

JAN 5 1993

REVIEW NO. _____

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 BRENT WOOD
2. Location of Development 3787 Bullittsville Rd. Hebron Ky
3. Total Acreage of Site 69.0 acres
4. Current Zoning RSE
5. Proposed Zoning (classification being requested) R.S.
6. Proposed Uses (please specify each use) Residential Subdivision -- individual residences in 150,000 to 200,000 price range
7. Name of Applicant(s) J.J. Miller
Phone Number(s) 629-1906 (day) 283-2288 (evening)
8. Address of Applicant(s) 111 Thomas St.
Florence Ky 41042
City State Zip
9. Name of Property Owner(s) John Hopkins
Phone Number(s) 536-6552
10. Address of Property Owner(s) 3787 Bullittsville Rd.
Hebron Ky 41048
City State Zip
11. Proposed Building Intensities (please specify) One residence per one-half acre.
12. Are there any existing buildings on the site? yes
How many? 10 (1 house, 1 barn, 8 small outbuildings)
13. Deed Book 308 Page No. 315 Group No. 2018
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: Div. of Water & Sewer Kenton Co. Sanitation Dist.

EXHIBIT "A"

STAFF REPORT

REQUEST OF J.J. MILLER (APPLICANT) FOR JOHN HOPKINS (OWNER) FOR A ZONING MAP AMENDMENT ON A 69 ACRE SITE LOCATED AT 3787 BULLITTSVILLE ROAD, BOONE COUNTY, KENTUCKY. THE REQUEST IS TO REZONE THE SITE FROM RURAL SUBURBAN ESTATES (RSE) TO RURAL SUBURBAN (RS) IN ORDER TO ALLOW 92 LOTS IN BRENTWOOD SUBDIVISION.

February 24, 1993

This is the request of J.J. Miller for a Zoning Map Amendment to change the current zoning designation of Rural Suburban Estates (RSE) to Rural Suburban (RS) to allow the development of Brentwood Subdivision. The 69.0 acre site is located at 3787 Bullittsville Road, Boone County, Kentucky. The property is currently owned by John Hopkins.

SURROUNDING LAND USES AND ZONING

The properties immediately to the north, east and west are currently zoned RSE. To the south, the property is zoned RSE and Agriculture (A-1).

North: Agricultural/Open Fields, Woodland and Low Density Residential.

South: Agricultural/Open Fields and Woodland.

East: Agricultural/Open Fields and Low Density Residential.

West: Agricultural/Open Fields and Woodland.

SITE FEATURES

The site presently contains one single-family dwelling unit, several barns and storage buildings, and a pond. The site is gently rolling and substantial vegetation stands are located along the western and southern property lines. Public utilities are presently not available to the site.

The Soil Survey of Boone, Campbell, and Kenton Counties, Kentucky indicates that the soils on this site include Rossmoyne silt loam with 0 to 6 percent slopes (RsB), Rossmoyne silt loam with 6 to 12 percent slopes (RsC), and Faywood silty clay loam with 12 to 20 percent slopes (JeD). RsB and RsC soils are listed as having moderate limitations in supporting building and the JeD soil is listed as having severe limitations in supporting building.

The site is not located within the recently adopted 65 LDN or higher noise contours as illustrated in the Supplemental Part 150 Study that was recently adopted by the Airport Board. It is also not located within the proposed near-term or long-term 65 LDN or higher noise contours (based on the east-west runway extension).

CONCEPT DEVELOPMENT PLAN

The proposed Concept Development Plan indicates that approximately 80% of the entire 69 acre site will be developed as Brentwood Subdivision. The existing house and several of the accessory structures will remain on the eastern or remaining portion of the property.

Ninety-two single-family lots of a minimum of one-quarter of an acre in size are proposed for the subdivision. The subdivision will be accessed from Bullittsville Road at one access point. A 12 inch water main will be extended approximately 3,000 feet north along Bullittsville Road to the site. Verbal approval has been granted by Sanitation District #1 and the Boone County Water and Sewer Commission for a waste water treatment plant to be constructed to serve the proposed subdivision.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The 1990 Boone County Comprehensive Plan Future Land Use Map indicates the future use of the property to be Rural Lands (RL) and Suburban Density Residential (SD). The RL classification is "intended for areas which should remain in a rural character and includes agricultural uses, woodlands, recreation uses, and residential uses that do not exceed one dwelling unit per two acres..." (p. 198) SD is described as "residential uses that do not exceed four dwelling units per acre." (p. 199)

The overall goal of the Comprehensive Plan is that:

"Proper future growth management for Boone County is provided for the benefit of its residents." (p. 1)

One of objectives of the Physical Environment Element of the Comprehensive Plan reads:

"New development or redevelopment should be designed to utilize existing topography and preserve existing stands of vegetation. New development shall be designed in harmony with the physical environment in such a way that each site's existing physical assets are used beneficially." (p. 2)

Two Transportation Element objectives are:

"Proper access to adjoining property should be provided and/or retained when a property develops or redevelops."

"Roadways shall be widened and improved where appropriate." (p. 3)

Two objectives of the Housing Element of the Comprehensive Plan read:

"Residential development shall be regulated as to basic health and safety considerations, including: a) proper connections to appropriate public water and sanitary sewer service, sewage disposal units, and telephone and electric lines, and b) properly designed and constructed storm drainage systems according to location and use."

"Residential developments shall be designed in a manner which is compatible not only with the general housing character planned for the area but also with the existing conditions of the site, including the suitability of adjoining lands for appropriate access." (p. 6)

The Idlewild Area is specifically described in the text of the Comprehensive Plan.

"This section of Boone County contains the I-275, Idlewild Interchange, Idlewild, Bullittsville, and a substantial portion of KY 20... This section should experience considerable residential growth pressures especially around the golf course to the east... This development should not occur until adequate infrastructure is provided...." (p. 206)

"...Subdivision activity should continue around Bullittsville and along Bullittsville Road."

"...Overall, this section should experience growth because of its proximity to I-275, and the Burlington-Hebron area." (p. 207)

STAFF CONCERNS

1. The applicant has not indicated that any road improvements (such as the installation of turning lanes) will be made to Bullittsville Road. The Commission should consider the potential traffic impact of the subdivision upon Bullittsville Road.
2. The submitted Concept Development Plan does not indicate that any access will be provided directly from the proposed subdivision to the adjoining properties. The Boone County Comprehensive Plan and the Boone County Subdivision Regulations indicate that for purposes of public convenience and safety, access to undeveloped tracts of land should be established.
3. There are substantial vegetation stands located along the western and southern portions of the property. The applicant has not indicated if the vegetation or any portion of it will be retained during the development of the proposed subdivision.
4. A drawing submitted by the applicant illustrates a proposed sanitary sewer treatment plant located approximately 30 feet away from the adjoining property to the south. The State of Kentucky, Division of Water recommends that no residential building occur within 200 feet of a sanitary sewer treatment plant. The Commission should assess how the proposed location of the treatment plant will affect the potential residential development of the adjacent property.
5. At the time of this writing, only verbal approval has been granted by Sanitation District #1 and the Boone County Water and Sewer Commission for the construction of a waste water treatment plant to provide sanitary sewer service to the proposed development. Written agreement for this provision should be provided to the Boone County Planning Commission prior to construction.

