoning Enforcement Committee at their September 16, 1992 meeting to discuss the revised landscape buffer proposal.

On September 23, 1992, the Zoning Administrator, Kevin Costello, determined that the proposed revised landscaping plan illustrating a five foot high fence and landscaping features violated condition #2 of the September 5, 1990 Committee Report. He also stated that the revised plan were not in agreement with Mr. Barlow's comments made at the August 22, 1990 Public Hearing during which he agreed to the screening and earthen berm along Cayton Road as noted in his previous zoning application and depicted on the approved Concept Development Plan. The landscaped area had also been mentioned in the Staff Report and illustrated as part of the Improvement Plan. Several weeks after this decision was made, the fence poles were removed and this application submitted. At this time, the earthen berm has not been put in place or its landscaping features planted along Cayton Road.

SURROUNDING ZONING AND LAND USES

- North - SR-1, vacant land to be developed as Persimmon Grove Subdivision
- South - SR-1 and Rural Suburban (RS), predominantly single family residential development
- East - SR-1, predominantly single family residential development
- West - SR-1 and RS, predominantly single family residential development

EXISTING FEATURES OF THE SITE

At the present time, approximately one-half of the forty (40) single family dwelling units are currently under construction or have been completed. Many of the finished homes are located along the first street within the subdivision. As stated previously, neither the earthen berm nor its landscaping features have been placed along Cayton Road.

RELATIONSHIP TO THE ZONING REGULATIONS

Planned Development (PD) Overlay zoning districts are permitted under the 1991 Boone County Zoning Regulations. The PD Overlay is intended "to provide a permissive and alternative zoning procedure for innovative, mixed use residential, commercial, industrial or other type developments or physical design proposals capable of providing substantial value to the community over the conventional districting and other regulations prescribed as normal course in this order but requiring unique consideration, disposition, control, and approval." It is intended to encourage:

1. "A maximum choice of living environments by allowing a variety of housing and building types and permitting a reduction in lot dimensions, yards, building setbacks, and area requirements;
2. A more useful pattern of open spaces and recreation areas and,....;
3. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;
4. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets;
5. A development pattern in harmony with land use density, transportation facilities, community facilities, and objectives of the comprehensive plan;
6. A signage package in harmony with the objectives of the Planned Development." (p. 115 - 116)

RELATIONSHIP TO THE COMPREHENSIVE PLAN

Although there is no mention of this particular site in the 1990 Boone County Comprehensive Plan, this general area of Boone County will continue to development residentially. The Future Land Use Map indicates the 10.487 acre site to be Suburban Density Residential (SD) and High Suburban Density Residential (HSD). SD is defined as "residential uses that do not exceed four dwelling units per acre." HSD is defined as "residential uses that do not exceed six dwelling units per acre." (p. 199)

There are also several places where the Comprehensive Plan discusses housing and buffering.

Housing Objectives:

"A broad range of housing opportunities shall be provided at locations which meet the needs and desires for all household types." (p. 5)

"In order to offer the citizens of Boone County maximum choice in living environment, residential development plans shall be judged primarily on the basis of gross density (average number dwelling units per acre) and development design, with only secondary consideration given to type of dwelling unit." (p. 6)

"New or redeveloped areas shall be designed to establish neighborhoods. Established residential neighborhoods shall be protected and enhanced,..." (p. 6)

"Clustering (increasing net density while not altering overall gross usable density) of dwelling units on portions of an overall site is always acceptable. Clustering is to be encouraged in some specific sites in order to preserve green space,..." (p. 6)

CONCEPT DEVELOPMENT PLAN

The previously approved landscape plan for the buffer along Cayton Road was submitted as part of the Hampton Ridge Subdivision Improvement Plan. It illustrates the planting of four red maple trees, thirteen austrian pine trees, eight viburnum, and sixteen yews are planted on top of a 3 foot high berm located along the length of the Cayton Road frontage. The entire landscape buffer area is located within a 15 foot wide strip along Cayton Road. (See Exhibit #2)

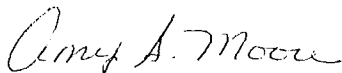
The proposed landscape buffer plan that has been submitted as part of this review illustrates a five (5) foot high wooden fence located between three feet and nine feet back from the property line along Cayton Road. Three red maple trees, six aristocrat pear trees, eleven foster hollies, eighteen viburnum, and several yews are proposed to be planted between the fence and Cayton Road. (See Exhibit #3)

STAFF CONCERNS

Staff is concerned that appropriate and adequate buffering be located along Cayton Road. The importance of this issue has been brought out at several times during the development of the subdivision. These times include the previously approved Concept Development Plan, condition #2 of the Zoning Map Amendment, discussion at the August 22, 1990 Public Hearing, and the landscaping plan that was approved as part of the Improvement Plan.

The Planning Commission should review this request in terms of Article 15 of the 1990 Boone County Zoning Regulations, Planned Development, to determine if the proposed revision to the previously approved Concept Development Plan and Conditions for Hampton Ridge Subdivision meets the intent as stated above. Should the request be approved, the 1990 Boone County Comprehensive Plan will not need to be amended.

