

EXHIBIT "A"

STAFF REPORT

Request of James W. Berling (applicant) for Frazier and Dorothy Escue (owners) for a Zoning Map Amendment on a 140 acre site located at the end of Bullock Lane, off KY 20, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estate (RSE) to Suburban Residential One (SR-1) to allow a single family subdivision.

August 24, 1994

Location (Sheet #1)

The property is located southwest of the intersection of KY 237 and KY 20. Bullock Lane runs south off of KY 20 and runs into the proposed Zoning Map Amendment site.

Surrounding Zoning and Land Uses (Sheet #2)

North: Low density residential zoned Suburban Residential One (SR-1).

South: Undeveloped land zoned Rural Suburban Estates (RSE).

East: Undeveloped land zoned Suburban Residential Two (SR-2).

West: Undeveloped land zoned Rural Suburban Estates (RSE).

Current zoning for the site calls for a density of one dwelling unit per acre.

Site Characteristics (Sheet #3)

The 104 acre site is currently known as the Escue Estate and includes a single family home, stable, barn, and a horse running track. The western portion of the lot is undeveloped field as well as the southeastern section beyond the end of Bullock Lane. There are a few ponds on the site beside the main entrance pond in front of the Escue residence. The site drops in elevation at the west and southeast areas while remaining mostly level near the entrance area to the Escue residence.

Water exists to the end of Bullock Lane and Sewer is available along KY 20 at its intersection with Bullock.

Bullock Lane itself serves about 20 dwellings and includes a right of way of 40 feet. The road has been upgraded over the years from gravel to tar and chip to asphalt. Bullock is not constructed as a heavy-duty road, but it is adequate in serving the 20 or so dwellings that exist currently.

Relationship to the Comprehensive Plan (Sheet #4)

The **Future Land Use Map** of the Comprehensive Plan calls for the site to develop as Suburban Density Residential (SD). This designation would permit the proposed 4 dwelling units per acre.

The adopted **Goals And Objectives** for the **Environment** element of the 1995 Comprehensive Plan states that new development shall attempt to preserve the site's existing character.

The **Land Use** element of the 1990 Comprehensive Plan states that development in this area "will likely be significantly impacted by future flight patterns of the airport."

Concept Development Plan

To be presented by the applicant at August 24, 1994 Public Hearing.

Staff Concerns

1. Staff is concerned that Bullock Lane will not be able to handle the impact of developing the site as well as the subsequent residential traffic load. Local streets like Bullock Lane would normally require a right of way of 50 feet. Bullock Lane, which is not a heavy duty road, serves about 20 dwellings with a 40 foot right of way.
2. Staff would like to see a Suburban Density residential development sensitive to the existing Low Density residential dwellings. This may include incorporating some of the existing rural characteristics (wooden fences, buffering, etc.) into the transition from Low Density to Suburban Density residential.
3. The southeastern portion of the site appears to be located within the 65 LDN airport noise area. Residential development at the southeastern most portion of the site would be impacted by the airplane noise.

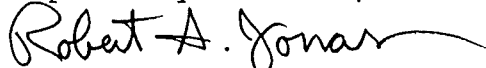
Conclusion

The Planning Commission must use the following criteria in granting approval of a zone change or map amendment:

1. The map amendment is in agreement with the 1990 Comprehensive Plan; or
2. The existing zoning is inappropriate and the proposed zoning is appropriate; or
3. There have been major changes of an economic, physical, or social nature not anticipated in the 1990 Comprehensive Plan that substantially alter the area's character.

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

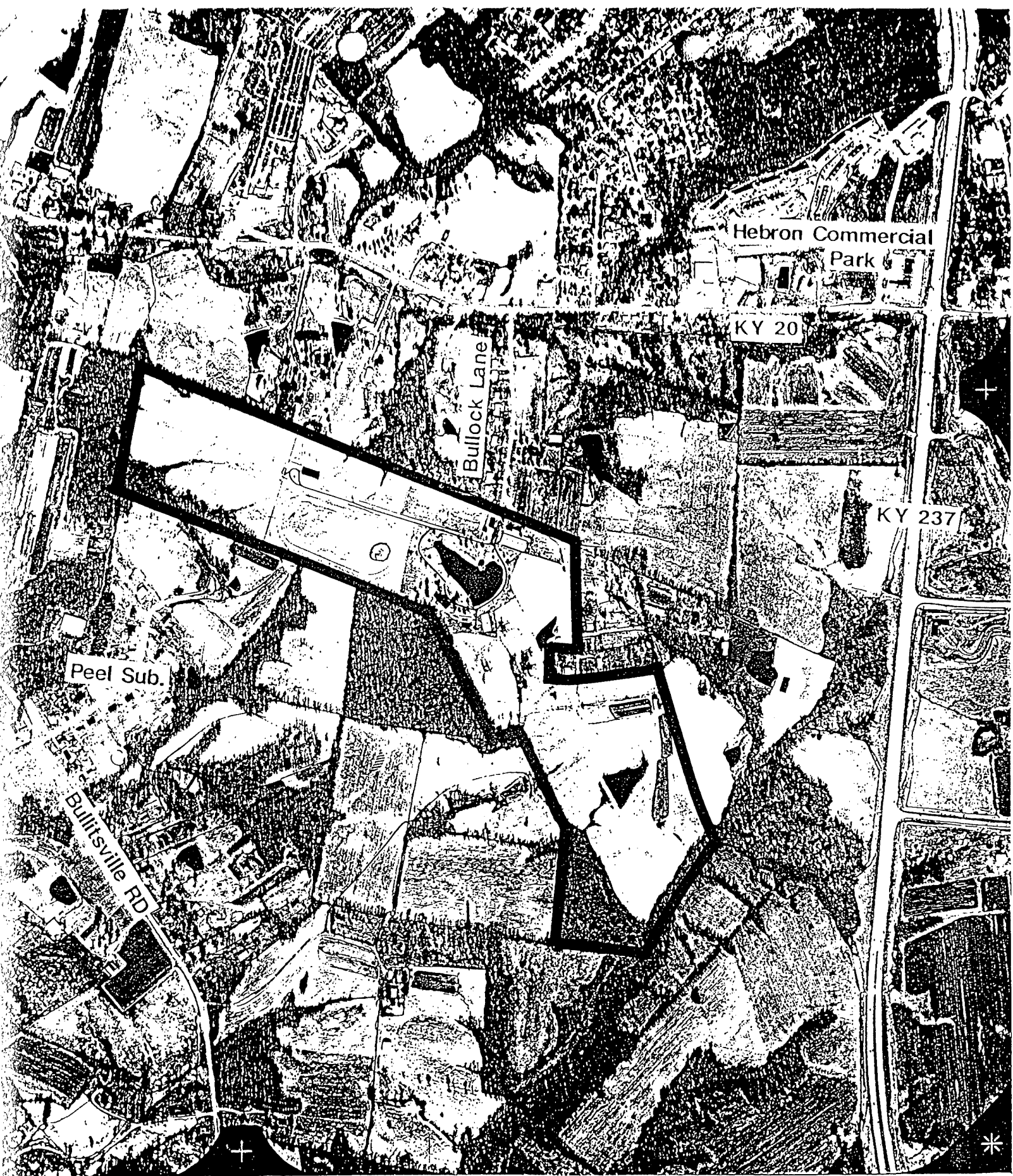
Respectfully submitted,



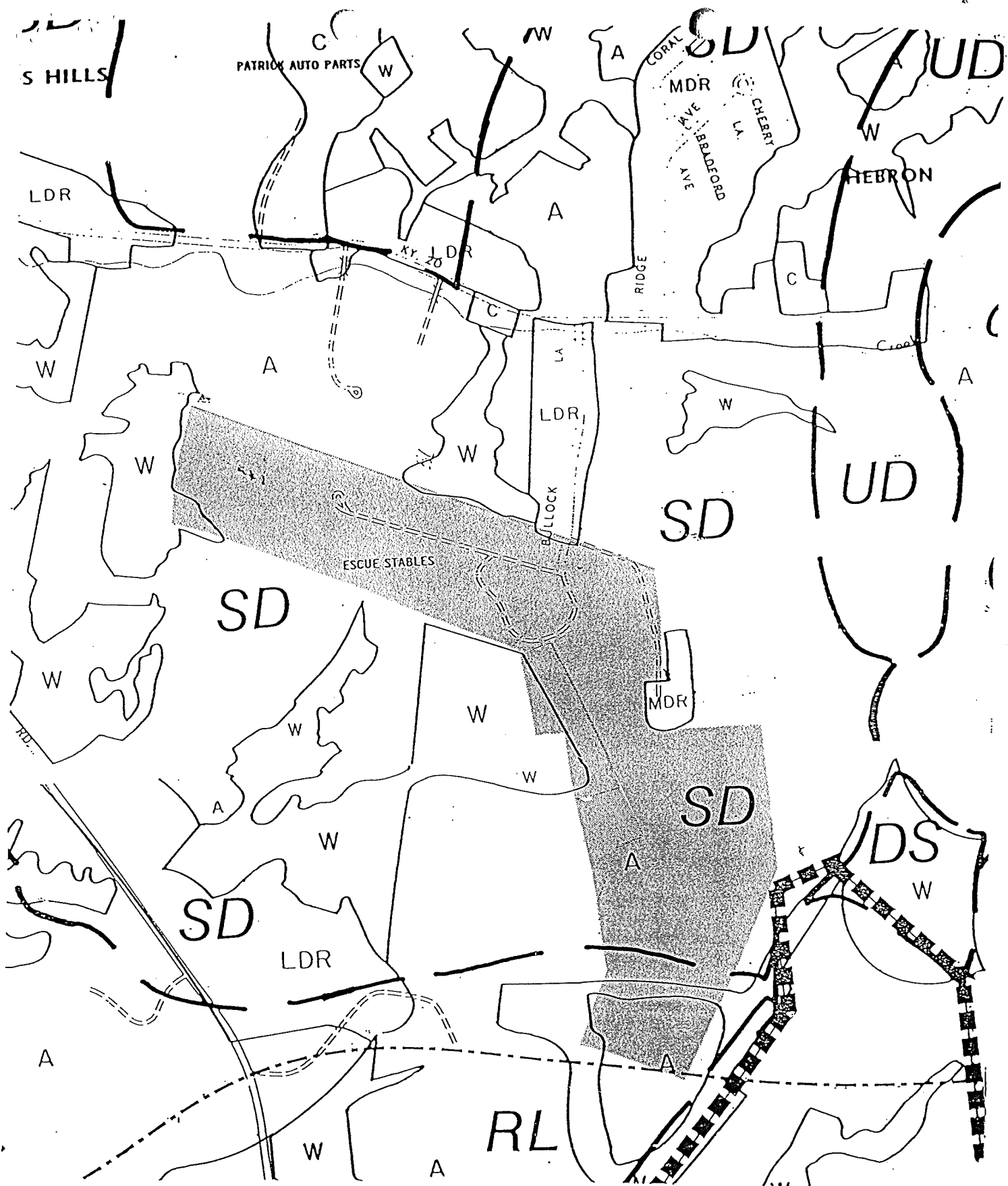
Robert A. Jonas
Planner I



Sheet #1 - Location
Berling/Escue



Sheet #3 – Site
Berling/Escue



Sheet #4 - Future Land Use
 Berling/Escue

STAFF REPORT

Request of James W. Berling (applicant) (for Frazier and Dorothy Escue (owners)) for a Zoning Map Amendment on a ~~140~~¹⁰⁴-acre site located at the end of Bullock Lane, off KY 20, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estate (RSE) to Suburban Residential One (SR-1) to allow a single family subdivision.

September 28, 1994

Site History

The Public Hearing for the Zoning Map Amendment on August 24, 1994 was continued to September 28, 1994 so that more information could be provided including a Concept Plan and road right-of-way details.

Surrounding Zoning And Land Uses (See Sheet #1)

North: Low density residential zoned Suburban Residential One (SR-1).
South: Undeveloped zoned Rural Suburban Estates (RSE).
East: Undeveloped zoned Suburban Residential Two (SR-2).
West: Undeveloped zoned Rural Suburban Estates (RSE).

The current Rural Suburban Estates (RSE) zoning would permit a residential density of one dwelling unit per acre.

Site Characteristics

The 104 acre site is currently known as the Escue Estate and includes a couple of single family residences, a stable, barn, and horse running track. The western portion of the lot is undeveloped as is the southeastern section beyond the end of Bullock Lane. There are a few ponds on the site. The elevation slopes downward toward the southeastern and western edges of the property.