6. Although the site is outside of the existing and proposed 65 LDN and higher noise contours as outlined in the Supplemental Part 150 Noise Study, the Commission should keep in mind that the site will be subject to some level of airport noise.

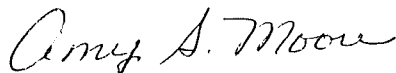
CONCLUSION

The Boone County Planning Commission must evaluate this and all Zoning Map Amendments 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 and any specific study designed to further the Boone County Comprehensive Plan for the location in question; 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 Boone County Fiscal Court ultimately approve, this request for a Zoning Map Amendment, the Boone County Comprehensive Plan will need to be altered.

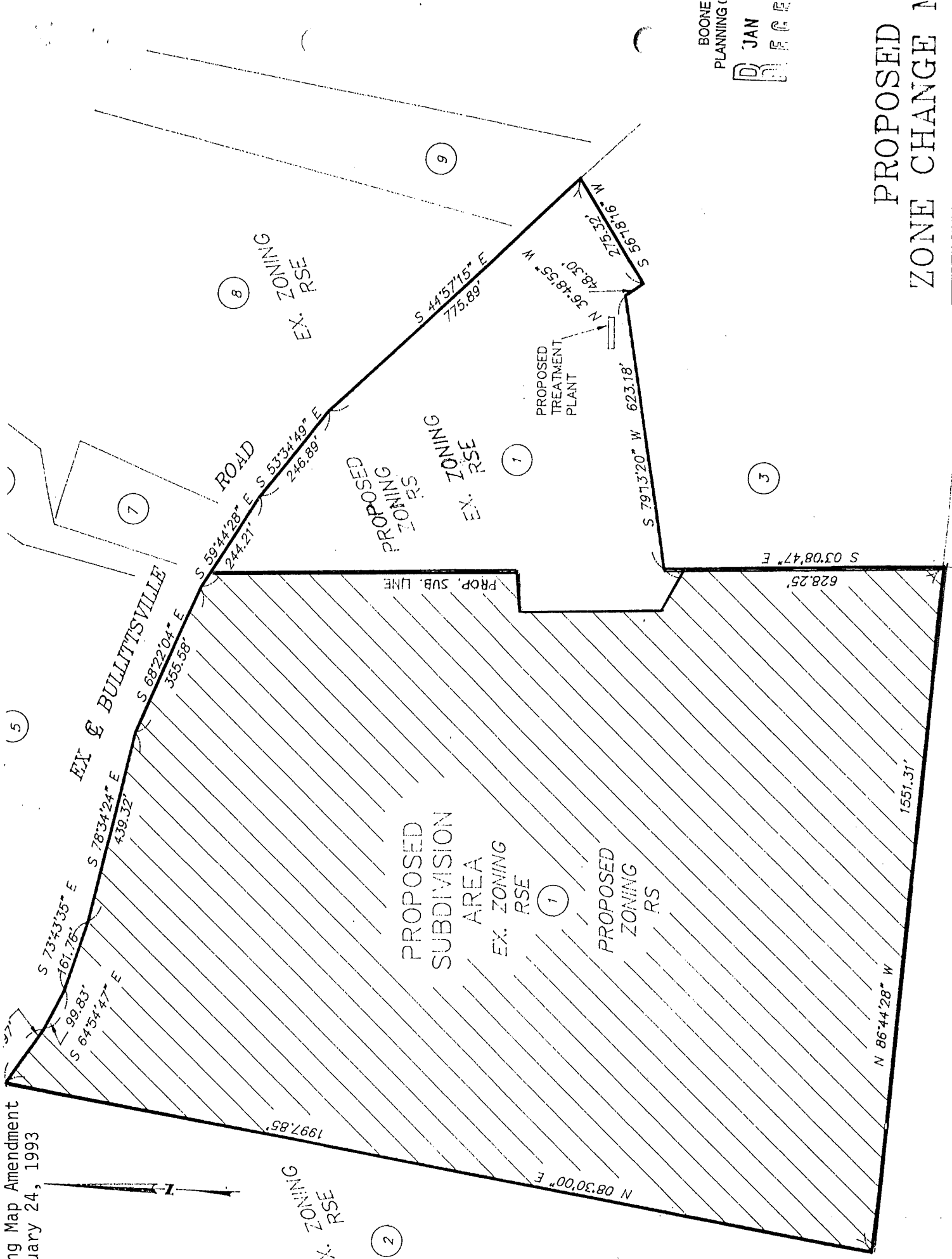
Respectfully Submitted,



Amy S. Moore
Planner II

ASM:par

Brentwood Subdivision
 Zoning Map Amendment
 February 24, 1993



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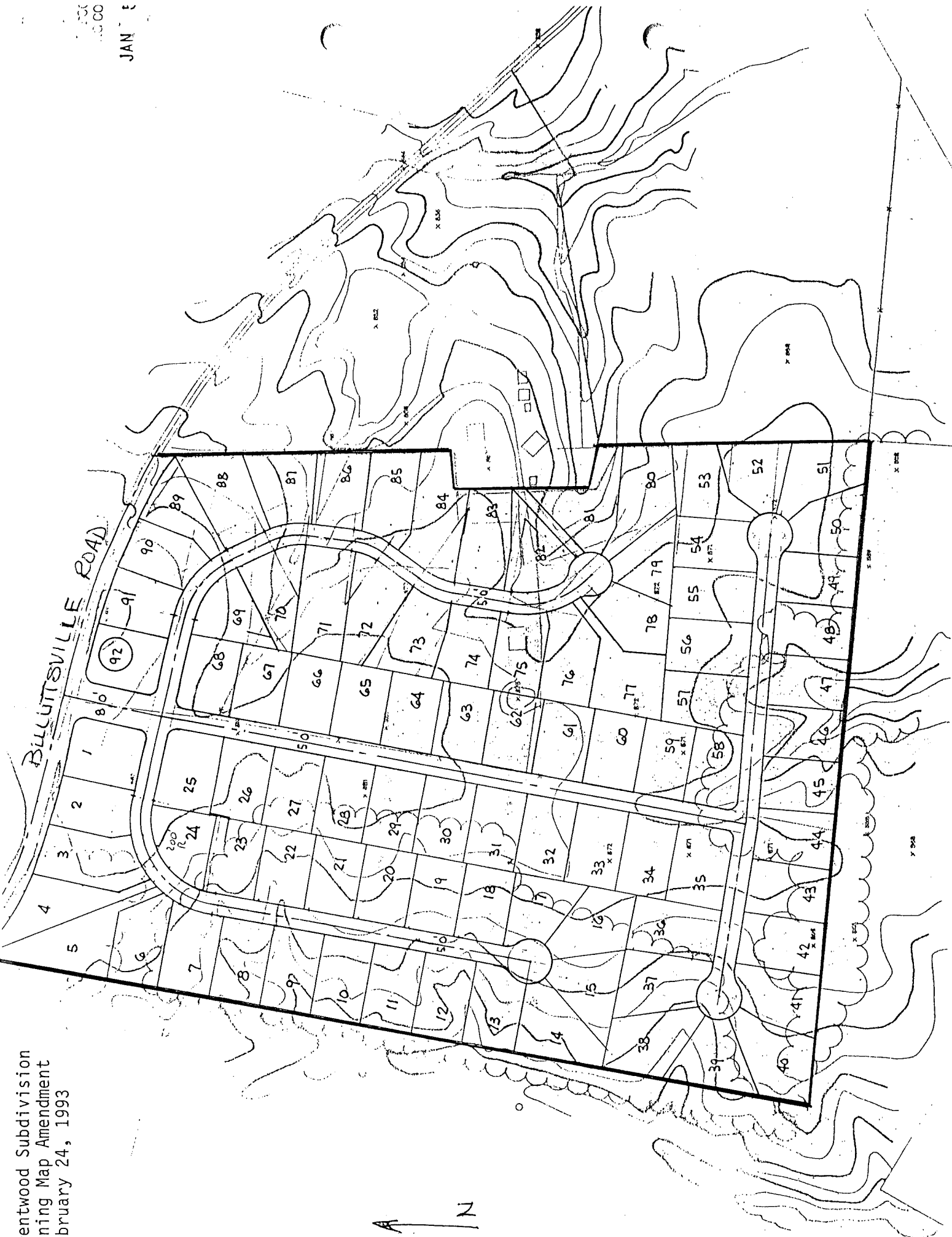
PROPOSED
 ZONE CHANGE