Respectfully Submitted,



Amy S. Moore
Planner II

ASM:par

Exhibit 1

SITE DATA:

10.407 AC	
4811 S.W.	
4811 S.W.	
61	
DISCRETIONARY CONCESSED	
3700 S.W.	
3700 S.W.	
3700 S.W. (19%)	
41 GARAGE'S MEDICAL, CO TOTAL	

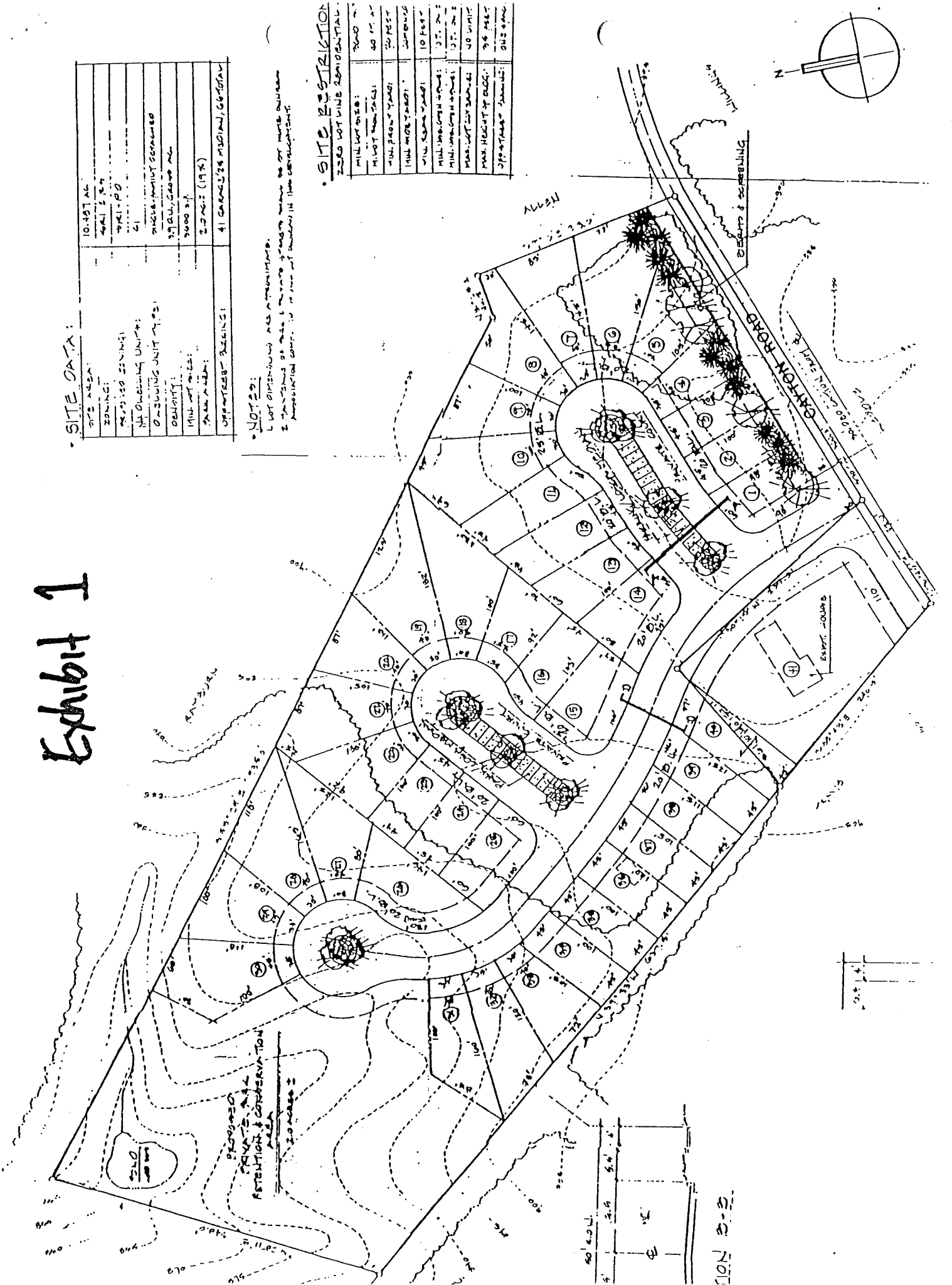
NOTES:

1. LOT DIMENSIONS ARE APPROXIMATE.
2. TYPING OF THIS PLAN SHOULD BE DONE BY THE ARCHITECT.
3. DIMENSIONS OF THIS PLAN SHOULD BE DONE BY THE ARCHITECT.