Water exits to the end of Bullock Lane and sewer is available along KY 20 at its intersection with Bullock Lane.

Bullock Lane serves about 20 to 25 single family residences and, according to the Public Works Department, has a right-of-way of 40 feet. The road has been upgraded over the years from gravel to tar and chip and finally to asphalt. Bullock is not constructed as a heavy duty road, but it is adequate in serving the existing residences.

Relationship to the Comprehensive Plan (See Sheet #2)

The **Future Land Use Map** of the Comprehensive Plan calls for the site to develop as Suburban Density Residential (SD). This designation would permit a density of 4 dwellings per acre.

The adopted **Goals and Objectives** of the **Environment** element of the 1995 Comprehensive Plan states that new development shall attempt to preserve the site's character.

The **Land Use** element of the 1990 Comprehensive Plan states that development in this area "will likely be significantly impacted by future flight patterns of the airport." Furthermore, the adopted **Goals and Objectives** of the 1995 Comprehensive Plan state that "new residential development should not occur in areas with existing or proposed noise levels of 65 Ldn or higher...unless acceptable measures are taken by builders to reduce adverse noise impacts."

Concept Development Plan (See Sheet #3)

The Concept Development Plan shows the development of 305 single family dwellings on the Escue property with the entrance to the subdivision being at the Escue Estate entrance. Development would occur to the right and left upon entering the site. The existing Escue residences will be preserved. The plan shows 4 potential future street connections to adjoining properties. There are 11 cul-de-sacs shown on the plan. The "Dog Leg" portion of Bullock Lane is not shown to serve the site.

Staff Concerns

1. Staff is concerned that Bullock Lane may not be able to handle the impact of developing the site from construction vehicles. Specifically, the bridge on Bullock at KY 20 needs to be looked at to see what load it could handle.
2. Local streets such as Bullock Lane normally require a 50 foot right-of-way. Bullock Lane, not a heavy duty road, only has a 40 foot right-of-way.
3. The southeastern portion of the site appears to be located next to the current 65 Ldn airport noise area (**See Sheet #4**). The site is affected by the 65 Ldn contour on the 1997 Ldn map (**See Sheet #5**). By 2003 the site will again be just out of the 65 Ldn range (**See Sheet #6**).
4. Staff questions whether or not the applicant has located the potential adjacent property road connections in response to future development?
5. The maximum length of a cul-de-sac is 1,200 feet. A street in the southeastern section of the property is shown at 1,400 feet in length.

6. Staff is concerned with the possible impact of the development on the adjoining single family lots. The Comprehensive Plan calls for preservation of the existing character of the site. This can be achieved through buffering or a continuance of the white wood fence theme already existing on the site.

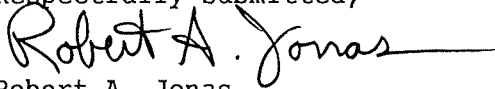
Conclusion

The Planning Commission must use the following criteria in granting approval of a zone change or map amendment:

1. The map amendment is in agreement with the 1990 Comprehensive Plan; or
2. The existing zoning is inappropriate and the proposed zoning is appropriate; or
3. There have been major changes of an economic, physical, or social nature not anticipated in the 1990 Comprehensive Plan that substantially alter the area's character.

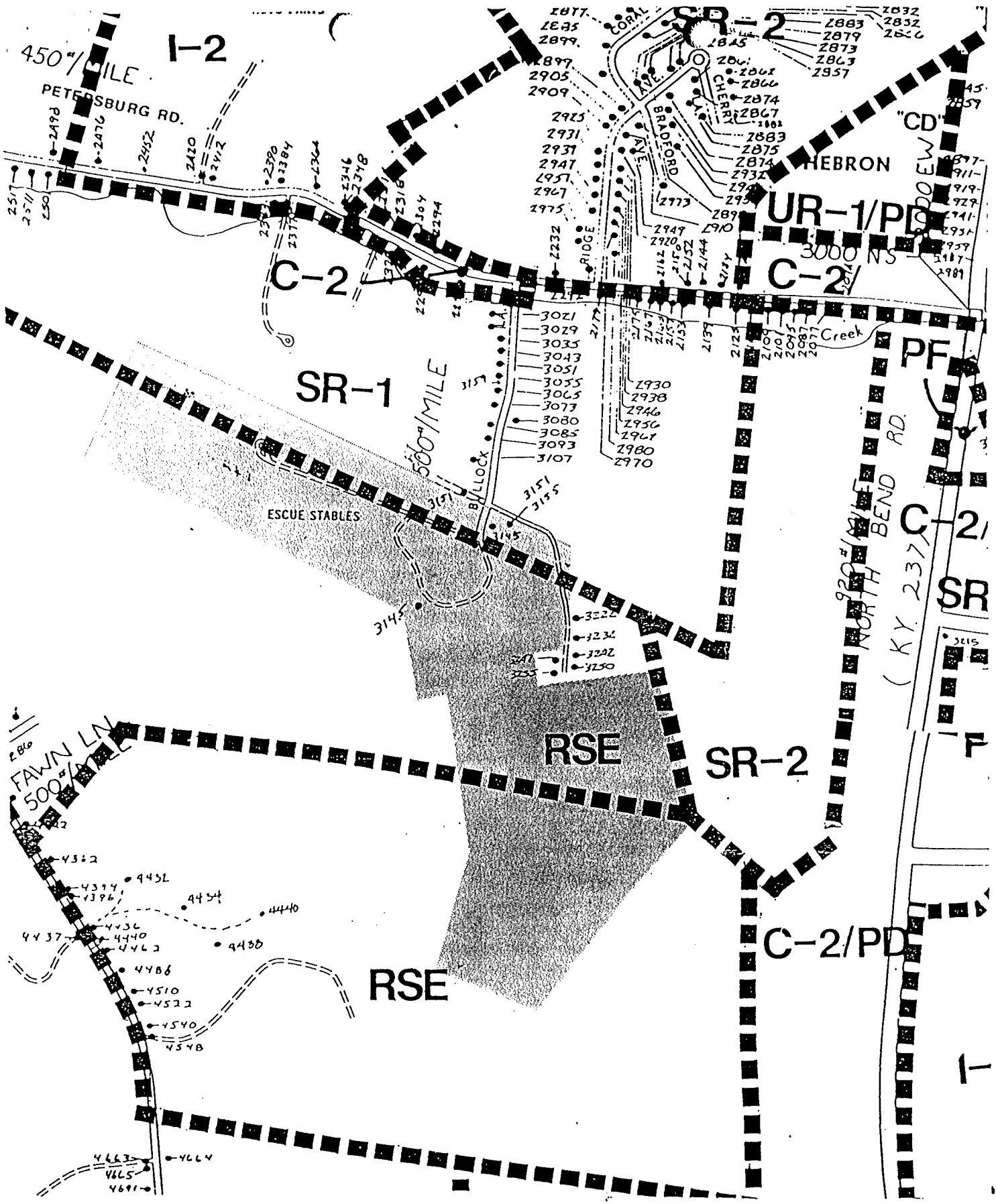
Should the Planning Commission recommend, and the Boone County Fiscal Court approve, this request for a Zoning Map Amendment, the Boone County Comprehensive Plan Future Land Use Map will not need to be updated.