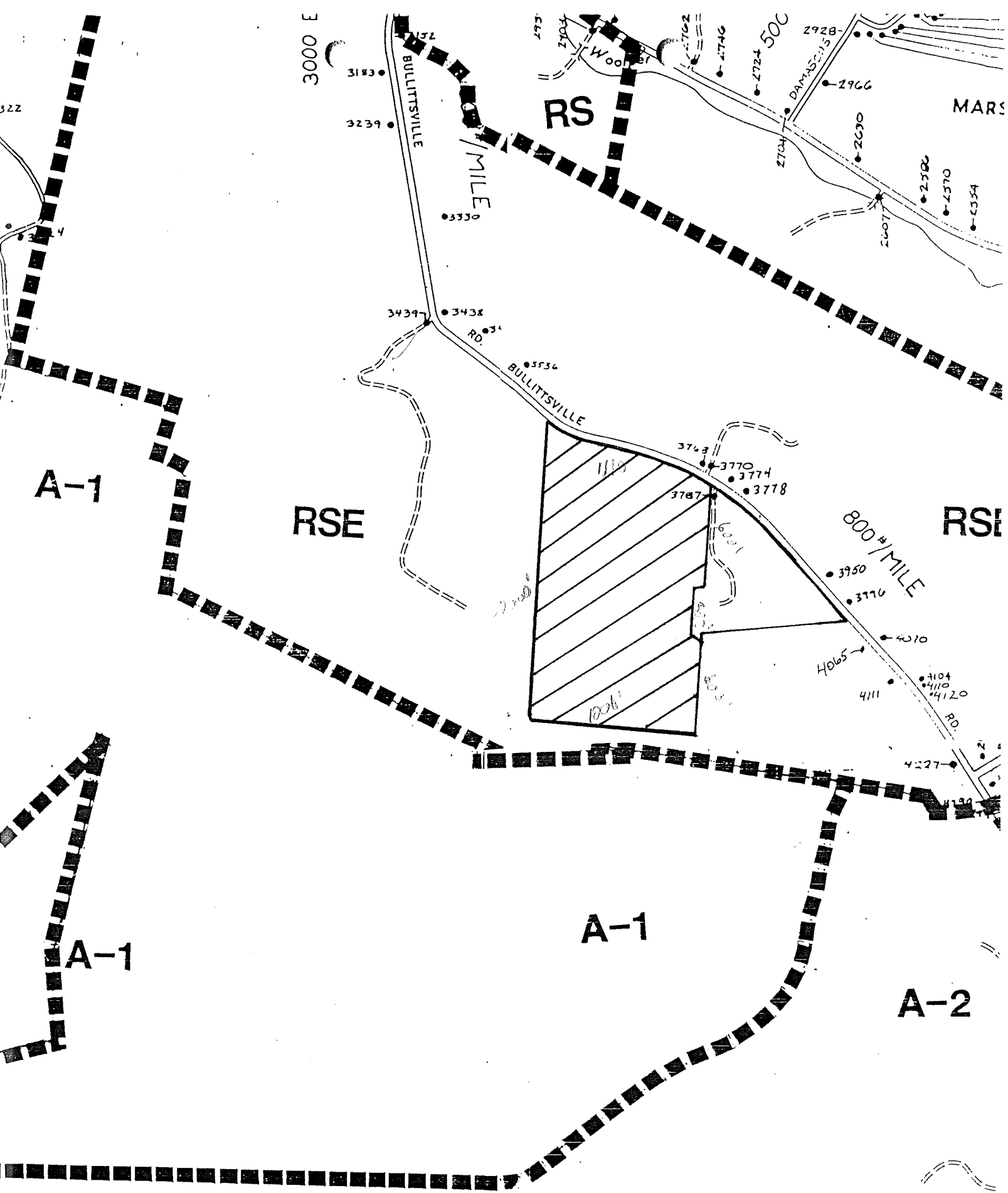
69.00 ACRES

STON, KY, 41005
 INGTON, KY 41006

Brentwood Subdivision
Zoning Map Amendment
February 24, 1993

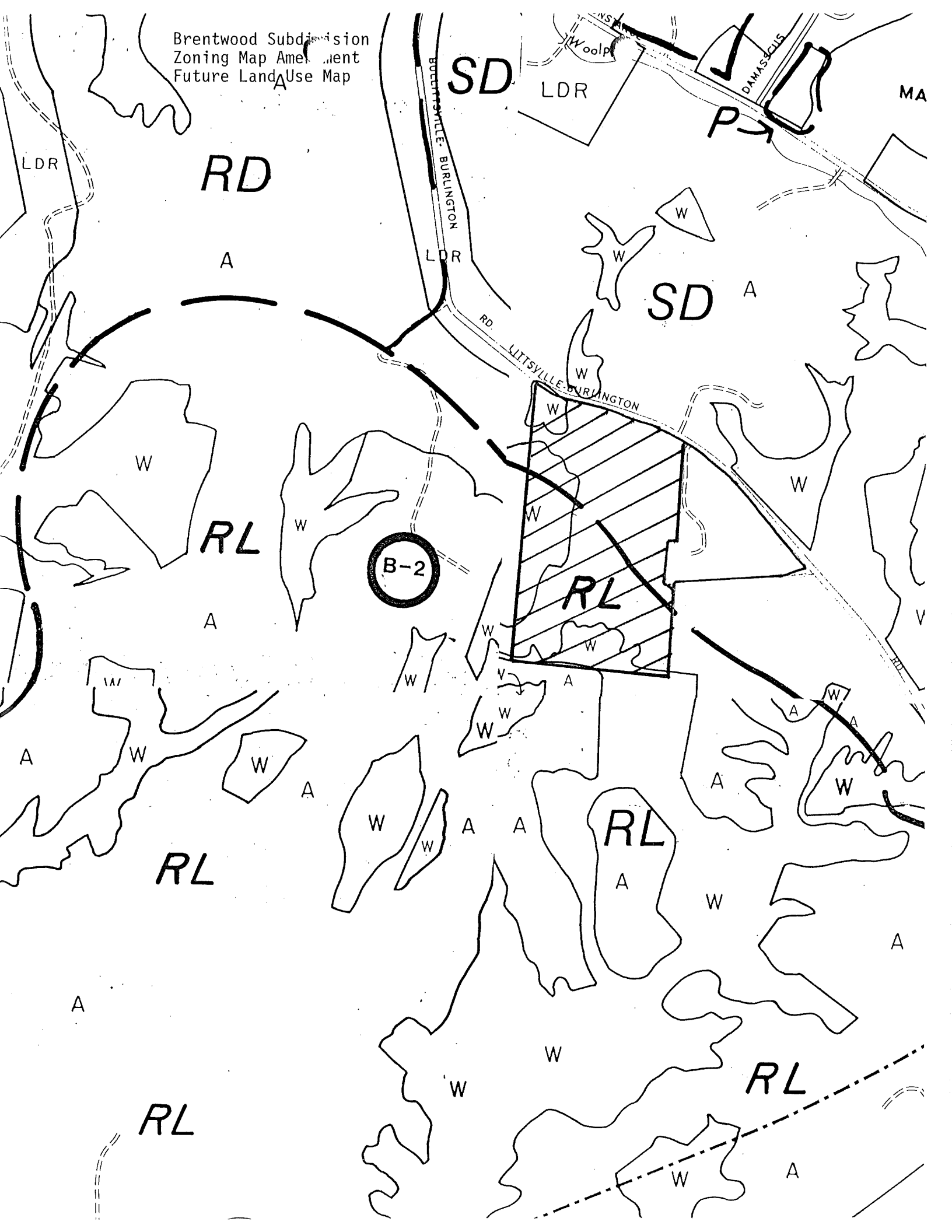
JAN 1993





Brentwood Subdivision
 Zoning Map Amendment
 Zoning Map

Brentwood Subdivision
Zoning Map Amendment
Future Land Use Map



Public Hearing Item #2:

Chairman Viox introduced the second item on the Agenda:

2. Applicant: J. J. Miller for John Hopkins (owner)
Request: Zoning Map Amendment

The request of J. J. Miller (applicant) for John Hopkins (owner) for a Zoning Map Amendment on a 69-acre site at 3787 Bullittsville Road, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estates (RSE) to Rural Suburban (RS) in order to allow 92 lots in Brentwood Subdivision.

Staff Member Amy Moore presented the Staff Report which included a slide presentation (see Staff Report). Mrs. Moore reviewed the attachment to the Staff Report to clarify the location of the property.

Chairman Viox asked for comments from the applicant.

Mr. J. J. Miller stated that Mrs. Moore had covered the proposal well. He stated that he intends to buy most of the 69 acres and develop a subdivision of relatively upscale housing in the \$150,000 to \$200,000 range. He plans to extend the water line from Milliken Subdivision, which is south of the proposed development, and to put in a treatment plant. Mr. Miller stated that he hopes to enhance the surrounding property values. In regard to the Staff concerns, he stated that he did not address upgrading Bullittsville Road since it was recently redone and is a nice road. He stated that 92 homesites is considerably fewer than some other subdivisions in the area and those subdivisions did not have to add turning lanes. He does not think improvements to the road are justified. In regard to providing access to adjoining property owners, he stated that this is a Concept Plan to give Planning & Zoning an idea of what he has in mind and he did not know this information was required for the application. Those types of issues would be addressed in the Preliminary Plat Review, if he gets the zone change, if he buys the property, and if he develops the subdivision. He stated that there are two adjoining property owners, and both of them have direct access to Bullittsville Road and are not landlocked. In regard to the vegetation (Staff Concern #3), he stated that there would be development within the area of the vegetation, but most buyers find the vegetation attractive and as much of it as possible would be maintained. He believes that stripping the land would decrease the value. In regard to the wastewater treatment plant being less than 200 feet from the adjoining property, he stated that there is plenty of room to locate the treatment plant further away from the adjoining property and any point where they could logically locate a homesite. What is shown on the plan is where it might logically fit, but it can be moved. In regard to Item #5 of the Staff Concerns regarding airport noise, he stated that he wishes someone could give him more assurance that they are not going to get airport noise over the property. They would not want to put a subdivision there if they are going to get the noise. Mr. Miller stated that he met with Dale Huber from the airport

and got the maps. He stated that the property does not fall within the noise contours and he does not know what else he can do.