SITE RESTRICTION

ZERO LOT LINE SUBMITTAL

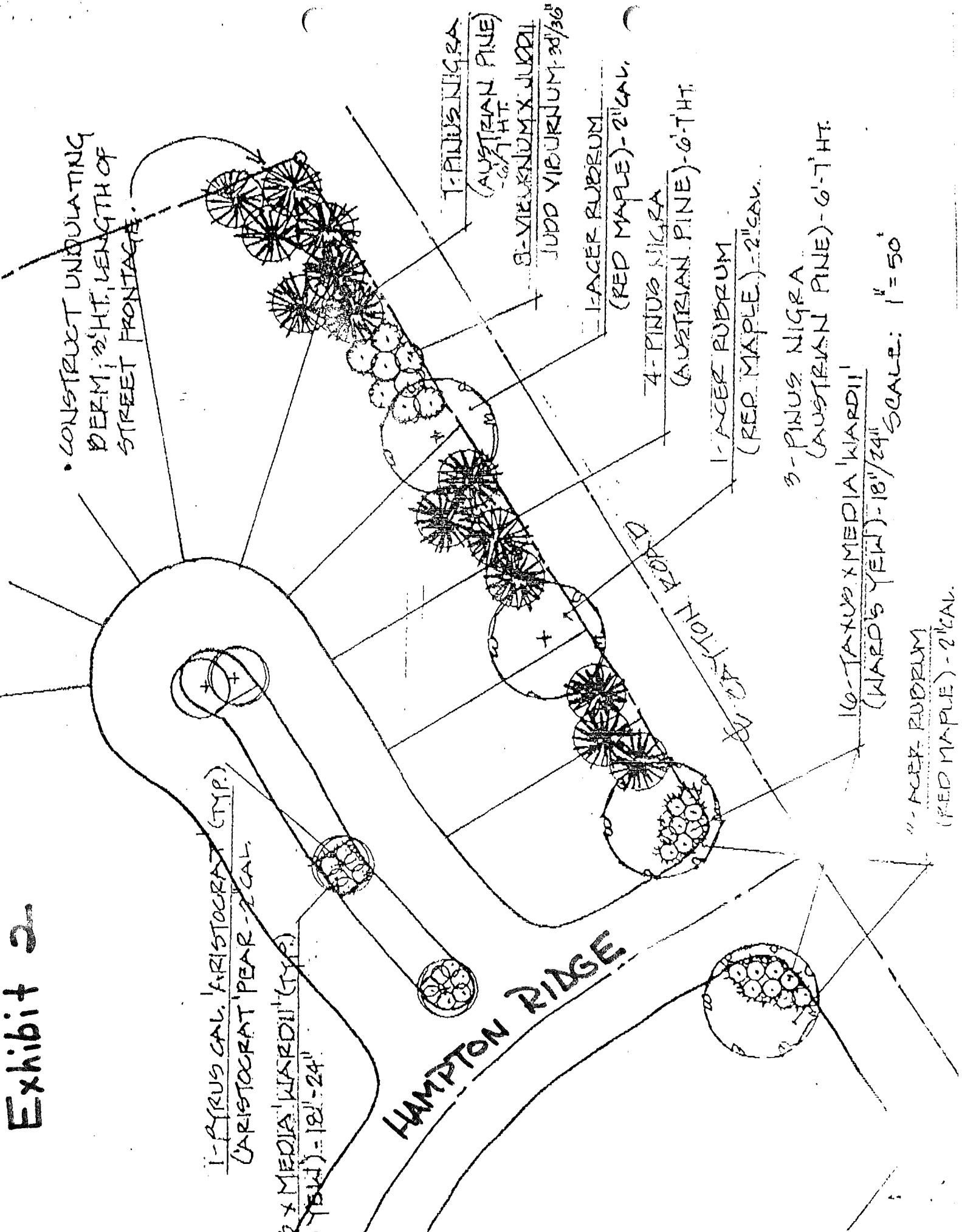
MIN. LOT AREA:	7000
MIN. LOT FRONTAGE:	40 FT.
MIN. LOT DEPTH:	20 FT.
MIN. LOT WIDTH:	20 FT.
MIN. LOT AREA:	10 FT.
MIN. LOT FRONTAGE:	10 FT.
MIN. LOT DEPTH:	10 FT.
MIN. LOT WIDTH:	10 FT.
MIN. LOT AREA:	10 FT.
MIN. LOT FRONTAGE:	10 FT.
MIN. LOT DEPTH:	10 FT.
MIN. LOT WIDTH:	10 FT.



10-0-101

Exhibit 2

• CONSTRUCT UNDOULATING
 BERM; 3' HT, LENGTH OF
 STREET FRONTAGE.



1- PINUS CAL. 'ARISTOCRAT' (TYP.)
 (ARISTOCRAT PEAR - 2' CAL.)

2 x MEDIA 'WARDII' (TYP.)
 ('YEW') - 18' - 24"

HAMPTON RIDGE

1- PINUS NIGRA
 (AUSTRIAN PINE)
 - 6' HT.

3- VIBURNUM X JUDDII
 (JUDD VIBURNUM - 30/36")

1- ACER RUBRUM
 (RED MAPLE) - 2" CAL.

4- PINUS NIGRA
 (AUSTRIAN PINE) - 6' HT.