Respectfully submitted,

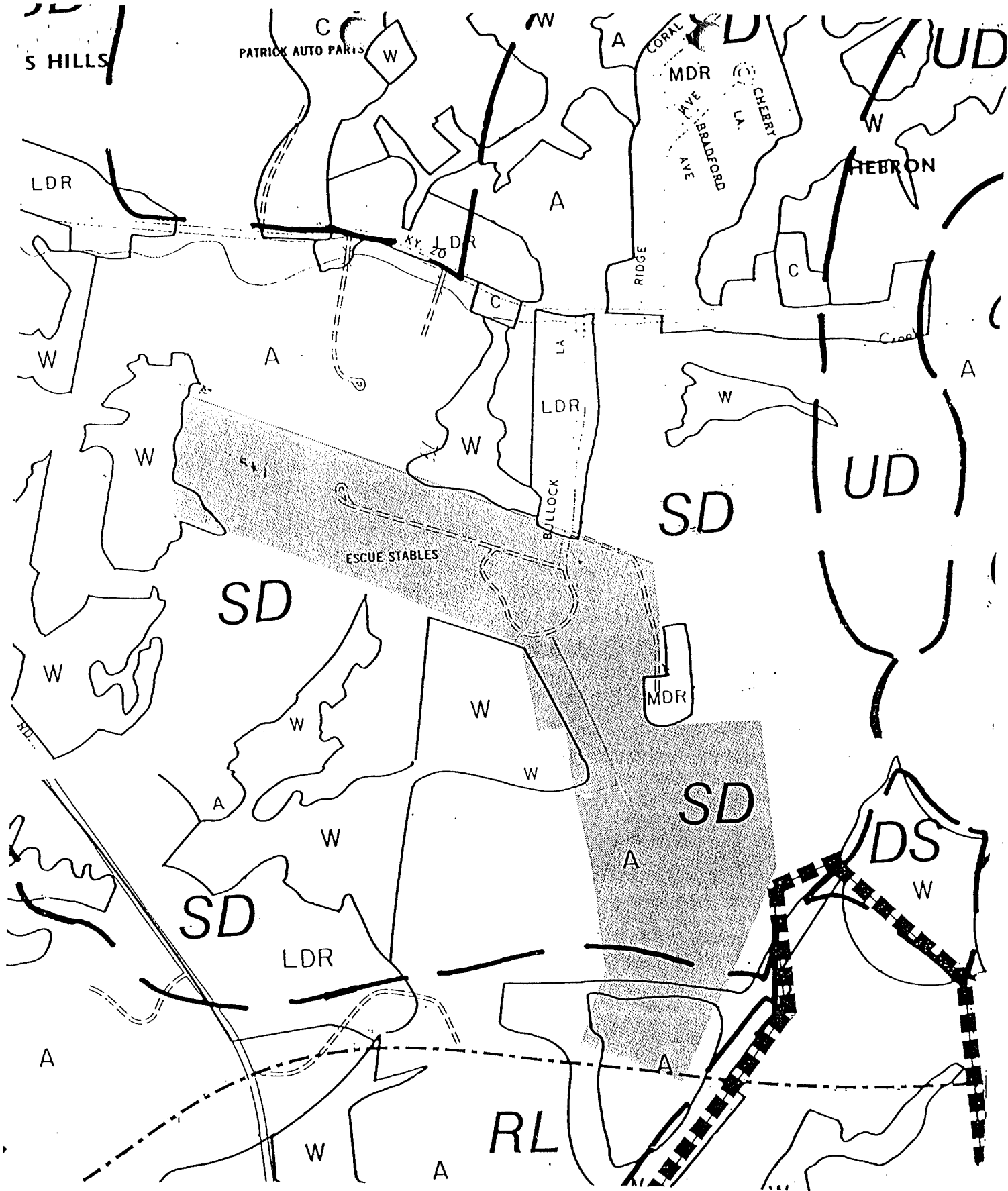


Robert A. Jonas
Planner

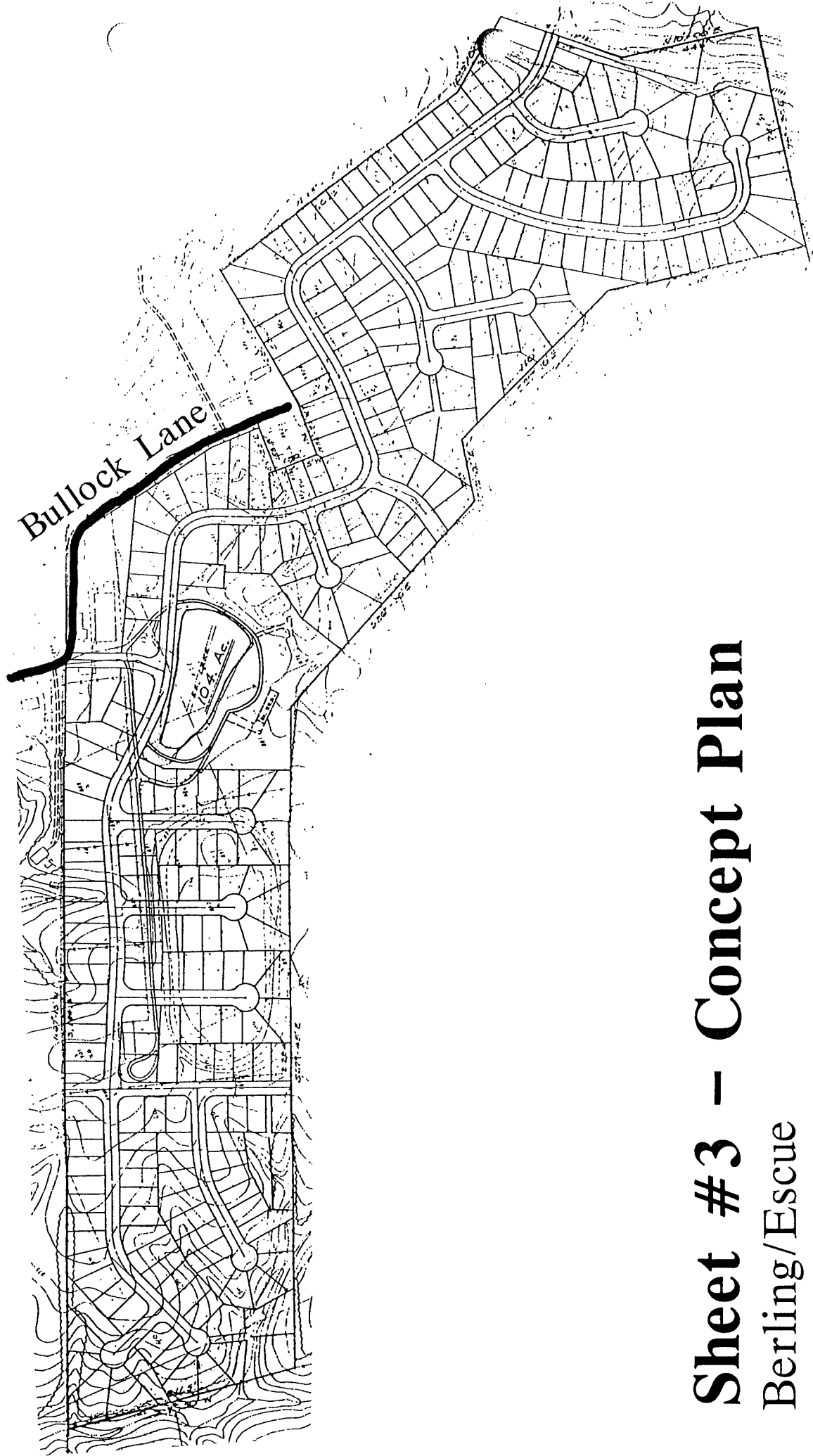
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Sheet #1 - Zoning
Berling/Escue

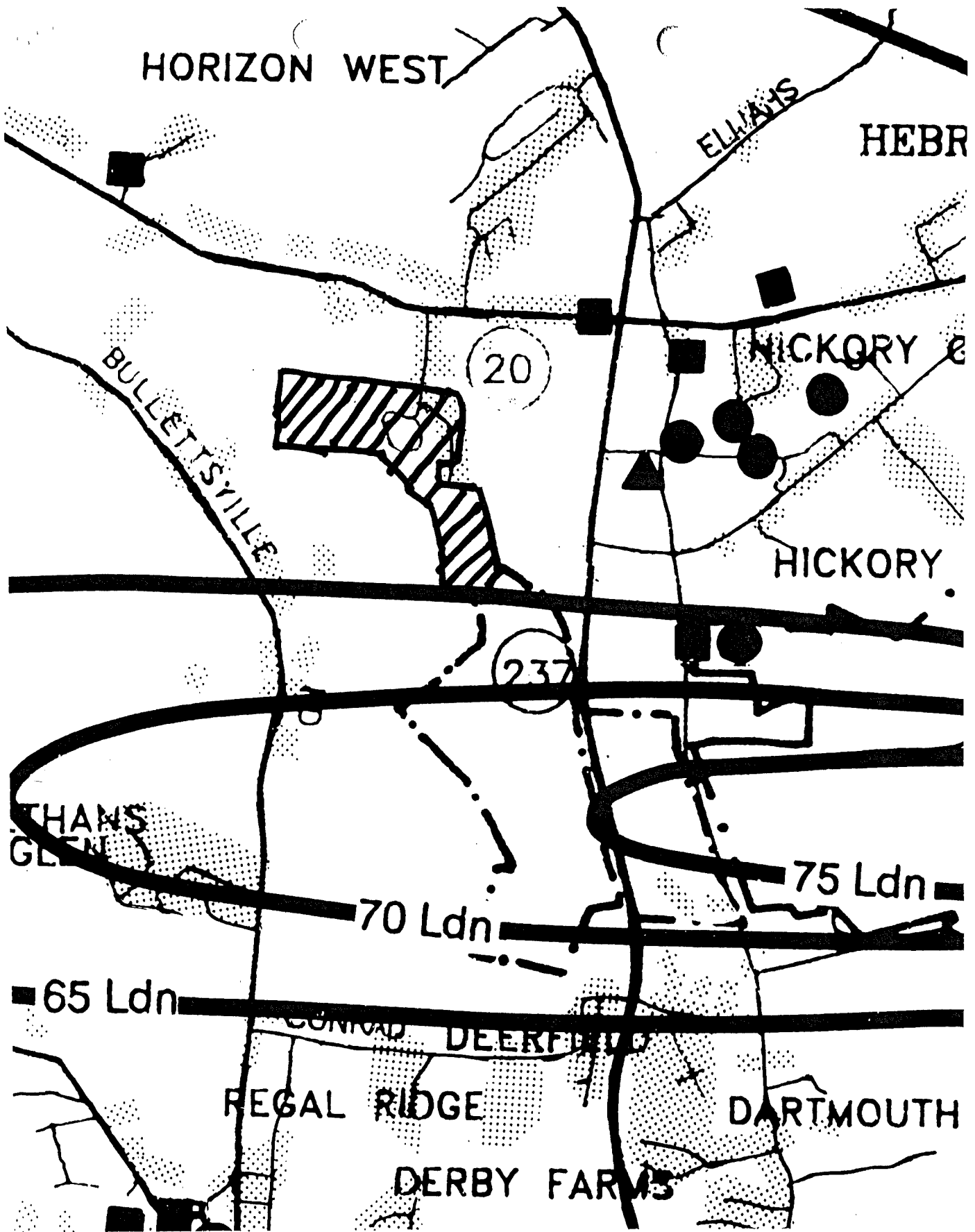


Sheet #2 - Future Land Use
 Berling/Escue

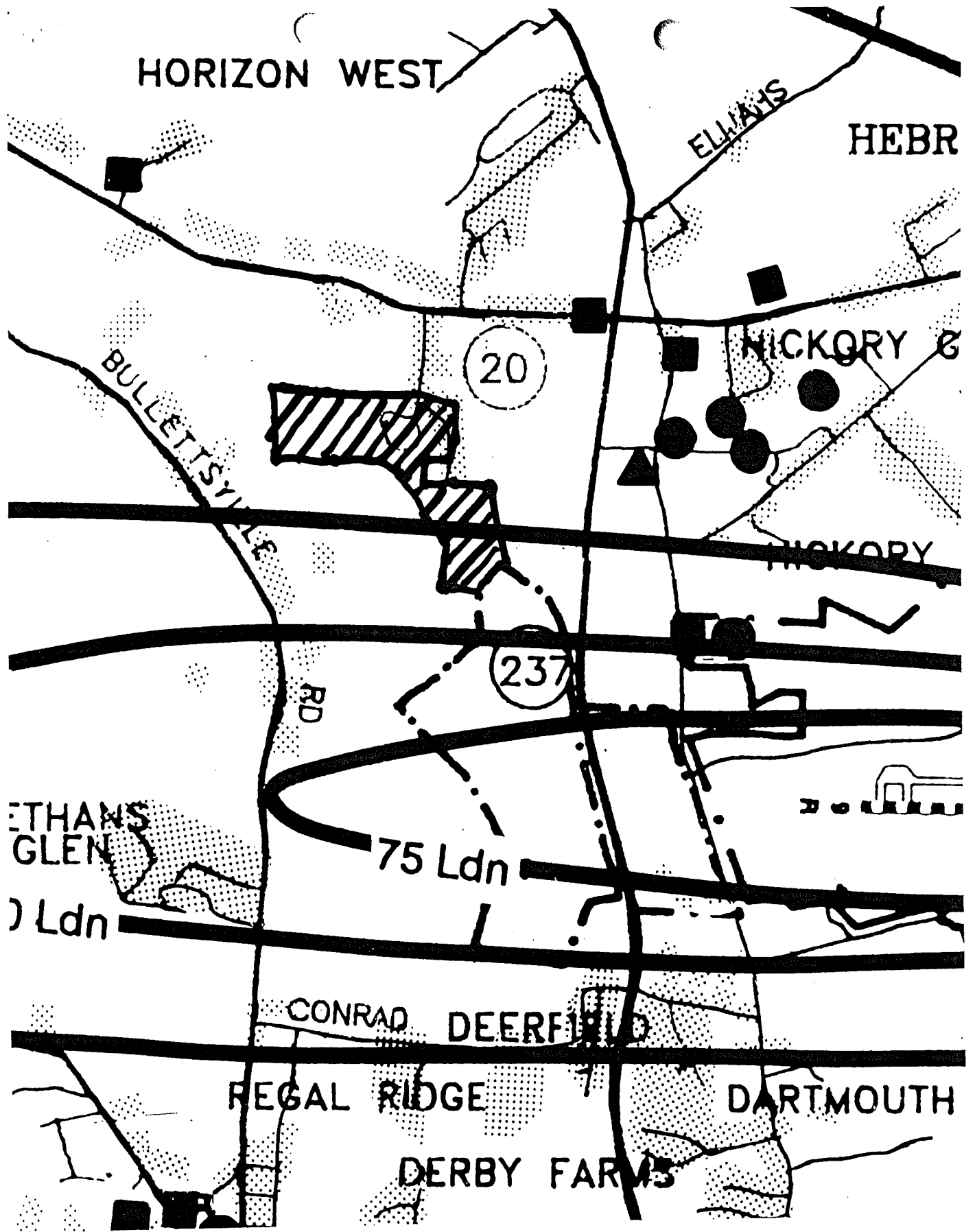


Sheet #3 - Concept Plan

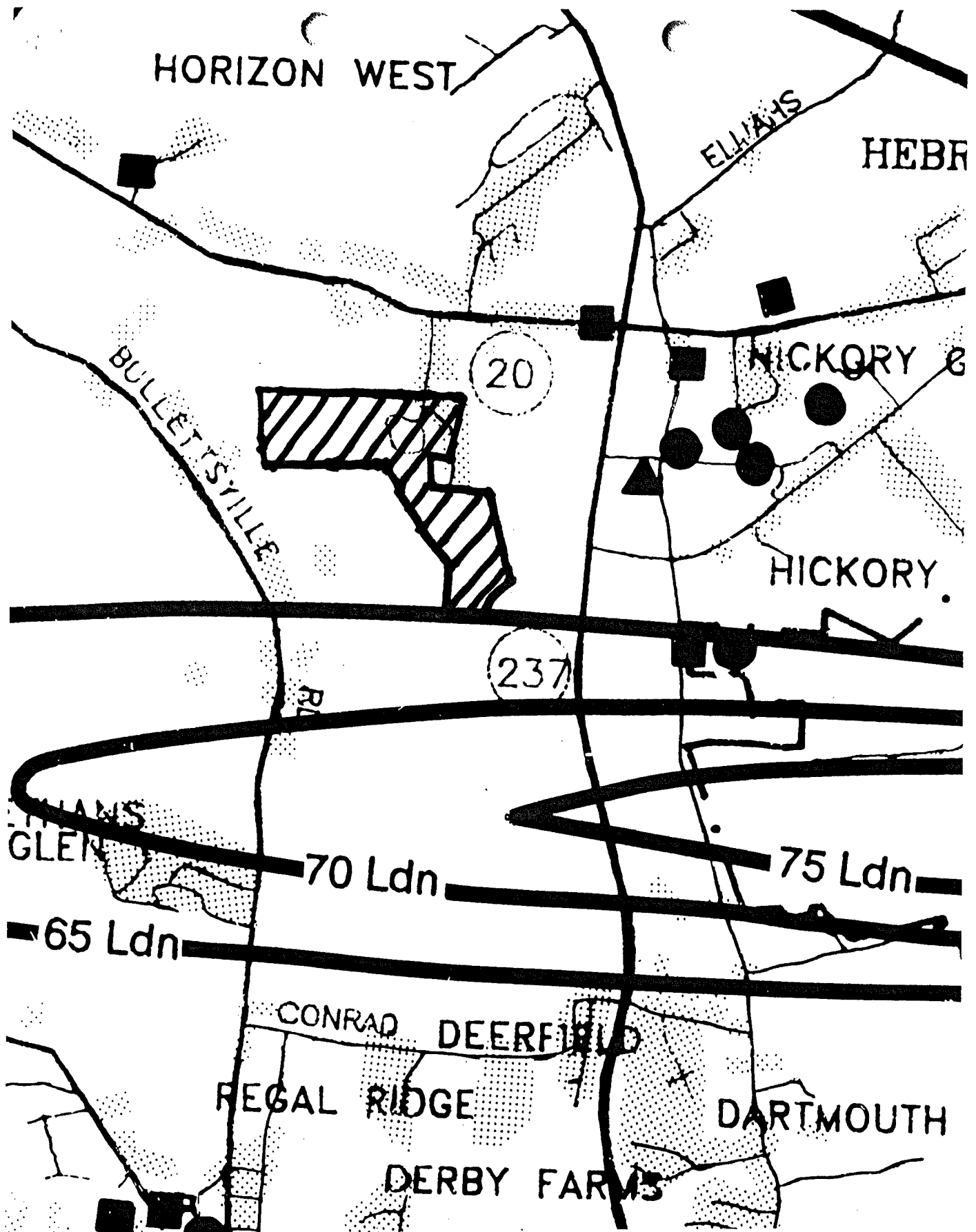
Berling/Escue



Sheet #4 - Current Ldn
Berling/Escue



Sheet #5 - 1997 Ldn
Berling/Escue



Sheet #6 - 2003 Ldn
Berling/Escue

Approval of the Minutes:

Mr. Burch stated that each Commission member had received copies of the Minutes of the October 5, 1994 Public Hearings and Business Meeting. He asked if there were any comments or corrections.

Public Hearing Item #2: Mr. Damstrom made a correction to Page 12 - the following should be added after Paragraph 2: Mr. Damstrom asked if there have been any other plans submitted to the Commission for a PUD development similar to this type of project for which the plan was more complete. Mr. Costello advised that Triple Crown was similar. Mr. Neltner made a correction to Page 11, Paragraph 9, that a sentence should be inserted following the first sentence: Mr. Ray Erpenbeck replied that the development would have an integrated look.

Business Meeting: Mr. Kevin Costello, AICP made a correction to Page 6, Item 9, line 4, that Pat Russ is the secretary, not the receptionist.

Mr. Rush moved that the Minutes be approved as amended. Mrs. Smith seconded the motion and it carried unanimously.

UNFINISHED BUSINESS:

1. Zoning Map Amendment

The request of James W. Berling (applicant) for Frazier and Dorothy Escue (owners) for a Zoning Map Amendment on a 140-acre site located at the end of Bullock Lane, off KY 20, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estate (RSE) to Suburban Residential One (SR-1) to allow a single-family subdivision.

Staff Member Bob Jonas read the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). He advised that the condition letter signed by the applicant included an addendum to the conditions, which was received this morning and not included in the Committee Report. Mr. Jonas read the addendum.

Mr. McElroy, Chairman of the Committee, had no comments regarding the addendum. Mr. Owens stated that the intent was to keep the entrance off KY 237 separate and distinct and not use Bullock Lane at all. Mr. McMillian asked if there would be no entrance off Bullock Lane to this development. Mr. Owens advised that that was the intent. He stated that the principal entrance would be off KY 237. Mr. McMillian stated that there could be a subordinate entrance off Bullock Lane. Mr. Owens replied that there could be, but he would prefer to eliminate it.

Mr. Jim Berling stated that Conditions #1 and #2 are severe in cost to them and force them to look strongly at an alternate entry. If they are able to accomplish an alternate entry, they do not want to be held to rebuilding a bridge and Bullock Lane if they are not going to use them. If Bullock Lane is their source of entry, then they concur with the

conditions and will do what the Committee requests. If they accomplish the other access, which would be another way in, then Conditions #1 and #2 would not apply.

Mr. Burch asked if they would still use Bullock Lane as an access of any kind. Mr. Berling replied "only if Staff would recommend it". Mr. Burch asked if they would be agreeable to use or not use Bullock Lane based on the Staff's recommendation. Mr. Berling replied "yes", but noted that they first have to come up with the other access. He emphasized that if they use Bullock Lane, they will abide by Conditions #1 and #2.

Mr. Owens moved by resolution to the Boone County Fiscal Court that the request be approved based on the Staff and Committee Reports and including the signed condition letter with the Addendum and the comments made at this Public Hearing. Mr. Bailey seconded the motion.

Mr. Ries stated that he visited the property. It is in an excellent area for a subdivision, but the proposed development is too dense. The property could be developed with about one-half the homes and more greenery to keep the value of the area and make the people at the Public Hearing happier. He stated that he is against the density and will vote against the application.

Mrs. Schaffer questioned what would happen on Bullock Lane if they find another entrance. Mr. Burch advised that there is property that goes out to KY 237, but it is not owned by these people at this time. There is a possibility of attempting to acquire that property to bring in an entrance and not use Bullock Lane. Mr. Berling stated that Conditions #1 and #2 address the conditions on Bullock Lane and what the conditions would be like after 150 lots. If they do not use Bullock Lane, then those two conditions should not be conditions of the zone change. If he can find a way not to use Bullock Lane, then they would not have to improve Bullock Lane.

Counselor Wilson asked if Mr. Berling was saying that if the development accesses Bullock Lane either as a primary or secondary access, then they agree to Conditions #1 and #2 as applying. Mr. Berling replied "within reason". He added that if they use Bullock Lane at their request, then the response is "yes".

Mr. Costello stated that the applicant is obligated to hire the structural and geotechnical engineers and if it turns out that possibly one-half or three-fourths of the traffic would use a new entrance and one-quarter or the other half of the development will use Bullock Lane, then the road and bridge would still be assessed. The bridge may be able to handle the traffic, but the pavement width may have to be widened. If Bullock Lane is the primary access, then they are very concerned -- if it is the secondary access, they are concerned, but will rely on the structural and geotechnical engineering reports based on the amount of traffic using Bullock Lane. Counselor Wilson stated that if they decide to use Bullock Lane as a secondary access, then Conditions #1 and #2 kick in and the evaluations have to be done.

Mr. Berling stated that the Staff may say that the regulations demand that adjacent developments have a tie in -- that is not their initiative. They would prefer not to connect to Bullock Lane at all. If they can find another solution, they will not use Bullock Lane. They have had a structural engineer look at this and he finds that the bridge has a lot of life left in it. If they pursue using the bridge, what is being recommended is weekly inspections and monitoring during the construction period. He stated that he wants to be clear -- if they do not use it, they do not have to rebuild it.

Mr. McMillian agreed with Mr. Ries' comments. He stated that the density is too great. It is a good place for a nicer residential area than the density they have planned.

Mrs. Schaffer agreed that the development is too dense. She stated that the development is not in conformity with the Comprehensive Plan because the Goals and Objectives is to keep the flavor and rural nature of Boone County. This property should be developed at a lesser density.

There being no further comments, Mr. Burch asked for a roll call vote on the motion made by Mr. Owens which found Mr. Bailey, Mr. Burch, Mr. Damstrom, Mr. Kirby, Mr. McElroy, Mr. Owens, and Mr. Neltner in favor. Mr. McMillian, Mr. Ries, Mr. Rush, Mrs. Schaffer, Mrs. Smith, and Mr. White were opposed. The motion carried by a vote of 7 to 6.

2. Zoning Map Amendment

The request of Ken and Trudy Rogers (applicants) for Liberty National Bank of Northern Kentucky and The Commonwealth of Kentucky (owners) for a Zoning Map Amendment on an approximate .40-acre site at Curtis Avenue and Turfway Road, Florence, Kentucky. The request is to rezone the site from Suburban Residential Two (SR-2) to Commercial One (C-1) in order to allow a retail flower center.

Staff Member Bob Jonas read the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report).

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

Mr. Ries stated that he is opposed to this project. He noted that the first Finding of Fact states that "Although this project is not in conformance with the Future Land Use Map . . .". He stated that this is another Dilcrest. It is a business going into a predominantly residential area using the access to the residential area -- which the City of Florence has been opposed to in the past.

Mr. White stated that the City of Florence is not willing to give up the street which they own that goes thru the site and he does not see how the setbacks can be met. He noted that when a gentleman wanted to put a duplex there he could not meet the setbacks because the City of Florence

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Gayle McElroy, Chairman

DATE: October 19, 1994

RE: Request of James W. Berling (applicant) for ¹⁰⁴Frazier and Dorothy Escue (owners) for a Zoning Map Amendment on a ~~140~~ acre site located at the end of Bullock Lane, off KY 20, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estate (RSE) to Suburban Residential One (SR-1) to allow a single family subdivision.

Remarks

We, the Committee, recommend approval based upon the following findings of fact and conditions:

Findings of Fact

1. This request is in conformance with the Future Land Use Map of the 1990 Boone County Comprehensive Plan.
2. The attached conditions effectively address the concerns brought out at the September 28, 1994 Public Hearing.

Conditions

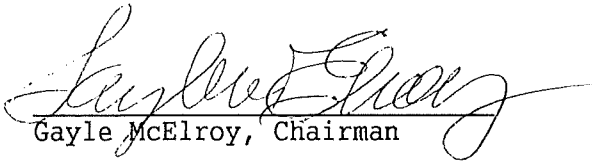
These items are being included to help clarify the submitted Concept Development Plan and address concerns heard at the September 28, 1994 Public Hearing.

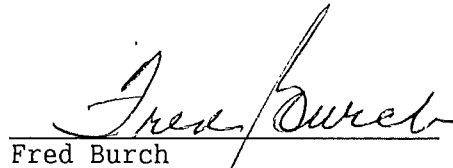
1. The developer will hire a structural engineer to the satisfaction of the Planning Commission to examine the condition of the Bullock Lane bridge prior to development and during development. Any recommendations of the structural engineer will be implemented by the developer. A final resolution of the bridge will be determined at the completion of 150 lots.
2. The developer will hire a geotechnical engineer to the satisfaction of the Planning Commission to test and recommend improvements to Bullock Lane. The recommendations of the geotechnical engineer will be implemented by the developer.
3. Public sanitary sewer service to the site will be provided by the developer.

4. Any lot sold within the 65 Ldn noise contour level will include notification to the prospective buyer prior to the sale of the lot.
5. The developer is to examine the possibility of obtaining additional property in order to provide an additional access to the site from KY 237.

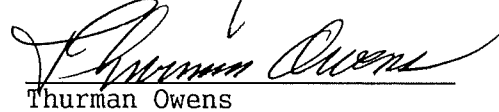
The applicant has signed a letter of agreement with the above conditions.

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.


Gayle McElroy, Chairman


Fred Burch


Phil Damstrom


Thurman Owens


William Bailey


Barry Neltner

* see addendum on Condition Letter dated
Oct. 18, 1994.

* see minutes for Oct. 19, 1994 Business Mtg.

PUBLIC HEARING ITEM NO. 2:

Commission members present: Mrs. Arnett, Mr. Bailey, Mr. Burch - Vice Chairman, Mr. Damstrom, Mr. McElroy, Mr. McMillian, Mr. Neltner, Mr. Owens, Mr. Ries, Mr. Rush, Mrs. Schaffer, Mrs. Smith - Secretary/Treasurer, Mr. Viox - Chairman, and Mr. White.

Chairman Viox introduced the second item on the Agenda:

2. Applicant: James W. Berling for
Frazier and Dorothy Escue (owners)
Request: Zoning Map Amendment

The request of James W. Berling (applicant) for Frazier and Dorothy Escue (owners) for a Zoning Map Amendment on a 140-acre site* located at the end of Bullock Lane, off KY 20, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estate (RSE) to Suburban Residential One (SR-1) to allow a single-family subdivision. (Corrected by Mr. Jonas and the applicant to a 104-acre site).

Staff Member Bob Jonas presented the Staff Report which included a slide presentation (see Staff Report). Mr. Jonas advised that the Staff reviewed the acreage calculations and the site is approximately 104 acres, not 140 acres as shown on the application. He questioned a Concept Plan:

Mr. Jim Berling advised that they do not have a Concept Plan.