Mrs. Moore corrected an error in the Staff Report which indicates that the lot size is one-quarter of an acre. The minimum lot size in the zone is 20,000 square feet, which is slightly less than one-half acre.

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

Elizabeth Blinks, attorney, stated that she was representing Francis and Courtland Hollis and Mr. Nixon, adjoining property owners. She stated that they have a 230-acre farm which they own and operate. The farm is used primarily to raise cattle and they currently have about 300 head of cattle. The cattle drink from the streams that will carry the effluent from the sewage treatment plant. If there are problems with the sewage treatment plan, they run the risk of a great loss of cattle. She stated that Milliken Place is on the other side of the farm. It is a fairly new development and a zone change was required for it. Those lots were left as one acre or more in size. The owners of the farm do not see a need to change the land on the other side of their farm to make the housing more dense on that side. There is no good reason for changing the zoning. There have not been that many changes in the whole area to justify reducing the lot size by one-half. When that many dwellings are concentrated on the land, there is a concern about runoff and excess water from the paving and rooftops which is greater than what would occur from the natural land. She stated that it is fairly flat land with a few natural drainage areas. Unless runoff is controlled, possibly by a retention pond, there is concern that it will cause severe erosion in the area and problems to the adjoining property owners. The runoff and the harmful effluent from the sewage treatment plant are the primary concerns of the adjoining property owners. She stated that it is hard to understand what changes have occurred in the vicinity that would justify a zone change on this property.

Mr. Keith Merkel stated that he is the owner of the property next to the proposed treatment plant. He is concerned about discharge running across his property and the steers drinking it, and about his child playing in the creek with the discharge. He is also concerned that the treatment plant is within 50 feet of his fence and it will ruin close to an acre. He stated that in the summer the creek does not have constant water and he does not know if they will put in a lagoon. He is concerned about the cul-de-sac on the back of the properties being opened up for future development. He questioned the future use of the small triangular piece of property between his property and the Hopkins property.

Beverly Hines, a resident of Bullittsville Road, stated that the creek goes through her land. She is concerned about the creek and odors. She referred to the treatment plant in Oakbrook and stated that the smell is dreadful in the summertime.

Ray Kemp stated that he has a 140-acre farm next to the Hopkins property. He is concerned about the discharge from the sewage plant. He noted that

the Staff Report indicated that they have to go about 2,000 feet to bring the water and questioned their going a little further for the sewer and putting in a pump station instead of a treatment plant. He stated that they could take the sewage along side the water down to Bullittsville to the pumping station. He questioned how much additional cost this would involve.