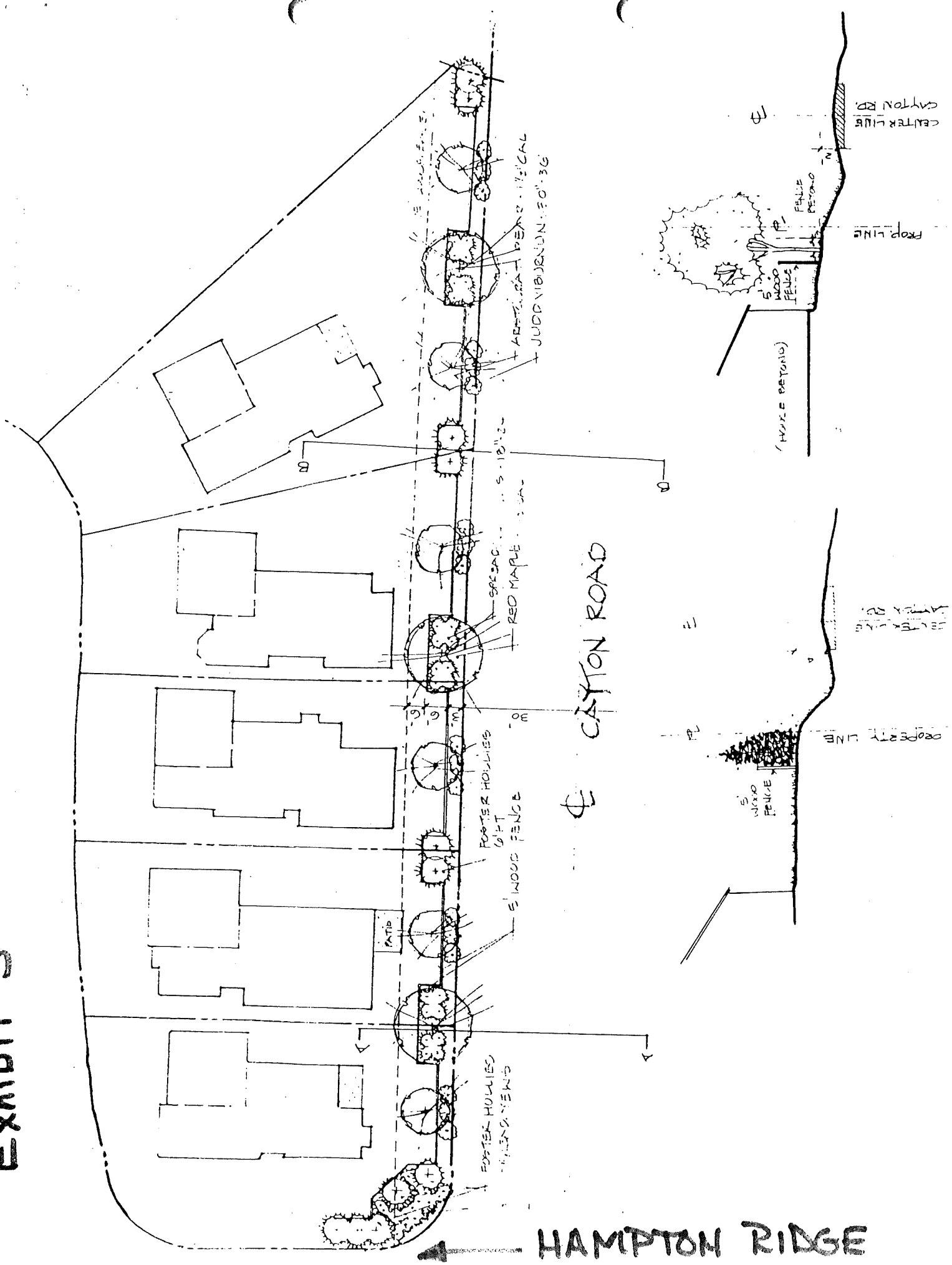
1- ACER RUBRUM
 (RED MAPLE) - 2" CAL.

3- PINUS NIGRA
 (AUSTRIAN PINE) - 6' HT.

16- TAXUS X MEDIA 'WARDII'
 ('WARD'S YEW') - 18' / 24" SCALE: 1" = 50'

11- ACER RUBRUM
 (RED MAPLE) - 2" CAL.

Exhibit 3



BOONE COUNTY PLANNING COMMISSION

PUBLIC HEARINGS

December 16, 1992 - 7:00 P.M.

Mr. Fred Burch, Vice Chairman, called the meeting to order at 7:00 P.M..

Mr. Burch introduced the first item on the Agenda:

1. Applicant: James L. Barlow, Sr. (owner)
Request: Change in Concept Development Plan

The request of James L. Barlow, Sr. (owner) for a change in a previously approved Concept Development Plan and Conditions for Hampton Ridge Subdivision located off Cayton Road, Boone County, Kentucky. The 10.48-acre site is zoned Suburban Residential One/Planned Development (SR-1/PD).

Staff Member Amy Moore presented the Staff Report which included a slide presentation (see Staff Report).

Mr. Terry McBreyer stated that Mr. Barlow's wife was critically ill and he was, therefore, unable to attend the meeting. Mr. McBreyer stated that the reason the original buffering did not occur was that the land along Cayton Road was below the road, but they filled all but a little on each end and raised it 5' or 6' or so. All of the houses shown on the plan were four or five feet above Cayton Road, so they came up several feet from the original construction. The original buffering only called for three feet of buffering, which would now be lower than the houses. They had a problem with open sewers east of the property that were causing this property to be marshy. The land was too wet to do the construction on the berm. He stated that Boone County Water and Sewer, after extensive negotiations, ran a line to hook into the lift station and the property then dried up -- but this took many months. They then started building the houses, but when people moved into the homes they were so close to the road. It is only twenty feet from the closest house to the right-of-way. He stated that the residents said they would rather have a fence and shrubbery. It is more expensive to put in the fence and shrubbery, but they want to please the residents. He noted that one resident across the street objects, but if they stick to the original buffering he would be able to see the adjacent property. There is also a safety concern due to the highway. Mr. McBreyer stated that Mr. Barlow misunderstood and thought he could go ahead and build the fence.

Ms. Carol Gohs, architect, stated that Mr. Barlow told her a few months ago that he wanted to build a fence, but he wanted something that was attractive and they discussed several options. Mr. McBreyer distributed copies of the plan to the Commissioners. Ms. Gohs stated that they raised

the site so that it is above the roadway. They propose building a five-foot fence with offsets to put the majority of the plant material on the outside between the right-of-way and the fence. They believe it will be very aesthetic. They have added plant material including 9 deciduous trees, 11 evergreen trees, 40 ewes taxis, and 18 hybernums, which provides for better screening, safety, and aesthetics.

Mr. Burch asked if there was anyone else present who wished to speak in favor of the request.

Mr. Al Turpin, 1072 Hampshire Place in Hampton Ridge Subdivision, stated that his house does not butt up against Cayton Road but is across the street. His main concern is safety. He stated that it is distracting to see people in the yards when cars come down Cayton Road and turn into Hampton Ridge. The road is narrow and has bends. The fence is a better idea. The fence will also provide a sound barrier and add to the privacy. He stated that there will be an association in the subdivision to take care of the public areas.