Mr. Jonas added a Staff Concern relative to the Concept Plan. He noted the possibility of interconnection with Peale Subdivision or access to other properties. He advised that there is an error in the last paragraph of the Staff Report and it is corrected to read, "Should the Planning Commission recommend, and the Fiscal Court approve, this request for a Zoning Map Amendment, the Boone County Comprehensive Plan Future Land Use Map will not need to be updated."

Mr. Jim Berling, applicant and engineer for the project, advised that Mr. Escue is out of town. He stated that the request is for a zone change to permit a residential development in accord with the proposed zone change. He stated that things have happened in the area residentially to warrant the zone change, particularly the construction of sanitary sewer. The request is in conformance with the Future Land Use Plan, which is a reasonable basis on which to grant the request. He stated that the regulations do not require a Concept Plan for the request. He will meet with the Staff and work out the particulars, including access to adjoining properties. They are willing to work out any connection the Commission or Staff would like. Their objective is to keep four or five acres around the existing home and the lake for Mr. Escue to live in the same manner he lives today. They do not want to submit an official Concept Plan until they work with the Staff.

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

Margo Grubbs, attorney, stated that she is not the legal advocate for the group present, but they are land owners on Bullock Lane and adjacent properties. She stated that it is premature to conduct a Public Hearing in this matter because a number of land owners have made inquiry to the Staff, including herself, in regard to what the zone change consists of and enough information has not been provided to the Staff for them to provide it to the public. Also, some adjacent property owners have not been notified of the application. She asked that the application be postponed until the next meeting so that all adjacent property owners can be notified and, if the group present wants to seek legal counsel, they would have that option. (Ms. Grubbs noted that she would not be that legal counsel as this is not her area of expertise).

Counselor Wilson advised that under Kentucky law, the Commission does not determine who the adjoining property owners are. The applicant supplies the list of adjoining property owners to the Commission. There are also two other types of notice in addition to first class mail, which are (1) a sign on the property, and (2) publication in the newspaper (Boone County Recorder). If someone does not get the notice they should get, but otherwise knows of the hearing and is not here, that would not necessarily require postponing the hearing. If someone is to get notice and does not and is materially prejudiced, there may need to be a rehearing even if there is a motion for approval. He asked if the applicant wanted to defer the matter to make sure all adjoining property owners have been notified.

Mr. Berling advised that the list was prepared by someone in his office. There are 15 names on the list. He stated that he does not know how to tell who is not on the list.

Counselor Wilson asked if Mr. Berling was comfortable that he has complied as the applicant in giving the Commission the names of the adjoining property owners. Mr. Berling stated that he wanted to continue with the hearing at this time.

Counselor Wilson stated that with this number of homes, the Commission is concerned about land use impacts and he does not believe that getting into details at the Committee Meeting is sufficient. The Commission wants to get those facts out in a Public Hearing. If the applicant does not chose to submit anything in detail, then the Commission has to make a decision based on the record of the Public Hearing, without the details normally seen on a Concept Development Plan. He agreed that a Concept Development Plan is not required.

Mr. Berling stated that they are not required to submit a Concept Development Plan at this level. He stated that if the Commission needs a Concept Development Plan to proceed, then we are in a deferral mode. He stated that he thought the zone change was applicable to the Future Land Use Plan and in order because of the construction of the sewers. He advised that they are sensitive to the features of the property and Mr. Escue wants to remain there. They will be very conscious of his home

facilities and the lake and that is all to be preserved. He has not prepared a Concept Development Plan.

Counselor Wilson stated that this is Mr. Berling's application as a representative of the property owner and they have the burden to present the facts to persuade this Commission one way or the other. If Mr. Berling is comfortable with his record, then it is not up to the Commission to say that there will be another Public Hearing; however, as comments come from the opposition, possibly the applicant will change his position. He emphasized that the Commission has to make a decision based on the record.

Mr. Berling stated that if they are at a disadvantage by not presenting a Concept Development Plan, they do not want to proceed. Counselor Wilson stated that he could not tell at this point if they are being put at a disadvantage or not by not having a Concept Development Plan.

Chairman Viox stated that if Mr. Berling wishes to proceed, the Public Hearing will continue. Mr. Berling wished to proceed.

Ms. Grubbs stated that this is a tranquil, peaceful neighborhood reminiscent of Lexington, Kentucky. The adjacent property owners want to preserve that. They are concerned that the zone change and four dwellings per acre would transform the character of the area completely. She stated that the Comprehensive Plan was adopted four years ago and one of the findings the Commission must make is that there has been major change of an economic, social, or physical nature not anticipated in the 1990 Comprehensive Plan. This has not been alleged by the applicant because there is no Concept Plan to look at. They believe that this change would impact their neighborhood dramatically. The road is a small road. The bridge was meant for light usage. They have heard that the plan will come up Bullock Lane and the roadway could not handle the volume of traffic they are talking about, which is 350 to 400 houses off Bullock Lane. They are concerned about fire and police service. It takes 10 to 15 minutes for the police to respond to this area. They have a volunteer fire department and they are not organized to handle an additional subdivision. Airplane noise is there. The site is in a noise air contour and they are talking about putting new development in a potential flight path. She requested that the Public Hearing be postponed. She stated that the back part of Bullock Lane is not a dedicated road. The deeds talk about the property line going to the middle of the road. She stated that the Kreiglers are adjacent property owners and were not given notice.

Pat Bullock stated that the road is named after her and her husband and they did the development on the right hand side. A main concern is the road. She questioned if Bullock Lane is the access in and out, where the other access will be. She and her husband paid to put the bridge in there and she questioned if it will hold up. She noted that there is no Concept Plan, and they want to see what this is. They have just over 60 acres and live on a farm next to this area. It is a beautiful area there.

Mrs. Richardson stated that she lives at the end of Bullock Road. She has two surveys and they say that Bullock Road is a 40-foot right-of-way. A 1967 survey and a 1981 survey show a 25-foot right-of-way up to a point and from that point back it is a privately owned road. She submitted the

surveys to the Commission. Chairman Viox advised that the surveys will be returned to her.

Mr. Harvey Richardson, who lives on the north edge of the proposed development, stated that slowly but surely the county is being changed and it is not for the better. He stated that they have a deed restriction of a minimum of three acres per house in that area. The proposed development is 12 times the density, which he does not like, and one house per acre is an abrupt enough change. He questioned the size of the entire Escue property.

Mr. Jim Berling advised that the entire property is 104 acres.

Mr. Richardson stated that the entire property is proposed to be developed at four houses per acre. He questioned the price range and the quality of the houses, and the distance of the houses from the property lines. He asked if the property is to be fenced and screened. Mr. Richardson advised that he is a member of the Noise Abatement Committee and the Airport Comprehensive Plan. He stated that the east/west runway is being extended 10,000 feet and then again to 12,000 feet to enable the airport to generate as much of the night noise as possible in that direction. The planes will be arriving to the east at night and departing to the west, which constrains this area. This would open the airport to international operations and the largest aircraft running non-stop to Europe, and they do not climb as fast. He noted that the government says that 65 LDN is the maximum for residential use, and anything over that is not suitable for residential. He stated that they would be better to look at commercial or industrial uses for the property.

Mr. Ray Kingston, 3222 Bullock Lane, questioned how many houses they will build. He stated that the property goes along Bullock Lane and the property lines go out into the one-lane road. He questioned who determines the right-of-way when the road is to be extended. He noted that some of the houses are close to the road already. Mr. Kingston just bought his farm from his father this past month. Over the last few months he has spent thousands of dollars to get city water and now it is used as a point to get development there. He stated that they should show some respect for the neighbors and show them what they are going to do.

Mr. William Mitchell, who lives at the end of Bullock Lane, stated that he bought his house in 1986. He stated that the survey shows that the property line goes to the center of the road and his deed says "centerline of old Dogleg Road". When he bought his property, the realtor said it was located on a private road. They have no police department and he does not think the county police will be able to handle this. There could be 360 homes with two kids each, which is 720 kids, which will devastate the schools. There is no city sewage. They just paid almost \$3,000 each to have city water put back there.

Mr. Richard Hugdon, a resident of Bullock Lane, stated that Mr. McNeely surveyed it and it is a 20-foot county road. The road department blacktopped one-quarter mile up to the Escue estate and did not do the back until two months later. The back of the road is an easement, and he questioned if it is the same as a road.

Mr. Elbert Jacobs, who lives next to the Escue property, stated that he is in the farming business. Where he lived before, development like what is proposed occurred and the people ran four wheel drive cabs through there, etc.. He referred to a survey to show how much of his land is next to the Escue property. Mr. Jacobs would like a buffer put in.

Mr. Mullins, who lives next door to Mr. Richardson, stated that from the end of the stables is a natural grading into their property. He does not want to see the drainage area become a sewer. If the project goes through, he would like to see fields between the properties.

Mr. Paul Kreigler, 3247 Bullock Lane, stated that if the road has to be widened, his yard and two of his neighbors' yards are only 50 feet or less from the edge of the road. They would have no front yards and would not have enough depth to park their cars in their driveways. He is concerned about the sewage. They have septic tanks and have put several thousand dollars in their septic systems in recent years to keep them functioning. This development would tap into the sewer, which is a burden on their budget, because they are paying for the water they just put in. He is concerned about the traffic back there with small children who are used to having a dead end road there. The construction traffic would create a hardship for the children.

Amy Alexander, a resident of Bullock Lane for 3 years, stated that she is a registered nurse. She agreed with the others about their fire and police services. She is concerned about the increase for the school system. She stated that these are farm people and older people who have worked a long time for peace at the end of their lives. They want communication about what is going on.

Chairman Viox asked Mr. Berling to respond to the questions raised.

Mr. Berling stated that some of the people presented survey documents with property lines going to the center of the road, but that does not always mean that they own to the center of the road and there is case law that there is a minimum 30-foot right-of-way for every county road. They assumed it was a county road. He does not know who the people are who feel they were not notified. He stated that if they are here and they would consent that they did get proper notification, he would continue the Public Hearing to another date and would bring in the information the people are asking for. He stated that he would address the other issues if the Commission wants to continue the hearing.

Chairman Viox advised Mr. Berling that continuing the hearing is his decision.

Mr. Ries asked if the applicant would be charged another fee to continue the hearing. Counselor Wilson advised that if the meeting is adjourned to another date, but not closed, that would not be a new application requiring a new fee -- but that is up to the Zoning Administrator.

Mr. Ries stated that since there are a lot of questions, he would be in favor of having a Concept Plan to clear up the issues. He noted that it is not required.

Chairman Viox asked Mr. Berling if he wished to continue the hearing to another date. Mr. Berling stated that he would, if the neighbors will agree that they were notified.

Ms. Grubbs stated that she did not get her proper notice. She did not get a certified letter. Counselor Wilson advised that notice is sent by first class mail. Ms. Grubbs stated that the Kreigler family, who is adjacent, did not get notice. There are brothers and sisters on the deed and she does not know if Mr. Kreigler has talked to them.

Mr. Jonas advised that there were 15 adjacent property owners on the list. He spoke with Ms. Grubbs today and it was determined that her address was outdated. The attempt was made to contact Ms. Grubbs, but the Staff did not have information in regard to any other addresses which may have been left off the list.

Mr. Berling asked to have the hearing continued in order to provide the information requested.

Mrs. Bullock stated that she went to the office and talked to Mr. Jonas and was told that he did not have the answers, but that there would be a Concept Plan provided this evening. Mr. Jonas stated that in the conversations he had with Mr. Berling's office, he was under the impression that a Concept Plan would be provided this evening. He stated that he did disclose any information in the file to anyone who came into the office.

Chairman Viox continued this Public Hearing until September 28, 1994 at 7 P.M..

APPROVED:



William R. Viox, Chairman

Attest:


Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION

September 28, 1994

7:00 P.M.

PUBLIC HEARINGS

Commission members present: Mrs. Arnett, Mr. Bailey, Mr. Damstrom, Mr. McElroy, Mr. McMillian, Mr. Neltner, Mr. Owens, Mr. Ries, Mr. Rush, Mrs. Schaffer, Mrs. Smith - Secretary/Treasurer, Mr. Viox - Chairman, and Mr. White.

Mr. William Viox, Chairman, called the meeting to order at 7 P.M..