Mr. Miller stated that in regard to putting a pumping station in and connecting to the Kenton County Sanitation District, he met with Gary Richardson and he went over the site and their plans for the sewer lines. Mr. Miller stated that in his opinion, and in Mr. Richardson's opinion, the trunk lines are only coming down KY 20 to Bullock Lane and not to Bullittsville Road. If they are coming to Bullittsville Road, he would have to reevaluate the situation. He stated that it is ideal to have the sewage go into the centralized sewer, but Mr. Richardson did not think it was possible. He stated that a wastewater treatment plan is a preferable way of disposing of waste to having a lot of individual septic tanks. Even on one-acre lots there are problems with septic tanks. In regard to the effluent, he stated that all he can do is to build the plant according to the specs from the Division of Water and dedicate the plant to the county. The county would own and operate it. He stated that they did this in Parlor Grove and, as far as he knows, there has not been one complaint about the operation or the smell. He cannot image a well run wastewater treatment plant creating as much of a problem for the streams as the cattle dumping their untreated waste into it. If it is possible, he will try to connect to the central facilities.

Mr. Miller stated that he was one of the developers of Milliken Subdivision and they went with one acre lots there because they could not get a sewage treatment plant approved and they had to use septic tanks. They cannot make this subdivision work with one acre lots because of the price of the land and the upscale subdivision. He can put in a nicer subdivision with half-acre lots than with one-acre lots. He stated that he is averaging 120 foot frontages and the intention is to have the lots wider than what is allowed in the RSE Zone. He stated that if there are sewers on the site it creates a significant difference and justifies higher density zoning. He does not think there will be a lot more runoff after the site is developed than before it is developed, even though he recognizes that there will be paved areas. They will have storm sewers and they can deal with the erosion problems. He stated that there are no steep areas on the site and they can make sure there is no erosion onto the adjoining property owners. He stated that the small triangular piece of property is not being developed and he has no plans for it, but the sewage treatment plant could be moved to there. He stated that he was not paying attention when the sewage treatment plant was located near the property line or he would have moved it.

Mr. Kemp stated that it is his understanding that they got a permit to build the sewer plant because it was on a blue line creek, which is a creek that runs all the time, but that is not so. The creek pooled last summer. He stated that if it is drier than last summer, the only thing that goes down there will be what is coming from the sewer plant. He stated that he just bought his farm, but the man who was there for 25

years said there was no water in the creek in the summer. He stated that everyone has problems with sewage plants and this problem will be theirs.

Mr. Miller stated that the Division of Water determines if it is a blue line creek and if a treatment plant can go in there.

Dennis Sullivan, 3536 Bullittsville Road, stated that the airport is buying property seven tenths of a mile from this development and has bought houses on Bullittsville Road. If what happens in Ethan's Glen happens here, it will affect him. He stated that Wolper Creek smells like a cesspool in the spring and summer and this will add to the problem. He is concerned about there being about 200 more cars on Bullittsville Road. He stated that when they built Ethan's Glen they rebuilt the road using tax money. He questioned what will happen in five years with them building so close to the airport property.

Mr. Miller stated that he has to go by what the county and airport officials tell him as far as what property will be in the noise contours, and if people cannot go by what they say, how can there be development in Boone County? He stated that he got the maps and met with the airport people. He does not know what will happen long term or what will be left of the county when the airport is finished with it. He stated that they intend to put in an upscale development even though the lots are smaller. The lots are not smaller in frontage. With the smaller lots, he can afford to put in a sewer and a nice entrance and make it a nicer subdivision. He stated that there are a lot of people who would rather have a half-acre lot and they would take better care of it. The county has a lot of wastewater treatment plants in existence and, if the county does not know how to run one, that is a problem Paul Kroger and the Water District will have there, but it is not one the developer should try to solve.

Chairman Viox stated that he is not defending the application. He stated that the Commission has been involved with the airport for a number of years and the contours we now have are supposed to go through the year 2010. He agreed that the airport is buying Ethan's Glen and stated that 76 homes off Bullittsville Road will be lost.

Mr. Kemp stated that the airport is not even certain of buying Ethan's Glen now and they are buying all the homes between Ethan's Glen and his farm. It is one-quarter mile across his property from where the airport is buying to this subdivision. He stated that Mr. Huber told him a year ago that he would not be affected and he bought the property, but now the planes are flying directly over them. In 30 minutes this morning, seven planes went over their farm -- and this is two tenths of a mile from the proposed subdivision.

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

Mr. Damstrom questioned the density of the proposed development and the speed limit on Bullittsville Road.

Mr. Miller stated that he is buying 60 acres for 92 units, which is about 1.5 units per acre. Ms. Blinko stated that the speed limit on the road is 45 MPH.

Mr. Kirby stated that he believes the state, not the local sanitation district, gives approval for building a treatment plant. Mrs. Moore stated that it is her understanding that the applicant has talked to both groups and she wants to be sure they get the appropriate written approval, and that the Staff gets a copy of the approval, before there is any development.


Mr. Miller stated that he met with the Division of Water in Florence and they indicated to him that it was a blue line stream and did not see a problem in getting a treatment plant location approved. He stated that it would be contingent on Kenton County accepting it. Boone County cannot approve it without Kenton County's agreement. He stated that he met with Kenton County and with Boone County and neither of them saw any problems in their initial reaction. He has not gone through the formal application because he has not bought the property and does not want to incur that cost if he cannot get the zone change. He stated that he does not think there is anyway to develop the subdivision in half-acre lots without a sewage treatment plant.

Mr. Merkel stated that the EPA informed him that it is not a constant blue line and they would have to do a site approval. He stated that they may have to put in a lagoon to keep a stationery water level.


Mrs. Merkel stated that the airport is real close and she has lived all her life with airplanes going overhead. She stated that there is the potential in a few years that the people will complain just like the people down the road did. She does not want to give up her home.

There being no further comments, Chairman Viox stated that this item will be on the Agenda for the Business Meeting on March 3, 1993 at 8 P.M. and closed this Public Hearing.

APPROVED:


William R. Viox, Chairman

Attest:

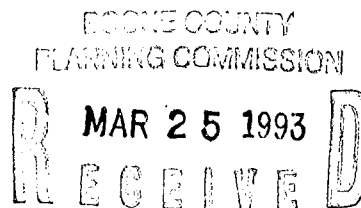

Jan Hancock, Recording Secretary

ELIZABETH M. BLINCOE

ATTORNEY AND COUNSELOR AT LAW

2922 WASHINGTON SQUARE
P. O. BOX 688
BURLINGTON, KY 41005
TELEPHONE 606 - 586-9955

March 23, 1993



Ms. Jan Hancock
Planning and Zoning Board
2995 Washington Street
Burlington, Kentucky 41005

Dear Ms. Hancock:

In an effort to assist in making corrections to the minutes of the Public Hearing Item #2 held on February 24, 1993, I offer the following corrections to page two of those minutes:

The adjoining farm is a 432 acre tract owned and operated by Frances Hollis, Cortland Hollis and Carolyn Nixon.

When Milliken Place was developed, no zone change was require.

The following names of residents affected by the zones change were incorrectly cited in the minutes: Beverly Hines should be Beverly Holmes and Ray Kemp should be Mr. Relkamp. I'm sorry I do not know Mr. Relkamp's first name.

I hope this has been of assistance to you.