Paul Adams, a resident of Hampton Ridge Subdivision, stated that he wrote a letter to Planning & Zoning about the landscaping and the fence. The fence and shrubbery is an improvement on the previous plan because of safety and aesthetics.

Larry Gardner, 1065 Hampshire Place, stated that the back of his home is on Cayton Road. He agreed with the others regarding the fence. He is concerned for the safety of his grandchildren and a fence would probably alleviate his concerns.

Mr. Burch asked if there was anyone else present in favor of the request. There was no response. Mr. Burch then asked if there was anyone present in opposition to the request or having questions.

Mr. Gary Wilmhoff, 1079 Cayton Road (immediately across the street from this subdivision), stated that when the subdivision was started, the neighborhood formed an organization and about 100 families raised about \$5,000 for a lawyer to represent them. This was a controversial subdivision. They got a few concessions out of the developer and one of them was that a landscape berm would be placed along Cayton Road. He stated that the developer got approval because he conceded to do some things for the neighborhood. During the excavation phase a berm was built along Cayton Road, and in July they bulldozed the berm and started a slat fence -- not the fence represented on their plan. He called Planning & Zoning about this. He stated that Mr. Barlow represented himself as one of the largest developers in Kentucky and he should understand a Site Plan. He noted Mr. Barlow's letter to Mr. Costello which indicated their commitment to a privacy fence and attractive plantings. He stated that when Mr. Barlow sold the homes, he told them they would get a fence. He noted how close the homes are to the road and stated that they could have been set back further to allow room for the landscape berm with a five-foot fence on the other side. Mr. Wilmhoff would like to see the 15-foot landscape berm as originally agreed upon. He stated that berms are consistent with the area and noted examples of berms at different locations including Persimmon Grove and Fox Run Subdivision. He stated

that fences require maintenance and look man-made, berms look more attractive. Landscaping is very natural. Fences have to be replaced and would be subject to graffiti, particularly alongside the road. He stated that berms can be designed to control foot traffic with dense plantings and thorns. He has lived on Cayton Road for 13 years and there is very little foot traffic because there are no shoulders and it is a very dangerous road. Mr. Wilmhoff stated that he wants the developer held accountable for the promises he made. He asked that the Commission consider the long-term effects of this decision and the possibility of other developers, such as Kroger's, making similar requests.

There being no further comments from the audience, Mr. Burch asked if there were any comments from the Commission.

Mr. Ries questioned the safety concerns regarding the fence. Mrs. Moore stated that she did not know what the differences would be to drivers if there were a fence or a berm. Mr. Ries asked if a fence that close to the road would be permitted. Mrs. Moore advised that they cannot put a fence in the right-of-way. If the fence was in the right-of-way, it is possible that it would block the view.

Mr. Bailey questioned the buffer area and if the fence is being proposed for a smaller area than originally planned. Mrs. Moore referred to Exhibit 3 attached to the Staff Report and indicated the buffer zone. She stated that the fence is being located in the front three quarters of the 15-foot buffer area along Cayton Road. The closest point from the fence to the property line along Cayton Road is three feet. Mr. Bailey asked if the fence is being proposed because it is cheaper. Mrs. Moore advised that the Planning Commission cannot consider the cost.

Ms. Grohs stated that the fence is more expensive than the berm, and there would be the additional cost of the plant material.

Mr. Bailey questioned why they do not go ahead and build the berm. Ms. Grohs stated that the berm was originally suggested because the property was lower than the road. They wanted to raise up the screening material to provide adequate screening. The property has now been raised up and the property that was below the road is now above the road.

Mr. Damstrom stated that if they do not count the 40 evergreen shrubs that are small to begin with, the remaining landscaping in the new plan is of less content than what was originally submitted. Mr. Grohs replied "not in number of plantings". She stated that there are 4 red maples vs. 3 originally; 13 Austrian pines vs. 11 originally; 18 hyberniums vs. 8 originally, 9 trees vs. 4 deciduous trees originally, etc..

Mr. McMillian questioned if the berm would cause a water problem for the houses. Ms. Grohs stated that they would have to grade toward the berm and provide drainage through the berm. Water would be a problem if it were a solid berm.

In response to a question from Mr. Ries, Mrs. Moore stated that this is PD (Planned Development) and in a standard subdivision the minimum setback is 30 feet. The data submitted with the Concept Development Plan shows the

minimum rear yard setback as ten feet, but these houses have a larger setback from Cayton Road.

Mr. Damstrom questioned if the berm was solid in the original plan. Mrs. Moore referred to the plan and stated that she assumes it is a solid berm as the plan does not say otherwise.

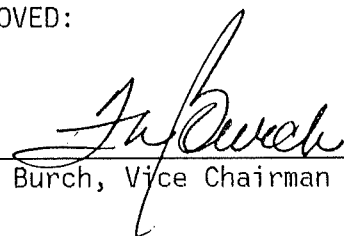
Mr. Damstrom questioned if it is possible to put a fence on the other side of the berm. Ms. Gohs stated that the only plant material shown behind the fence is the pear trees. She stated that it would be possible to put a fence behind the berm but it would have to be a straight fence rather than a fence with offsets, which would not be as attractive. The fence would also be very close to the houses which may not be satisfactory to the home owners.

Mr. DeLong stated that the berm, even though it would not have full vegetation, would cover the backs of some of the homes.

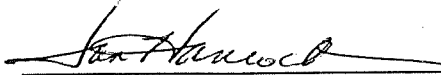
Mr. Turpin stated that Barlow Homes never promised him a fence or anything else that they have not come through with. He stated that if there is not a fence there, there may be foot traffic from the subdivision onto Cayton Road. He emphasized that there should be a fence. He stated that graffiti should not be an issue or a problem and the association will take care of it.