Chairman Viox stated that the first item was originally advertised for August 24, 1994 and the hearing this evening is a continuation of that hearing. Following an explanation of the Public Hearing process, Chairman Viox advised that the Committee meeting for the first item will be on October 10, 1994 in the Ferguson Room at the Extension Building at Camp Ernst Road and KY 18. The first item will be on the Agenda for the Business Meeting on October 19, 1994 at 8 P.M.. Chairman Viox introduced the first item on the Agenda:

1. Applicant: James W. Berling for
Frazier and Dorothy Escue (owners)

Request: Zoning Map Amendment

The request of James W. Berling (applicant) for Frazier and Dorothy Escue (owners) for a Zoning Map Amendment on a 140-acre site located at the end of Bullock Lane, off KY 20, Boone County, Kentucky. The request is to rezone the site from Rural Suburban Estate (RSE) to Suburban Residential One (SR-1) to allow a single-family subdivision.

Counselor Wilson advised that the minutes of the first hearing on August 24, 1994 in regard to this item, as well as the minutes of this session, will be a part of the record.

Staff Member Bob Jonas presented the revised Staff Report, which included a Concept Plan submitted since the last Public Hearing, a slide presentation, and review of the aerial photograph of the site (see Revised Staff Report). Sheet #3 attached to the Staff Report is a reduction of the Concept Development Plan for 305 single-family lots with access off Bullock Lane. A "dogleg" section of Bullock Lane does not serve as access to the zone change area. Development would occur to the right and left when entering the site with approximately the same amount of development on each side. The Concept Plan shows four potential future connections to adjoining properties.

Chairman Viox questioned the exact acreage of the site. Mr. Jonas advised that it is 104 acres. Mr. Jim Berling agreed.

Chairman Viox asked for the applicant's presentation.

Mr. Jim Berling advised that they have tried to satisfy the concerns raised at the last hearing and have submitted a Concept Plan. Using an exhibit, he identified the property on a topographical map. He stated that there are 18 acres already in the SR-1 Zone and they are really only asking for a change on 86 acres. Mr. Berling presented the Concept Plan. He stated that coming in Bullock Lane, you are looking at the property and they will use this area as a "window". They will modify the road system as it goes around the lake. They will keep the house and seven acres intact around the lake, which causes one-sided development through part of the entry area. A barn and building to the front will be left, which is another two acres that will not be developed. They will start off with large lots of 80 to 100 feet and larger. Moving away from the intersection, they get into 70-foot frontages, and then into 65-foot frontages. The total development area will be 3.2 units per acre, which is well below the 4 units per acre allowed by the zoning. There will be a variety of homes built to serve 3 or 4 different markets. The homes will range from \$100,000 to \$200,000. Utilities are available at KY 20 and some at Bullock Road. They will have to use lift stations to get to the sanitary sewer at KY 20. He stated that they went to the record room and have copies of the dedicated right-of-way for Bullock Road.

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

Mr. William Mitchell, a resident at the end of Bullock Lane, stated that his main concern is the same as was stated at the last Public Hearing. He asked that the children be considered. He stated that if each of the new homes has 2 children, that will be 610 kids, which would be a whole new school. There is overcrowding in the county now. The apartment complex on KY 237 is complaining because the buses are overloaded -- there is a 75-seat capacity and 95 children on the bus. He stated that these are one-quarter acre lots and the houses will be on top of each other. He questioned where the kids would play. There is no clubhouse and no facilities. One of the main problems in America is that there is nothing for the kids to do.

Elbert Jacobs, who lives next to Mr. Bullock's place, stated that there are 1,489 feet along their property. They have cattle and crops. There will be 19 houses along their property line. They have electric fences and a deep pond less than 300 feet from the fence. He would like a chainlink fence. The new residents will put their grass over the fence and the cows will get sick. They will throw their scrubs over the fence. He asked if Bullock Lane will be widened. A steep drop off of the road as you go over the hill should be looked after. His liability insurance will increase because he will get sued for someone drowning in the lake.

Nancy Richardson, who has about 4 acres adjoining the Escue property, stated that she is concerned about the liability. She has a large pond. She stated that it would make sense to put in a playground for the children as she can see them coming over on her property.

Colleen Kreigler stated that she is new to the area and grew up in Hollywood, Florida where the rate of growth was so fast that it caused a lot of problems -- which she can see starting to happen here. The traffic became terrible. They had flat roads and there are winding, curvy roads here. She stated that coming off Bullock Lane people will have to turn right on KY 20 and questioned if that road will have to be widened to handle the traffic. The crime in Hollywood, Florida rose. They lived next to a high school and they had two undercover policemen using their house as a lookout for thieves. The area was growing so fast that it put a hardship on the police and fire departments. They lost a lot of natural resources, which she can see happening here. There are ponds that feed the animals here. They have grey horned owls and redtail hawks, which are protected species that live in the woods in the area. She stated that they did not see some of the results in the Everglades until years later. She noted the overcrowded schools in Florida. To alleviate the bus problem there, students living within two miles of school had to make their own way to school. They had split shifts where those who rode buses started an hour earlier. They built a high school within three miles of the other one to alleviate the problem, but they had to bring in 21 portables and then build another high school 3 miles to the north. She sees this happening in Boone County. She stated that if the school is overcrowded, the quality of education will drop. The county is growing so fast that we are not looking ahead to see what we are losing. She asked if the taxes the county is gaining for this subdivision will be worth the effect on the schools.

Harvey Richardson, who lives on the north side of the Escue property, is opposed to this high-density development because it would change the character of the neighborhood. These homes will sell at a fraction of the value of the existing homes there and will depreciate their properties. There will be trespassing on the nearby open fields. There is a liability when people climb the trees or sneak in to swim or go fishing on the neighboring properties. He and his neighbors have deed restrictions to require masonry homes with large square footages and a minimum of three acres. One home per acre is more in keeping with the character of the existing community. He is concerned about Bullock Lane being able to serve over 300 more families and asked if it would be adequate for emergency services. He asked if the community services could handle an emergency there. He stated that the plan shows a street outlet coming into his property, but no one has spoken to him about it -- and it is not likely unless he gets an offer he can't refuse. He stated that there is not sufficient access for that many homes on one narrow street. A white wood fence would not hide over 300 homes or provide security, and he would like a chainlink fence at least 8 feet tall as kids scale a six-foot fence at the school. Shrubs would be appropriate with the fence. He questioned who would maintain the fence and shrubs and for how long. He questioned how far from the property line they would be building. He asked if the buildings would be sound dead. Mr. Richardson stated that he was a member of the Aviation Noise Abatement Committee and served on the Part 150

Committee. He is a member of the Airport Long Range Planning Committee. He stated that the government sees 65 LDN as unsuitable for residential use and a portion of the land is in that contour. A 65 LDN line does not mean the noise stops, but designates where it is severe. If you step away from the line by 100 feet, you will not be able to tell the difference. There has been talk of lowering the 65 LDN to 62 or lower as the maximum for residential areas and if that happens, all of this development would be in a non-residential type area -- but he does not expect that to happen any time soon. He stated that the east/west runway is now being extended to 10,000 feet, which will make it the longest runway at the airport and all traffic between 10 P.M. and 7 A.M. will use this runway. The planes will be landing to the east along the southern edge of this property and going out to the west along the southern edge of this property. They will get all of the nighttime traffic noise on the runway. There is a plan to extend the runway to 12,000 feet for overseas traffic. He stated that the Noise Abatement Committee has been amazed at the amount of construction in noise abatement areas. Mr. Richardson stated that they have a nice community and a lot of green space. He has about ten acres. This development will be houses right beside each other with no shade and no recreational area. The development will change the neighborhood.

Mona Richardson, 3250 Bullock Lane, stated that her property is right next to the right-of-way of Bullock Lane. She stated that 3 families have called and gotten different answers. There is a 25-foot right-of-way to a certain point and then it is closed off. She moved there in 1979 and there was no right-of-way on her property then. She had a survey done in 1982 and there was no right-of-way. They ran the water back there and paid for it themselves, then the county took the 40-foot right-of-way back to her property, the Kreigler property, the Jacobs property, etc.. She stated that they were told that all the county has to do is run it in the paper and does not have to notify the homeowners. She is concerned that they will use the dead end, which is a private road, as an entrance. She will hire an attorney in this regard. She will have 10 or 11 homes running beside here. She has open ground and a pool. She has raised her children and does not want to raise someone else's children or be responsible for them getting hurt on her property or drowned in her pool. She has talked to one of the adjacent property owners who has talked to builders and has had cattle killed on her property, trees cut down, and people running four-wheelers on her farm -- but she did not come to talk as she feels there is no sense in it. She stated that board fences will not keep the people out. No one has considered where the children are going to play. There are no recreational facilities and the children will go onto the farm land. She gardens and has animals. She asked if there will just be two entrances/exits to the subdivision. She stated that school taxes have come up twice and are coming up again and the taxpayers are getting tired of the overload. She does not think the issue will pass. She questioned where the money would come from to build schools for these children and to get buses for them.

Mr. Charles Patrick, an adjacent property owner, stated that the county is too nice and prosperous to put up with high densities. Bullittsville was turned down at 4 units per acre and now there is a nice, beautiful subdivision and everyone is happy. The proposed type of development is not appropriate in this beautiful area. All down KY 20 everything that

has been built is on the upgrade. It is too nice of a county to down grade.

Mr. Arthur Miller stated that if the road is made a lot wider he will have a lot of traffic going by his house. He moved from another state to here to get away from this. There will be more taxes and he cannot afford more taxes. He has a nice home and wants to keep it that way. Sewers will be put in and he will have to pay for them. He does not have the money to pay for these things.

Charlene Tipton, a resident of Hebron, grew up on a 50-acre farm. She hopes that people will preserve the land. People have lived there all their lives with ten or more acres and she hopes they do not down grade by putting this subdivision in.

Amy Alexander, 3131 Bullock Lane, noted the comments made about overcrowding of the schools and damage to the natural wildlife. She stated that there are people who have been in this area for a long time who will have to make drastic changes toward the end of their lives. She stated that the Escues can make gradual progress toward what they want to achieve. In the short time she has been there, the Escues have not been open to the community and have signs about no trespassing and the ponds not being used -- but they just needed someone to offer them money. Her ex-husband works for a development company in Cincinnati and she has heard that this is a done deal.

Margo Grubbs, an adjacent property owner, came from Florence. She stated that she has known many of the Commissioners most of her life. Both sides of her family have been in Boone County since the late 1700's and they have seen the dramatic changes happening in the county. Florence is an explosive city, which is why she moved out. She came out to a rural area and has a nice five-acre home with a swimming pool. She can hear the hawks in the morning. She has deer and other wildlife that will not be there with this subdivision. The property is already zoned for 100 or less homes and with those kinds of homes on an acre of land you can preserve the quality and character of the land because people will take care of it and keep it manicured. She stated that there is an opportunity to do preventative law. There are people with concerns of right-of-ways, which will probably end up in a lawsuit, for any access of the property at the dogleg of the road. If there is prevention, they will not be reading about overcrowding of the school system, or traffic patterns that should have been thought out. She stated that the Commission has been criticized when decisions have been made with no forethought of what would happen. People used to move to Union and now its populous is growing incredibly. She questioned why Hebron has to do the same. The kids and teenagers hang up at the Marathon station and the Shell station because there is no place else for them to go. When you put a subdivision in you cannot govern who buys the houses. People can buy them for investments and rent them out. There will probably be urban development guidelines that will require some lower affordable housing. The people in the area do not want the change in the character of the neighborhood. They could live with the Henry Fischer homes on North Bend Road. She questioned what has changed under the guidelines to grant this application to a higher density -- nothing since the plan was adopted. She has a swimming pool and if there are 12

houses with backyards up against her property someone will climb the fence and get in her pool. She asked that the Commission do preventative law.

Mr. Henry Berlew, a resident of Petersburg Road, stated that he moved from Florence over 30 years ago for the open area. In Florence they have 100+ kids on a very small street. He stated that the obvious things are the taxes and traffic. He questioned them building \$100,000 - \$200,000 homes on a 65-foot lot.

Mr. Jim Berling stated that they would have lots 100', 80', 70' and 65', which is how they would accomplish the broad range of housing. He submitted pictures of the type of homes they intend to build. In regard to access to the dogleg section of Bullock, he stated that they have no access to that area and do not intend to access that area as pointed out by the Staff. He submitted copies of segments of the plan recorded in the courthouse, dated 1961, calling Bullock Lane a county road and showing 20-feet from center line for the right-of-way. In regard to the easements and ways in and out of the development, he stated that this is a Concept Plan. They had not prepared a Concept Plan when they were here for the last hearing because a lot of things had to be researched. They will work with the Staff and have the access points anywhere the Commission wants. They developed the plan presented in trying to work with the contours rather than moving all the dirt. In regard to the gentleman who said there is access to his property and he was not consulted, Mr. Berling stated that the access can be moved. There would ultimately be at least 3 or 4 access points. There will be no federal housing or anything like that on this piece of property. In regard to the long range Comprehensive Plan, he stated that the land use designation identified this density for this piece of property and what has changed is that there are sanitary sewers in the area. He does not think that any change is even required as they are in conformance with the long range plan.