Yours truly,


Elizabeth M. Blincoe

EMB:trt

cc: Carolyn Nixon

BOONE COUNTY PLANNING COMMISSION
BUSINESS MEETING

March 17, 1993 - 8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:15 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett
Mr. William Bailey
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. Barry Neltner
Mr. Thurman Owens
Mr. Robert Ries
Mr. Ralph Rush
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

Mrs. Carol Smith

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Approval of the Minutes:

Chairman Viox stated that each Commission member had received copies of the Minutes of the Public Hearings of March 3, 1993 and March 10, 1993 and the Business Meeting of March 3, 1993. He asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. McMillian moved that they be approved as mailed. Mr. Ries seconded the motion and it carried unanimously.

Chairman Viox asked for a roll call vote on the motion made by Mr. Kirby which found Mr. Burch, Mr. Damstrom, Mr. Greene, Mr. Kirby, Mr. McElroy, Mr. McMillian, Mr. Ries, Mr. Rush, and Chairman Viox in favor. Mrs. Arnett, Mr. Bailey, Mr. DeLong, Mr. Neltner, and Mr. Owens were opposed. The motion carried by a vote of 9 to 5.

5. Zoning Map Amendment

The request of Earl A. Franks (applicant) for Johnson Street Properties, Inc. (owner) for a Zoning Map Amendment on a 0.747-acre site at 800 Queens Court, Boone County, Kentucky. The request is to rezone the site from Suburban Residential Two (SR-2) to Industrial One (I-1).

Staff Member Jeff Hayes presented the Committee Report using the overhead slide projector. Mr. Hayes stated that the applicant has signed the letter agreeing to the conditions. Mr. Rush, Committee Chairman, stated that the Committee recommends approval of the request based on the findings of fact, but subject to two conditions (see Committee Report).

Mr. Rush moved that the request be approved based on the Staff and Committee Reports, including the conditions. Mr. Burch seconded the motion.

Mr. DeLong stated that it is a one-way street out from Queens Apartments and questioned what needs to be done to make it a two-way street. Mr. Hayes advised that they have an agreement from the state to make it a two-way street, and there is an additional curb cut from Turfway Road.

Mr. DeLong stated that it is 50 feet from the curb cut to the road. He questioned how there can be two access points besides the road access point onto Turfway. Chairman Viox advised that it is a state highway and they were given those access points when the road was built.

Mr. Hayes stated that there is no curb cut now for this site off of Turfway Road other than Queens Court and they have the right to another curb cut off Turfway Road.

Mr. Kirby questioned if the condition is telling them to get the other access off of Turfway Road. Mr. Hayes explained that the condition is not establishing another curb cut. It is saying that Queens Court is to become a two-way street.

There being no further comments, Chairman Viox asked for a vote on the motion made by Mr. Rush and it carried unanimously.

6. Zoning Map Amendment

The request of J. J. Miller (applicant) for John Hopkins (owner) for a Zoning Map Amendment on a 69-acre site at 3787 Bullittsville Road, Boone County, Kentucky. The request is to rezone the site from rural Suburban Estates (RSE) to Rural Suburban (RS) in order to allow 92 lots in Brentwood Subdivision.

Staff Member Amy Moore presented the Committee Report using the overhead slide projector. Mr. Damstrom, Committee Chairman, stated that the Committee recommends approval of the request based on the findings of fact (see Committee Report).

Mr. Owens stated that in the Committee meeting the applicant said that he has received a firm commitment that a sewer is going down Bullittsville Road and there is no requirement for a sewage plant.

Mr. Miller stated that he has talked with Paul Kroger and Gary Richardson and they will be extending the centralized sewer down KY 20 from Hebron to Bullittsville Road. If this occurs as they indicated, he will connect to the centralized sewer. He stated that the line has been staked along the creek, down KY 20, to Bullittsville Road.

Mr. Burton stated that there has been a change since what was shown at the Public Hearing. He stated that at the Public Hearing Mr. Miller said that there would be 120-foot wide lots and now there is a cul-de-sac shown there with lots coming off of it and the streets are not even 30-feet wide. He doubts that they can meet the requirements of 80 feet at the setbacks. He stated that there is no way the lots will be 120 feet wide. He asked that there be conformity in the county of extending the street to the adjacent property line.

Chairman Viox advised that a Concept Plan is not required. He asked if the sketch is part of the record. Mrs. Moore advised that it is and it was presented with the Staff Report.

Mr. Miller stated that the Concept Plan he submitted is very close to what he hopes will be a Final Plat for this development. He believes all of the lots will have 120 feet at the building line, or at least very close to that. He stated that his intention was to communicate to the Commission the type of development he wants to put in. He stated that it is not the typical half-acre development and all of the lots will be in excess of 100 feet at the building line.

In response to a question from Mr. Bailey, Mr. Burch advised that they will be using the central sewer right away. Chairman Viox explained that when the plan was prepared, the sewer was not going to be extended to Bullittsville Road. Since the Public Hearing, the county has decided to extend the sewer to Bullittsville Road.

There being no further comments, Mr. Burch moved by resolution to the Fiscal Court that the request be approved based on the Staff and Committee Reports. Mr. Bailey seconded the motion.

Mr. Kirby questioned if the request has to go through the Concept Plan stage later since the applicant has submitted the Concept Plan that has been discussed. Chairman Viox stated that they will have to submit a Preliminary Plat. Mr. Miller stated that he intends to submit the Preliminary Plat soon.

Mr. Owens stated that in talking with Mrs. Moore on the phone she indicated that a plan had to be submitted that has to be detailed and measured. Staff Member Amy Moore explained that a Concept Development Plan is a general outline, but the person reviewing the Preliminary Plat will make sure the lots meet the minimum requirements.

Chairman Viox asked for a vote on the motion made by Mr. Burch and it carried unanimously.

7. Zoning Map Amendment

The request of Leslie and Janice Simpson (owners) for a Zoning Map Amendment on a 4.496-acre site on the west side of Camp Ernst Road, approximately one mile north of KY 536, Boone County, Kentucky. The request is to rezone a portion of the site from Agriculture (A-1) to Agricultural Estate (A-2).

Staff Member Amy Moore presented the Committee Report using the overhead slide projector. Mr. Damstrom, Committee Chairman, stated that the Committee recommends approval of the request based on the finding of fact (see Committee Report).

There being no discussion, Mr. Rush moved by resolution to the Fiscal Court that the request be approved based on the Staff and Committee Reports. Mr. Bailey seconded the motion and it carried unanimously.

12. Site Plan Review

The request of SuperAmerica (applicant) for R. C. Durr (owner) for a revision to a previously approved Site Plan on a 1.10-acre site located off KY 18 and Merchant's Square Drive, Boone County, Kentucky. The site is currently zoned Commercial Two/Planned Development (C-2/PD).

Staff Member Jeff Hayes presented the Staff Report which included a review of the plan (see Staff Report).

Mr. Bailey stated that the Committee recommends approval of the request based on the Staff Report (see Committee Report).

There being no discussion, Mr. Kirby moved that the request be approved based on the Staff and Committee Reports. Mr. Rush seconded the motion and it carried unanimously.

Chairman Viox stated that he would abstain from participation in regard to Item #8 as he has provided engineering services for the applicant. He asked that Mr. Burch chair the meeting at this time.