There being no further comments, Mr. Burch stated that this item is on the Agenda for the Business Meeting this evening, but will be deferred to the January 6, 1993 Business Meeting at 8 P.M.. Mr. Burch closed this Public Hearing.

APPROVED:


Fred Burch, Vice Chairman

Attest:


Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION
BUSINESS MEETING

January 6, 1993 - 8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:10 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett
Mr. Fred Burch, Vice Chairman
Mr. Phil Damstrom
Mr. Melvin DeLong
Mr. R. N. Greene
Mr. Robert Kirby, Jr.*
Mr. Gayle McElroy
Mr. Don McMillian
Mr. Thurman Owens
Mr. Robert Ries
Mr. Ralph Rush
Mrs. Carol Smith
Mr. William Viox, Chairman

*arrived during Agenda Item #1

COMMISSION MEMBERS NOT PRESENT:

Mr. William Bailey
Mr. Barry Neltner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Viox advised that Mrs. Smith has been reappointed to the Commission, and Mrs. Judy Arnett has been appointed as a new member of the Commission. Mrs. Arnett was sworn in by Counselor Wilson prior to the meeting.

3. Concept Development Plan

The request of North American Properties (applicant) for Thomas Bischoff (owner) for approval of a Concept Development Plan on a +21-acre site located off Eab Drive and east of Paddock Drive, Boone County, Kentucky. The site is currently zoned Employment Planned Development (EPD), and a retail center is planned.

Mr. William Fromm, Director, stated that a communication was received from North American Properties asking that this item be deferred indefinitely. They will contact the Commission to reschedule.

Mr. Jerry Dusing, attorney, stated that the deferral is in response to the Committee Meeting. They were asked to do certain things in response to concerns raised -- i.e., the residents questioned the credibility of the traffic study because of where the hoses were put, and whether the house that was picked was a worse case scenario, etc. -- and they are asking for the delay to respond to those concerns.

Counselor Wilson stated that there was a large group of people present in regard to this request and there should be a timeframe tied to the deferral so that people know when it will be heard.

Chairman Viox suggested that the request be deferred until February 17, 1993. Mrs. Smith so moved. Mr. Greene seconded the motion. A vote on the motion found all voting members in favor. Mr. Burch abstained. The motion carried.

5. Change in Concept Development Plan

The request of James L. Barlow, Sr. (owner) for a change in a previously approved Concept Development Plan and Conditions for Hampton Ridge Subdivision located off Cayton Road, Boone County, Kentucky. The 10.48-acre site is zoned Suburban Residential One/Planned Development (SR-1/PD).

Mr. Terry McBray, representing Barlow Homes, asked to address the Commission before the Committee Report was read. Chairman Viox agreed.

Mr. McBray stated that they were attempting to eliminate the berm that was required on the Development Plan and put up a fence. If the Commission thinks the berm is still necessary, then they still need the fence. If they must continue with their formal application, then they would like the fence in addition to what they agreed to previously. They need the fence for the protection of the property and the people that are so close to the road.

Counselor Wilson asked if Mr. Wilmhoff, the neighbor across the road, was present. Mrs. Wilmhoff indicated that she was present.

Mrs. Wilmhoff stated that they have no objection to the fence as long as it is on Barlow Homes side of the berm and it is landscaped.

Counselor Wilson stated that this is not a new application and only relates to items that were discussed at the Public Hearing. He stated that conditions will have to be signed and he believes the applicant has indicated that he will do that. Mr. McBray stated "that is correct".

Mr. Burch stated that the entire Committee, with the exception of Mr. Neltner, is present. His understanding as Committee Chairman is that they are withdrawing their original request and are saying they will do everything they had agreed to do. Mr. McBray stated that they are removing everything from their application, except the fence.

Mr. Costello, Zoning Administrator, stated that he would prefer that there be a recess for the Committee to meet and provide a written report. He emphasized that if this is tied to a plan, he wants to be sure it is tied to the right plan and also to be sure what type of fence is being proposed so that there will not be any future disputes.

Chairman Viox stated that the only change to the Concept Plan is that they are adding the fence. Mr. Costello asked that they provide a drawing showing the exact location of the fence, unless they want the Staff to locate the fence.

Mr. Owens questioned where Mrs. Wilmhoff wants the fence. Mrs. Wilmhoff stated that they would prefer not to have a fence, but have no objection to the homeowners having a fence on their (Hampton Ridge Subdivision) property. They want the berm at the set amount above the finished grade. They do not want the fence on the berm.

At this time, Chairman Viox called for a short recess.

Following the recess, Chairman Viox advised that a rendering had been prepared with the condition for the developer's signature. The berm will be the same as was agreed to previously and the fence will be between the berm and the houses.

The condition shown on the drawing, which is an amendment to the Committee Report, reads as follows: "The applicant agrees to construct the earthen berm and landscaping as previously approved and to place a wooded five-foot fence along the bottom of the berm between the berm and the proposed houses in the Hampton Ridge Subdivision (Lots 1 - 6)."; and was signed at this time by W. Terry McBray, attorney for the applicant. Mr. Costello stated that this is the fence presented at the Public Hearing. Mr. McBray replied "that is correct".

Chairman Viox asked if Mrs. Wilmhoff attended the Committee Meeting and was in agreement. Mrs. Wilmhoff stated that her only concern is that it is a six-foot wide berm versus the 15-foot berm.

Mr. McBray stated that it is exactly the same as before. It is a six-foot wide berm three feet high. Mr. Costello agreed and advised that the minimum landscaped area was to be 15 feet wide. A building could not encroach in that area, but the berm could be placed in that area.