Chairman Viox asked if there were any questions or comments from the Commission.

Mr. Neltner asked who the developer would be or if the lots will be sold so that anyone can build there. Mr. Berling stated that there will probably be 3 or 4 builders. Mr. Neltner stated that if the builder were a Fischer or a Drees, the property could be developed over a short period of time, but if there were smaller builders it might take 15 or 20 years to develop. Mr. Berling stated that the development would be phased out from the center core adjacent to the 65 LDN. By the time they are to the 65 LDN, it could be in the time period when the noise levels are less. Mr. Neltner asked if there would be volume builders. Mr. Berling stated that there will be 3 or 4 builders but they do not have any contracts yet. The builders could be anybody at this point. He added that there will be deed restrictions, architectural review, and landscaping requirements. There could be tract builders and there could be small builders.

Mr. Damstrom stated that a project this size has not gone past the Commission too frequently without some type of recreation. He asked if consideration was given to any type of recreation -- tennis courts, pools, basketball -- for the residents on the site. Mr. Berling stated that they did not consider formal recreation. Sometimes it is considered in a

planned development and clustered housing. They get mixed feelings in regard to open space from place to place and sometimes they create open space areas and nobody wants them. If they need a playground by leaving some open space, it can be considered and they can talk to the Staff in this regard. They did not consider swimming pools or tennis courts.

Mr. White asked if Mr. Escue would consider building one residence per acre. Mr. Berling stated that he did not know.

Mrs. Schaffer questioned the width of Bullock Road. Mr. Berling stated that it is 20 feet from the center and they only addressed one side of the road. Mrs. Schaffer asked if there is another plan for the other side of the road. Mr. Berling stated that he did not know. Mr. Jonas stated that he has contacted the Public Works Department and received a print out from their office of the maintained road. Bullock Lane is labeled as a county roadway 40 feet in width and 5+ miles in length to the end of the dogleg section. Some of the plats use the center of the road to identify the property.

Mr. Bailey stated that there are too many areas fast expanding and there are not things for young people to do, which may be why some of them get into trouble. He would hope something would be considered in a development this size. He stated that the Staff should look into where the fire and emergency protection is -- how far it would be, and if they are able to take care of a development like this.

Mr. Neltner noted that the Staff Report indicated that over the years the road has been improved. It is not constructed as a heavy duty road but is adequate to serve the existing residences. He asked what size road it should be for the over 300 residences. Mr. Jonas stated that the actual pavement is 20 feet with a 40-foot right-of-way. Over the years the road evolved from gravel to asphalt. Ideally, the width would be 50 feet. Public Works would have to foresee the road. The road serves the 20 - 25 units now and, according to Public Works, there is no problem with that. There was concern that the construction traffic would tear up the road, including the bridge.

Mr. McMillian stated that the picture of the Escue home looks like it would be in keeping with one house per acre -- which would enhance the Escue home.

Mr. Damstrom asked if the applicant is willing to work with the county in upgrading the bridge if it will not meet the requirements. Mr. Berling stated that the Road and Bridge Department is looking at the bridge to see if it needs any upgrading and they will talk with them at that time.


Mrs. Smith asked if the property owners have been contacted in regard to the four future entrances, realizing that this is a Concept Plan. Mr. Berling replied "no". He stated that there is a development adjacent to them with a Master Plan and they would try to go with that. If not, they would go with the topography and anticipate a development on the next site. There is a potential to come out to Bullittsville and KY 237. Mrs. Smith stated that there is only one entrance and that goes into the Escue

farm and there will not be an entrance onto the dogleg. Mr. Berling agreed.

Counselor Wilson stated that there will be no action taken this evening. This is a fact finding session. The record made this evening and the minutes of the prior session will go to the Committee. The Committee will meet and make a report back to the Commission. The Commission will decide whether or not to go along with that report. The Commission's action is a recommendation only and will go to the Fiscal Court for their final say. The Committee meeting is an open meeting, but it is not a Public Hearing.

There being no further comments, the Chairman closed this Public Hearing.

APPROVED:



William R. Viox, Chairman

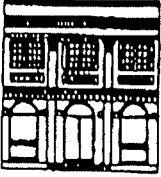
Attest:



Jan Hancock, Recording Secretary

SUPPORTING INFORMATION

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005
606-334-2196 FAX 606-334-2264

October 18, 1994

Mr. James W. Berling
1671 Park Road - Suite One
Fort Wright, KY 41011

RE: **Conditions of approval for the Zoning Map Amendment for Berling/Escue on Bullock Lane**

Dear Mr. Berling:

The following represents the potential conditions of approval as decided upon by the Zone Change Committee. If you, as applicant, and a representative of the owner will agree to the following conditions, please indicate so by signing at the space provided at the end of this letter and returning it to our office by **Noon, Wednesday, October 19, 1994.**

Conditions of Approval

1. The developer will hire a structural engineer to the satisfaction of the Planning Commission to examine the condition of the Bullock Lane bridge prior to development and during development. Any recommendations of the structural engineer will be implemented by the developer. A final resolution of the bridge will be determined at the completion of 150 lots.
2. The developer will hire a geotechnical engineer to the satisfaction of the Planning Commission to test and recommend improvements to Bullock Lane. The recommendations of the geotechnical engineer will be implemented by the developer.
3. Public sanitary sewer service to the site will be provided by the developer.
4. Any lot sold within the 65 Ldn noise contour level will include notification to the prospective buyer prior to the sale of the lot.

Mr. James W. Berling
October 18, 1994
Page 2

5. The developer is to examine the possibility of obtaining additional property in order to provide an additional access to the site from KY 237.

Sincerely,



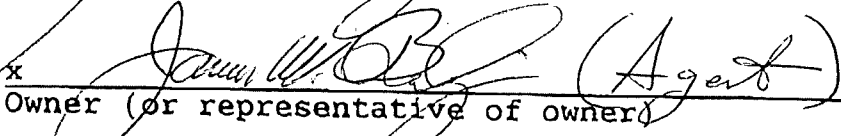
Robert A. Jonas
Planner

RAJ\par

Agreement

We, the applicant and owner, agree to the above listed conditions for approval of the requested Zoning Map Amendment for Berling/Escue at the end of Bullock Lane.

x  10-19-94
James Berling, applicant date

x  10-19-94
Owner (or representative of owner) date

If the developer does not use Bullock Lane as an entrance to the development, items one and two as listed above will not apply as conditions to this zone change.

BOONE COUNTY PLANNING COMMISSION
BUSINESS MEETING
October 19, 1994
8:00 P.M.

Mr. Fred Burch, Vice Chairman, called the meeting to order at 8:30 P.M..

COMMISSION MEMBERS PRESENT:

Mr. William Bailey
Mr. Fred Burch, Vice Chairman
Mr. Phil Damstrom
Mr. Robert Kirby, Jr.
Mr. Gayle McElroy
Mr. Don McMillian
Mr. Barry Neltner
Mr. Thurman Owens
Mr. Robert Ries
Mr. Ralph Rush
Mrs. Linda Schaffer
Mrs. Carol Smith, Secretary/Treasurer
Mr. Earl White

COMMISSION MEMBERS NOT PRESENT:

Mrs. Judy Arnett
Mr. William Viox, Chairman

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Mr. Jeff Hayes
Ms. Jan Hancock, Secretary
Mr. Robert Jonas

October 3, 1994

To Boone Co. Planning & Zoning Commission
Reference to: Zone Change Escue/Berling project

Mr. Chairman,
Mr. Vice Chairman & Commission Members:

We the residents of Bullock Lane and adjacent property owners, also residents on Rt. 20 (Petersburg Rd.) that will be affected greatly by this property zone change, would like to reinforce in writing just some of the problems we feel should be taken into consideration at this time.

We wish to state at this time that we are *not against growth and progress*. We, as Boone Co. residents know that we are the fastest growing community in the state. We also know being Hebron residents that this small community is growing at a very rapid pace. We only wish to preserve some of our finest features and help to protect some of our most valuable citizens--our farmers and small town residents.

Mr. Berling stated he was very conscious of Mr. Escue's home and surroundings, and that they were going to preserve the estate and large pond. We ask the commission members how you preserve the reminiscent character of this property by placing 4 houses per acre on this beautiful piece of property, or are they just concerned with preserving what will be left of the Escue Estate, the 7 to 9 acres surrounding the Escue home. We feel that in keeping with the setting of the Escue Mansion that *one house an acre can and will keep with the property's scenic and beautiful setting*. We also feel that placing 4 houses an acre will only destroy the characteristics of the property and the surrounding neighborhood.

We ask that you consider all concerns before making a decision on this property zone change and are hoping for your help in keeping this neighborhood as safe and beautiful as it is now.

Sincerely Yours,

All Concerned Residents

P.S. Please note attached concerns and signatures.

THESE ARE OUR CONCERNS

1. Volunteer fire department
2. Police Service-- (respond time 10 - 15 minutes)
3. Airport Noise--Part of the site is in the air contour noise zone and on a potential flight path. (See maps in zoning and planning info given out at last meeting.)
4. Roads to be used--Bridge to Bullock Lane will not tolerate such a heavy traffic flow. Bullock Lane *and* Route 20 would need to be widened.
5. Our Schools--Elementary students would fall into the Goodridge School district. Goodridge Elementary itself has 700 students and are using two portable units this year. We have enlarged Conner High and Conner Middle School and they are still having problems with over crowding. Our School bus service now is over crowded, as we have seen on the channel 12 news cast in September. How do we handle these problems?
6. Mr. Berling is only assuming where entrances and exits will be placed to this subdivision. Mr. Berling's concept plan confirms this, but has done very little to research this aspect. We have heard from adjacent property owners at the public hearing and they are against entrances and exits coming through their property.
7. Sanitation Sewers--are just in the installation stages and which will take some time to complete. The burden that will be placed on property owners who are retired and living on a fixed income has to be considered.
8. Mr. Berling stated there were to be 3 or more unnamed developers in this project. This causes us great concern as to the uniformity and quality of such a subdivision.
9. The concept plan shown at the public meeting shows no concern for the children as to where they will be playing. This causes us much distress.
10. There seems to be no concern to adjacent property owners who have live stock, and large ponds or pools on their property where neighborhood children could easily drown.
11. Mr. Berling said they could install a buffer. Of what? Trees? Board fencing similar to what is already on the property? This does not keep small children from being hurt on your property or stop your liability insurance from going up or being sued if someone gets hurt on your property. We feel that an 8 foot chain link fence should be provided for adjacent property owners by the developer.
12. The Comprehensive plan adopted 4 years ago by the county--We feel the economic, social, or physical nature of the said property has not changed to warrant such a zone change.
13. Questions concerning Old Dog Leg Road section of Bullock Lane has yet to be cleared up. We are being told "this part of the road will only be used for emergency vehicles in case of a plane crash". What does this tell us? Why put in 100 homes in a area where there's a chance for a plane crash?
14. Streets to be developed--Who will be responsible for them once this project is completed, the residents or the county? Who?
15. With rezoning this property can the developers come back and ask for condos, duplexes, and apartments to be added to the plan since it is just a concept plan?