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Phil Damstrom, Chairman

DATE: March 17, 1993

RE: Request of J.J. Miller (applicant) for John Hopkins (owner) for a Zoning Map Amendment on a 69 acre site located at 3787 Bullittsville Road, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estates (RSE) to Rural Suburban (RS) in order to allow 92 lots in Brentwood Subdivision.

REMARKS:

We, the Committee, based on the statements made and facts gathered at the February 24, 1993 Public Hearing, recommend approval of this request based on the following Findings of Fact:

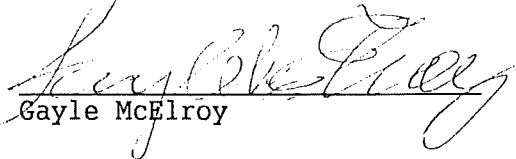
Findings of Fact

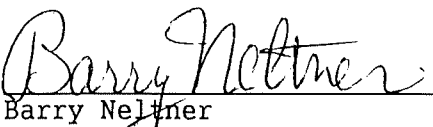
1. The Committee believes that the proposed Zoning Map Amendment is in general agreement with the 1990 Boone County Comprehensive Plan. The Future Land Use Map indicates that a majority of the future use of the site to be Suburban Density Residential (SD). The SD land use classification is described as "residential uses that do not exceed four dwelling units per acre.." (p. 199) The Rural Suburban (RS) zoning district permits a lower development intensity of two dwelling unit per acre.
2. The Committee believes that residential development of two dwelling units per acre is appropriate for the 69.0 acre site especially due to the applicant's provision of public water and sanitary sewer to serve the development.

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.


 Phil Damstrom, Chairman


 Fred Burch


 Gayle McElroy


 Barry Nettner

 Thurman Owens


 Ralph Rush

 Carol Smith

Public Hearing Item #2:

Chairman Viox introduced the second item on the Agenda:

2. Applicant: J. J. Miller for John Hopkins (owner)
Request: Zoning Map Amendment

The request of J. J. Miller (applicant) for John Hopkins (owner) for a Zoning Map Amendment on a 69-acre site at 3787 Bullittsville Road, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estates (RSE) to Rural Suburban (RS) in order to allow 92 lots in Brentwood Subdivision.

Staff Member Amy Moore presented the Staff Report which included a slide presentation (see Staff Report). Mrs. Moore reviewed the attachment to the Staff Report to clarify the location of the property.

Chairman Viox asked for comments from the applicant.

Mr. J. J. Miller stated that Mrs. Moore had covered the proposal well. He stated that he intends to buy most of the 69 acres and develop a subdivision of relatively upscale housing in the \$150,000 to \$200,000 range. He plans to extend the water line from Milliken Subdivision, which is south of the proposed development, and to put in a treatment plant. Mr. Miller stated that he hopes to enhance the surrounding property values. In regard to the Staff concerns, he stated that he did not address upgrading Bullittsville Road since it was recently redone and is a nice road. He stated that 92 homesites is considerably fewer than some other subdivisions in the area and those subdivisions did not have to add turning lanes. He does not think improvements to the road are justified. In regard to providing access to adjoining property owners, he stated that this is a Concept Plan to give Planning & Zoning an idea of what he has in mind and he did not know this information was required for the application. Those types of issues would be addressed in the Preliminary Plat Review, if he gets the zone change, if he buys the property, and if he develops the subdivision. He stated that there are two adjoining property owners, and both of them have direct access to Bullittsville Road and are not landlocked. In regard to the vegetation (Staff Concern #3), he stated that there would be development within the area of the vegetation, but most buyers find the vegetation attractive and as much of it as possible would be maintained. He believes that stripping the land would decrease the value. In regard to the wastewater treatment plant being less than 200 feet from the adjoining property, he stated that there is plenty of room to locate the treatment plant further away from the adjoining property and any point where they could logically locate a homesite. What is shown on the plan is where it might logically fit, but it can be moved. In regard to Item #5 of the Staff Concerns regarding airport noise, he stated that he wishes someone could give him more assurance that they are not going to get airport noise over the property. They would not want to put a subdivision there if they are going to get the noise. Mr. Miller stated that he met with Dale Huber from the airport

and got the maps. He stated that the property does not fall within the noise contours and he does not know what else he can do.

Mrs. Moore corrected an error in the Staff Report which indicates that the lot size is one-quarter of an acre. The minimum lot size in the zone is 20,000 square feet, which is slightly less than one-half acre.

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

Elizabeth Blinks, attorney, stated that she was representing Francis and Courtland Hollis and Mr. Nixon, adjoining property owners. She stated that they have a 230-acre farm which they own and operate. The farm is used primarily to raise cattle and they currently have about 300 head of cattle. The cattle drink from the streams that will carry the effluent from the sewage treatment plant. If there are problems with the sewage treatment plan, they run the risk of a great loss of cattle. She stated that Milliken Place is on the other side of the farm. It is a fairly new development and a zone change was required for it. Those lots were left as one acre or more in size. The owners of the farm do not see a need to change the land on the other side of their farm to make the housing more dense on that side. There is no good reason for changing the zoning. There have not been that many changes in the whole area to justify reducing the lot size by one-half. When that many dwellings are concentrated on the land, there is a concern about runoff and excess water from the paving and rooftops which is greater than what would occur from the natural land. She stated that it is fairly flat land with a few natural drainage areas. Unless runoff is controlled, possibly by a retention pond, there is concern that it will cause severe erosion in the area and problems to the adjoining property owners. The runoff and the harmful effluent from the sewage treatment plant are the primary concerns of the adjoining property owners. She stated that it is hard to understand what changes have occurred in the vicinity that would justify a zone change on this property.

Mr. Keith Merkel stated that he is the owner of the property next to the proposed treatment plant. He is concerned about discharge running across his property and the steers drinking it, and about his child playing in the creek with the discharge. He is also concerned that the treatment plant is within 50 feet of his fence and it will ruin close to an acre. He stated that in the summer the creek does not have constant water and he does not know if they will put in a lagoon. He is concerned about the cul-de-sac on the back of the properties being opened up for future development. He questioned the future use of the small triangular piece of property between his property and the Hopkins property.

Beverly Hines, a resident of Bullittsville Road, stated that the creek goes through her land. She is concerned about the creek and odors. She referred to the treatment plant in Oakbrook and stated that the smell is dreadful in the summertime.

Ray Kemp stated that he has a 140-acre farm next to the Hopkins property. He is concerned about the discharge from the sewage plant. He noted that

the Staff Report indicated that they have to go about 2,000 feet to bring the water and questioned their going a little further for the sewer and putting in a pump station instead of a treatment plant. He stated that they could take the sewage along side the water down to Bullittsville to the pumping station. He questioned how much additional cost this would involve.