Mr. Kirby moved by resolution to the Boone County Fiscal Court that the Revised Committee Report be adopted. Mrs. Smith seconded the motion and it carried unanimously.

Chairman Viox stated that he has provided engineering services in regard to the next item and asked that Mr. Burch chair the meeting at this time.

Mr. Burch chaired the meeting and introduced Agenda Item #4:

4. Zoning Map Amendment

The request of The Patrick Decastro Trust (applicant) for Haroon and Aisha Ismail (owner) for a Zoning Map Amendment on a 0.92-acre site at 8127 Burlington Pike, or just west of the Toyota vehicle dealership, Florence, Kentucky. The request is to rezone the site from Commercial Two (C-2) to Commercial Services (C-3) for a vehicle dealership.

Mr. Damstrom read the Committee Report which recommended approval of the request based on the Findings of Fact, but subject to conditions (see Committee Report).

Staff Member Dave Geohegan stated that the applicant received a condition letter with the conditions stated in the Committee Report, but the applicant has drafted his own condition letter. The applicant differs on three of the conditions. The applicant has signed his own condition letter.

Mr. Dave Schneider, attorney, stated that the applicant and owner is in total agreement with the intent of the conditions to protect the adjacent area from light or intrusion. He stated that under the Ordinance, the required buffer is 25 feet. Their original drawing showed a 50-foot buffer with dense vegetation, and they are agreeable to the 8-foot pine trees. They question if a 50-foot buffer is appropriate under these circumstances, or if a 25-foot buffer is appropriate. The applicant agrees to maintain the 25-foot dense vegetation and to put in the trees. Any lighting would be directed toward KY 18 and designed to go straight down, or have shields to protect the residential area. Putting the lights 20 - 25 feet in the parking lot area will restrict the movement of the cars. The parking is limited now. The applicant is dedicating the frontage road. Losing any additional parking in the back is critical to the decision to buy the property.

In response to a question from Mr. Burch, Mr. Schneider stated that he believes the 50-foot buffer was the applicant's idea and his thinking was that the vegetation would be sufficient so that he would not need the additional requirements. When the additional requirements came along, that caused him to consider whether or not he can effectively use the property.

Mr. Schneider stated that the applicant will dedicate the frontage road provided that it is not used by the property to the west for access to KY 18. He has no problem with the property to the west (Joseph Chevrolet) using the frontage road, provided they build the primary access.

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Fred Burch, Chairman

DATE: January 6, 1993

RE: Request of James L. Barlow, Sr., (owner) for a change in a previously approved Concept Development Plan and Conditions for Hampton Ridge Subdivision located off Cayton Road, Boone County, Kentucky. The 10.48 acre site is zoned Suburban Residential One/Planned Development (SR-1/PD).

REMARKS:

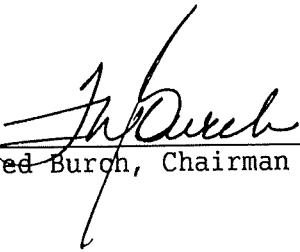
We, the Committee, based on the statements made and facts gathered at the December 16, 1992 Public Hearing, recommend denial of this request based on the following Findings of Fact:

Findings of Fact:


1. The Committee believes that the proposed Change in Concept Development Plan and Conditions is insufficient to adequately buffer this development from Cayton Road and the adjoining properties. A portion of the Housing Element Objects of the Boone County Comprehensive Plan is that "Established residential neighborhoods shall be protected and enhanced...:
(p.6)
2. The applicant has not established sufficient evidence that a substantial change has occurred in the development to permit the previously agreed upon Condition to be altered in the proposed manner. The Condition reads:

"The applicants agree to work with Staff to develop a plan to screen the subdivision from Cayton Road, as part of the Preliminary Development Plan. The existing trees near the southwest corner of the property will be retained where possible as part of the screening/buffering plan. An earthen berm and landscaping will be incorporated into the plan."

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.

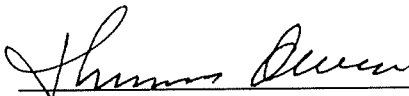


Fred Burch, Chairman

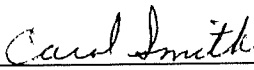


Phil Damstrom

Barry Neltner



Thurman Owens



Carol Smith

:par

MINUTES
BOONE COUNTY FISCAL COURT
FEBRUARY 16, 1993
5:00 P.M.

Commissioner Davis moved, seconded by Commissioner Meihaus, to approve on Second Reading Ordinance NO. 920.243, an ordinance of the Boone County Fiscal Court recommending approval for a request of George Higdon, Byron Griffith and Logan Daugherty (Applicants) for a zoning map amendment, such zoning map amendment being a zone change from Suburban Residential One (SR-1) to Mobile Home Park (MHP) on an 18.6 acre site located at 10537 U.S. 25, Boone County, Kentucky, and as recommended 11 to 1 by the Boone County Planning Commission via Resolution R-93-005-A. Commissioner Meihaus said she seconded the motion because she believes the line has been drawn and further, she will not vote for any more mobile home parks on U.S. 25.

There was more discussion whether the Fiscal Court has the power to include a caveat in the motion regarding future Mobile Home Parks in this area and Attorney Crigler advised there wording of this nature can be included in the motion.