①

NAME	ADDRESS
1. Paul W Crigler	3247 BULLOCK LN. HEBRON, Ky 41048
2 Colleen Crigler	3347 Bullock Lane Hebron Ky 41048
3 William N. Mitchell	Bullock Ln. Hebron Ky "
4. Raymond A. Thieson	3222 BULLOCK LN Hebron Ky 41048
5 Karen L. Thieson	3222 Bullock Ln Hebron Ky 41048
6 Arthur V. Miller	3107 Bullock Lane Hebron Ky 41048
7 Isabel Hoagland	3085 Bullock Ln. Hebron Ky 41048
8 Richard Hoagland	3085 Bullock Ln Hebron Ky 41048
Carl Feyser	3073 Bullock Ln Hebron Ky 41048
Mary Peppers	3073 Bullock Ln Hebron, Ky. 41048
Henry L. Bullock	3080 Bullock Ln. Hebron, Ky. 41048
Pat C. Bullock	3080 Bullock Ln. Hebron, Ky. 41048
Clayton Skopkeid	3055 Bullock Lane Hebron, Ky 41048
Art Skopkeid	3055 Bullock Lane Hebron, Ky 41048
Nancy Collett	3029 BULLOCK LANE HEBRON, KY 41048
James Collett	Same.
Marita Westlake	3029 Bullock Lane Hebron Ky 41048
Loisinda J. Westlake	3029 Bullock Lane Hebron Ky 41048
Victoria Cook	3051 Bullock Ln Hebron Ky 41048
Robert W. Cook	3051 Bullock Ln Hebron Ky 41048
Dan Noble	3043 Bullock Ln Hebron, Ky 41048
Kay Noble	3043 Bullock Ln Hebron, Ky 41048
Bob Kottmyer	3059 Bullock Ln Hebron Ky 41048
Beverly Kottmyer	3059 Bullock Ln Hebron, Ky 41048
Helma Marshall	3065 Bullock Ln Hebron, Ky 41048
E. L. Jacobs	3232 Bullock Ave Hebron, Ky 41048
Clare Jacobs	3232 Bullock Ave Hebron, Ky 41048
Clare Helm	3232 Bullock Ave Hebron, Ky 41048
Jeff Jacobs	3232 Bullock Ave Hebron, Ky 41048
W. Jacobs	3232 Bullock Ave Hebron, Ky 41048
Roger Ruppington	3250 Bullock Ln. " " " "
Mona Kitching	" " " "
Margo Stubbs	Bullock Ln
Samy Alexander	" "
Fanny Miller	" "
Mary Miller	3093 Bullock Hebron Ky 41048

(2)

NAME	ADDRESS
W. Marathy Mullins	2383 Petersburg Rd. Hebron, Ky
Harvey Lyhardson	2377 Petersburg Rd Hebron Ky 41048
Charles Patrick	2420 Petersburg Rd Hebron Ky
Jane Patrick	2420 Petersburg Rd Hebron Ky
Billy Spotts	2346 PETERSBURG HEBRON, KY
Vicky Swift	2346 Petersburg Hebron Ky 41048
Henry Burlew	2348 Petersburg Hebron Ky.
Sam Roberts	2318 Pittsburg Rr.
Bessie Roberts	2318 Petersburg Rr. Hebron Ky.
Ken Thompson	2300 Petersburg Rd., Hebron, Ky. 41048
Jeany J. Thompson	2300 PETERSBURG Rd HEBRON, Ky 41048
Faith Kroth	2304 PETERSBURG RD, Hebron KY 41048
Bonnie Kroth	2304 Petersburg Rd, Hebron KY 41048
Wanda Kroth	2281 Petersburg Rd Hebron Ky 41048
Shari Moore	2281 Petersburg Rd Hebron KY 41048
Sharon Bullock	2179 Petersburg Rd Hebron Ky 41048
William Bullock	2179 Petersburg Rd Hebron Ky 41048
Mary Wheeler	2175 Petersburg Rd. Hebron Ky.
Norman B. Junk	2167 Petersburg Rd Hebron Ky.
George Mabley	2163 Petersburg Rd. Hebron Ky.
Annie Mabley	2163 Petersburg Rd. Hebron, Ky.
Keith Mabley	2163 Petersburg Rd. Hebron Ky
Mary Spencer	2139 Petersburg Rd Hebron Ky.
Foster Baker	2125 Petersburg Rd. Hebron Ky
Esther Baker	2125 Petersburg Rd. Hebron Ky. 41048
Nancy M Richardson	2377 Petersburg Rd. Hebron Ky 41048
James Conrad	2323 Petersburg Rd. Hebron Ky 41048
Wadey Conrad	2323 Petersburg Rd Hebron Ky 41048
Raymond L. Mullin	2383 Petersburg Rd Hebron Ky
Glorie Smith	2095 Petersburg Rd " "
Stan Smith	2095 Petersburg Rd " "
Cheryl Scudder	2157 Petersburg Rd " "
Robert Edmonds	2157 Petersburg Rd " "
Mary A. Clifford	2117 Petersburg Rd. " "
James & Clifford	2117 Petersburg Rd " "
Spida Baumgartner	2101 Petersburg Rd. Hebron Ky 41048
Mike Baumgartner	2101 Petersburg Rd. Hebron Ky 41048
George Somers	2087 Petersburg Rd Hebron Ky 41048

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410.5. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "B"

ORDINANCE NO. 710.4 - PARKS

Judge Lucas read a summary of Ordinance No. 710.4 and declared a Public Hearing open at 5:43 p.m. As there was no opposition, Judge Lucas declared the Public Hearing closed at 5:44. Commissioner Meihaus moved, seconded by Commissioner Campbell, to approve on Second Reading Ordinance No. 710.4, an ordinance relating to the use of the Boone County Parks and repealing Ordinance Nos. 710.1, 710.2, 710.2A. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "C"

ORDINANCE NO. 1010.12 - GRASS AND/OR WEEDS

Judge Lucas read a summary of Ordinance No. 1010.12 and declared a Public Hearing open at 5:45 p.m. As there was no opposition, Judge Lucas declared the Public Hearing closed at 5:46. Commissioner Campbell moved, seconded by Commissioner Patrick, to approve on Second Reading Ordinance No. 1010.12, an ordinance of the Boone County Fiscal Court relating to failure to mow grass and/or weeds and repealing Ordinance Nos. 1010.2 AND 1010.2A. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "D"

ORDINANCE NO. 920.294 - HUMPERT/ST. HENRY HIGH SCHOOL

Judge Lucas read a summary of Ordinance No. 920.294 and declared a Public Hearing open at 5:47 p.m. As there was no opposition, Judge Lucas declared the Public Hearing closed at 5:48. Commissioner Meihaus moved, seconded by Commissioner Patrick, to approve on Second Reading Ordinance No. 920.294, an ordinance of the Boone County Fiscal Court recommending approval for a request of Lawrence J. Humpert (Applicant) for David M. Otte, St. Henry High School (Owner) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Urban Residential One/Planned Development (UR-1/PD) to Public Facilities (PF) for a 32.93 acre site generally located on the north side of Donaldson Highway across from Marydale, Boone County, Kentucky, as recommended unanimously by the Boone County Planning Commission via Resolution No. R-94-040-A. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "E"

ORDINANCE NO. 920.295 - RICHWOOD LAND, INC./TA OPERATING CORPORATION

Judge Lucas read a summary of Ordinance No. 920.295 and declared a Public Hearing open at 5:48 p.m. As there was no opposition, Judge Lucas declared the Public Hearing closed at 5:49. Commissioner Meihaus moved, seconded by Commissioner Patrick, to approve on Second Reading Ordinance No. 920.295, an ordinance of the Boone County Fiscal Court recommending approval for a request of Richwood Land, Inc. (Applicant) for TA Operating Corporation (Owners) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Rural Suburban (RS) to Commercial Services (C-3) for a 2.23 acre site, generally located at the northeast corner of KY 338 and I-75, Boone County, Kentucky, recommended unanimously by the Boone County Planning Commission via Resolution No. R-94-032-A. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "F"

ORDINANCE NO. 920.296 - BERLING/FRAZIER AND DOROTHY ESCUE

Judge Lucas read a summary of Ordinance No. 920.296 and declared a Public Hearing open at 5:50 p.m.

Jim Berling, applicant, and Jerry Dusing, attorney representing the applicant, were present to answer questions. Commissioner Patrick asked if an alternative route was being considered in lieu of Bullock Lane. Mr. Berling advised accessibility on Kentucky 20 is being considered and access to Kentucky 237 is also being explored.

Mr. John Burton and Mr. Harvey Richardson, members of the Technical Advisory Subcommittee of the Noise Abatement Committee were present and expressed concerns about zone changes that will allow a development in or near the 65 LDN (noise contour areas). Mr. Richardson said full disclosure should be mandatory to potential buyers near a noise contour corridor. Mr. Richardson presented the court with a petition of adjacent property owners opposing the zone change request. Exhibit "G" Mr.

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Richardson said other major concerns are the density, overcrowding schools, and too much traffic on either Bullock Lane or Kentucky 20. Both expressed concerns that the Boone County Planning Commission is not abiding by their own recommendations, and that residential structures should not be placed in a noise contour area.

Several residents spoke, primarily expressing concerns about placing this development in the noise contour area, preserving the character of the area, density of the development, potential traffic problems, overcrowding of the schools, lack of recreational facilities for children in a development of this density, and the inherent burden to the local fire department and emergency medical service.

Attorney Dusing said Condition #4, placed by the Boone County Planning Commission, makes the buyer aware of the noise contour area, but if the court doesn't feel this condition is adequate, he is willing to work with them on a method for full disclosure. Mr. Dusing reiterated that noise is not the issue, however, his client is willing to develop the area most sensitive to the noise last, noting that noise contours will change according to the Master Plan of the airport.

Attorney Dusing said his client is proposing only three units per acre while the Comprehensive Plan recommends 4 units per acre for the proposed zoning.

Commissioner Patrick said that 171 units is too much density and the road is not adequate to handle the density. She said the Goals and Objectives of the Comprehensive Plan is to keep the flavor and rural nature of Boone County.

Commissioner Meihaus said she feels the RSE zoning is appropriate for the area. She said that eighteen of the acres are SR-1 where 4 units per is permitted. She said that she agrees with Commissioner Patrick that the Goals and Objectives of the environmental element of the Comprehensive Plan are very careful in saying it is important to preserve rural character of the site. Commissioner Meihaus said allowing 4 units per acre is going against preserving the rural character. Commissioner Meihaus said the proposed development too dense for this particular area and she feels it will negatively impact the character of the area.

Mr. Berling said he is willing to commit to 3 units per acre. Commissioner Patrick said three units per acre is still too much density.

Commissioner Campbell said the density is too high for this area and expressed concerns about the egress and ingress, questioning if the alternate road to Bullock Lane is a firm commitment. Mr. Berling said he has written confirmation from the adjacent property owner to allow him to acquire the land to build the alternate road.

Commissioner Campbell said that he agrees with Attorney Dusing that noise is not an issue and people can make intelligent decisions as to whether or not they want to live in a noise contour area.

Commissioner Patrick reiterated her concerns about traffic congestion.

Hearing no further comment, Judge Lucas declared the Public Hearing closed at 7:00 p.m.

Commissioner Meihaus said the existing zoning is in conformity with the existing Comprehensive Plan and moved, seconded by Commissioner Patrick, to deny on second reading Ordinance No. 920.296, an ordinance of the Boone County Fiscal Court to consider the request of James W. Berling (Applicant) for Frazier and Dorothy Escue (Owners) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Rural Suburban Estates (RSE) to Suburban Residential One (SR-1) for a 104 acre site generally located at the end of Bullock Lane, off KY 20, Boone County, Kentucky, that was recommended by the Boone County Planning Commission on a vote of 7-6 via Resolution No. R-94-042-A. Judge Lucas called for a vote of the motion, Commissioner Patrick voted AYE, Commissioner Meihaus voted AYE, Commissioner Campbell voted AYE and Judge Lucas voted NO.

ORDINANCE NO. 100.1A - INVESTMENT POLICY

Judge Lucas presented for first reading Ordinance No. 100.1A, an ordinance of the Boone County Fiscal Court amending the Boone County Administrative Code (Ordinance No.

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100.1) as adopted on September 27, 1994, incorporating the details of administrative procedure for the investment policy of the County. Judge Lucas advised second reading will take place at the December 6th meeting of the Boone County Fiscal Court.

ITEM VIII. FISCAL MATTERS

Commissioner Meihaus moved, seconded by Commissioner Patrick, to approve Fiscal Court Order #8. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "H"

Commissioner Patrick moved, seconded by Commissioner Meihaus, to approve the Invoice Report dated 11/18/94 and the additional invoices per the memo from Accounts Payable dated 11/22/94. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibits "I" & "J"

ITEM IX. ADJOURNMENT

Commissioner Campbell moved, seconded by Commissioner Patrick, to adjourn the meeting, ALL PRESENT VOTING AYE.

CLERK CERTIFICATION

I, Carolyn A. Rudicill, having been duly appointed to the office of Fiscal Court Clerk, do hereby certify that this is a true and accurate record of the actions taken by the Boone County Fiscal Court at the meeting of November 22, 1994.

SIGNED:

Carolyn A. Rudicill
Fiscal Court Clerk

Date: _____