Mr. Miller stated that in regard to putting a pumping station in and connecting to the Kenton County Sanitation District, he met with Gary Richardson and he went over the site and their plans for the sewer lines. Mr. Miller stated that in his opinion, and in Mr. Richardson's opinion, the trunk lines are only coming down KY 20 to Bullock Lane and not to Bullittsville Road. If they are coming to Bullittsville Road, he would have to reevaluate the situation. He stated that it is ideal to have the sewage go into the centralized sewer, but Mr. Richardson did not think it was possible. He stated that a wastewater treatment plan is a preferable way of disposing of waste to having a lot of individual septic tanks. Even on one-acre lots there are problems with septic tanks. In regard to the effluent, he stated that all he can do is to build the plant according to the specs from the Division of Water and dedicate the plant to the county. The county would own and operate it. He stated that they did this in Parlor Grove and, as far as he knows, there has not been one complaint about the operation or the smell. He cannot image a well run wastewater treatment plant creating as much of a problem for the streams as the cattle dumping their untreated waste into it. If it is possible, he will try to connect to the central facilities.

Mr. Miller stated that he was one of the developers of Milliken Subdivision and they went with one acre lots there because they could not get a sewage treatment plant approved and they had to use septic tanks. They cannot make this subdivision work with one acre lots because of the price of the land and the upscale subdivision. He can put in a nicer subdivision with half-acre lots than with one-acre lots. He stated that he is averaging 120 foot frontages and the intention is to have the lots wider than what is allowed in the RSE Zone. He stated that if there are sewers on the site it creates a significant difference and justifies higher density zoning. He does not think there will be a lot more runoff after the site is developed than before it is developed, even though he recognizes that there will be paved areas. They will have storm sewers and they can deal with the erosion problems. He stated that there are no steep areas on the site and they can make sure there is no erosion onto the adjoining property owners. He stated that the small triangular piece of property is not being developed and he has no plans for it, but the sewage treatment plant could be moved to there. He stated that he was not paying attention when the sewage treatment plant was located near the property line or he would have moved it.

Mr. Kemp stated that it is his understanding that they got a permit to build the sewer plant because it was on a blue line creek, which is a creek that runs all the time, but that is not so. The creek pooled last summer. He stated that if it is drier than last summer, the only thing that goes down there will be what is coming from the sewer plant. He stated that he just bought his farm, but the man who was there for 25

years said there was no water in the creek in the summer. He stated that everyone has problems with sewage plants and this problem will be theirs.

Mr. Miller stated that the Division of Water determines if it is a blue line creek and if a treatment plant can go in there.

Dennis Sullivan, 3536 Bullittsville Road, stated that the airport is buying property seven tenths of a mile from this development and has bought houses on Bullittsville Road. If what happens in Ethan's Glen happens here, it will affect him. He stated that Wolper Creek smells like a cesspool in the spring and summer and this will add to the problem. He is concerned about there being about 200 more cars on Bullittsville Road. He stated that when they built Ethan's Glen they rebuilt the road using tax money. He questioned what will happen in five years with them building so close to the airport property.

Mr. Miller stated that he has to go by what the county and airport officials tell him as far as what property will be in the noise contours, and if people cannot go by what they say, how can there be development in Boone County? He stated that he got the maps and met with the airport people. He does not know what will happen long term or what will be left of the county when the airport is finished with it. He stated that they intend to put in an upscale development even though the lots are smaller. The lots are not smaller in frontage. With the smaller lots, he can afford to put in a sewer and a nice entrance and make it a nicer subdivision. He stated that there are a lot of people who would rather have a half-acre lot and they would take better care of it. The county has a lot of wastewater treatment plants in existence and, if the county does not know how to run one, that is a problem Paul Kroger and the Water District will have there, but it is not one the developer should try to solve.

Chairman Viox stated that he is not defending the application. He stated that the Commission has been involved with the airport for a number of years and the contours we now have are supposed to go through the year 2010. He agreed that the airport is buying Ethan's Glen and stated that 76 homes off Bullittsville Road will be lost.

Mr. Kemp stated that the airport is not even certain of buying Ethan's Glen now and they are buying all the homes between Ethan's Glen and his farm. It is one-quarter mile across his property from where the airport is buying to this subdivision. He stated that Mr. Huber told him a year ago that he would not be affected and he bought the property, but now the planes are flying directly over them. In 30 minutes this morning, seven planes went over their farm -- and this is two tenths of a mile from the proposed subdivision.

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

Mr. Damstrom questioned the density of the proposed development and the speed limit on Bullittsville Road.

Mr. Miller stated that he is buying 60 acres for 92 units, which is about 1.5 units per acre. Ms. Blinko stated that the speed limit on the road is 45 MPH.

Mr. Kirby stated that he believes the state, not the local sanitation district, gives approval for building a treatment plant. Mrs. Moore stated that it is her understanding that the applicant has talked to both groups and she wants to be sure they get the appropriate written approval, and that the Staff gets a copy of the approval, before there is any development.

Mr. Miller stated that he met with the Division of Water in Florence and they indicated to him that it was a blue line stream and did not see a problem in getting a treatment plant location approved. He stated that it would be contingent on Kenton County accepting it. Boone County cannot approve it without Kenton County's agreement. He stated that he met with Kenton County and with Boone County and neither of them saw any problems in their initial reaction. He has not gone through the formal application because he has not bought the property and does not want to incur that cost if he cannot get the zone change. He stated that he does not think there is anyway to develop the subdivision in half-acre lots without a sewage treatment plant.

Mr. Merkel stated that the EPA informed him that it is not a constant blue line and they would have to do a site approval. He stated that they may have to put in a lagoon to keep a stationery water level.

Mrs. Merkel stated that the airport is real close and she has lived all her life with airplanes going overhead. She stated that there is the potential in a few years that the people will complain just like the people down the road did. She does not want to give up her home.

There being no further comments, Chairman Viox stated that this item will be on the Agenda for the Business Meeting on March 3, 1993 at 8 P.M. and closed this Public Hearing.

APPROVED:


William R. Viox, Chairman

Attest:



Jan Hancock, Recording Secretary

Boone County Recorder

May 12, 1993

LEGAL SUMMARY
ORDINANCE NO. 920.251

The Boone County Fiscal Court at its meeting held Tuesday, April 27, 1993, at 5:00 P.M., Second Floor Courtroom, Administration Building, Burlington, Kentucky, gave Second Reading and adopted the following ordinance.

AN ORDINANCE OF THE BOONE COUNTY FISCAL COURT RECOMMENDING APPROVAL FOR A REQUEST OF J. J. MILLER (APPLICANT) FOR JOHN HOPKINS (OWNER) FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT BEING A ZONE CHANGE FROM RURAL SUBURBAN ESTATES (RSE) TO RURAL SUBURBAN (RS) FOR A 69 ACRE SITE LOCATED AT 3787 BULLITTSVILLE ROAD, BOONE COUNTY, KENTUCKY, AS RECOMMENDED UNANIMOUSLY BY THE BOONE COUNTY PLANNING COMMISSION VIA RESOLUTION NO. R-93-014-A.

I hereby certify that the above summary of said Ordinance has been written in such a manner as to inform the public of the context of same. A copy of said Ordinance is on file in the office of the County Judge/Executive and may be reviewed between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, at the Administration Building, second floor, Burlington, Kentucky.

ATTEST:
CAROLYN A. RUDICILL
FISCAL COURT CLERK
P.O. #FC 66413

KENNETH R. LUCAS
COUNTY JUDGE/EXECUTIVE
LARRY CRIGLER
COUNTY ATTORNEY