Judge Lucas asked Commissioner Davis to accept a friendly amendment that as a caveat, there is an understanding with the members of the Boone County Planning Commission, the Boone County Fiscal Court and residents of that area this is the southern most boundary for the approval of a Mobile Home Park for now and in the future. Commissioner Davis agreed to the friendly amendment as did Commissioner Meihaus. Judge Lucas called for a vote of the motion, Commissioner Patrick voted NO, Commissioner Meihaus voted AYE, Commissioner Davis voted AYE, and Judge Lucas voted AYE. Motion Carried. Exhibit "C"

ORDINANCE NO. 920.244 - BARLOW

Commissioner Meihaus moved, seconded by Commissioner Davis, to approve on Second Reading Ordinance No. 920.244, an Ordinance of the Boone County Fiscal Court recommending approval for a request of James L. Barlow, Sr. (Owner) for a change in an approved Concept Development Plan and Conditions in a Suburban Residential One/Planned (SR-1/PD) zone on a 10.48 acre site generally located off Cayton Road, Boone County, Kentucky, as recommended unanimously by the Boone County Planning Commission via Resolution R-93-004-A. Commissioner Davis stated he attended the Public Hearing and noted the people in opposition met with the developer and they came to a mutual agreement. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "D"

RETURN TO DELEGATIONS

Susan Cabot, Historic Preservation Officer, advised the court that a meeting had been held with the property owners in Petersburg and they expressed concerns that they did not want the National Registration Nomination of the Historic Archaeological site in Petersburg to proceed, therefore, the Historic Preservation Review Board has chosen not to make the nomination.

ITEM V.

PERSONNEL MATTERS

Assistant County Attorney Gwen Vice presented a proposed change to the Personnel Policy. Attorney Vice recommended that any time an employee's job performance or medical condition may affect the safety of himself/herself and/or others, he/she may be required to visit a doctor of the Fiscal Court's choosing for a physical examination at the Court's expense.

Commissioner Patrick moved, seconded by Commissioner Meihaus, to approve the proposed change to Chapter 22 of the Personnel Policy as relates to safety. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "E"

Commissioner Patrick requested that a copy of the change be sent to each employee.

Mr. Collins presented several recommendations to the Fiscal Court.

Commissioner Meihaus moved, seconded by Commissioner Davis, to approve the appointment of Tina Kern to the position of Part-time On-call Child Care Worker at the Grade/Step of 4/A, \$6.75 per hour. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

MINUTES
BOONE COUNTY FISCAL COURT
FEBRUARY 2, 1993
10:00 A.M.

Commissioner Meihaus said this request is in conformance with the Comprehensive Plan.

Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

ORDINANCE NO. 920.244 - BARLOW

Commissioner Patrick moved, seconded by Commissioner Meihaus, to approve on first reading Ordinance No. 920.244, an ordinance of the Boone County Fiscal Court recommending approval for a request of James L. Barlow, Sr. (Owner) for a change in an approved Concept Development Plan and conditions in a Suburban Residential One/Planned (SR-1/PD) zone on a 10.48 acre site generally located off Cayton Road, Boone County, Kentucky, as recommended unanimously by the Boone County Planning Commission via Resolution R-93-004-A.

It was noted the only change is putting up a fence along with the berm, which will actually provide more screening.

Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

ORDINANCE NO. 920.245
HOSSMAN ROAD, KENTUCKY 20 & ELIJAH'S CREEK ROAD

Commissioner Meihaus moved, seconded by Commissioner Davis, to approve on first reading an ordinance of the Boone County Fiscal Court adopting amendments to the 1990 Comprehensive Plan and recommending that no amendments be made to the 1991 Boone County Zoning Regulations or the Boone County Zoning Map for an approximately 1200 acre area generally located along Hossman Road, Kentucky 20 and Elijah's Creek Road; south of I-275, east of Limaburg Road and east of Conner Road, Boone County, Kentucky as recommended by a vote of 8 to 3 by the Boone County Planning Commission via Resolution R-93-001-A.

Commissioner Davis commented that a letter had just been received from an attorney representing the Bowlins on this property. Commissioner Davis said in his opinion the Planning Commission's recommendation is correct in stating that the Future Land Use of this property should be industrial, EPD or something of that nature, but one thing I think the court has always maintained and the Planning Commission has always maintained is that before they change the zone on a property, they want to know who is going to use the property, what it will be used for and you have to have the infrastructure in place, especially for an industrial area. There is only one exception to that and that is the property we rezoned when we thought Sony was coming into the county and that's the only exception that I'm aware of. Commissioner Davis said in the letter received from the attorney, the attorney requested this matter be deferred to allow them to come to a caucus meeting if the Fiscal Court is not going to override the decision by the Planning Commission. Commissioner Davis said he is willing to defer the matter even though he agrees that the Comprehensive Plan, the twenty-five year projection should be changed to indicate the future use of this property. Commissioner Davis said he's not willing to do it unless he knows who the people are and sees that water, sewer and roadways are to that property. Commissioner Davis said he is willing to wait until a caucus meeting has been held.

Judge Lucas said while the situation relates, it does not directly relate, because what the court is doing at this point is just passing an ordinance saying that the property will be left as is and then people in that given area can choose to come back on an individual basis under whatever circumstances there are at the time.

Commissioner Davis said he agreed with Judge Lucas, but he was just going by the last paragraph in the letter requesting the matter be deferred, however, he said if the court wants to act he does not have a problem with that because the action will reinforce what the Bowlins want to do in the future any way.

Commissioner Patrick said she has received numerous calls and the people are upset because all the court asked Planning & Zoning to look at was the property on Hossman Road that adjoined Route 20, approximately 400 acres. She said the people are very upset because they want their land left just the way it is.

Judge Lucas reiterated if the court passes the ordinance that is on the floor at the moment everything will stay as it is. Judge Lucas said that individual property owners