

APPLICATION FORM ZONING MAP AMENDMENT

BOONE COUNTY PLANNING COMMISSION
(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Name of Project STITH PROPERTY
2. Location of Project SOUTH SIDE OF KY 18; 1/2 mi. EAST OF KY #237
3. Total Acreage of Site 55.23 ACRES ±
4. Current Zoning of Site C-4 (14.72 Ac. ±) AND SR-2 (40.51 Ac. ±)
5. Proposed Zoning (Classification being requested) CHANGE TO C-4 FROM SR-2, AND PD OVERLAY (PLANNED DEVRT) ON 55.23 AC ±
6. Proposed Uses (please specify each use)
29.86 Acres ± COMMERCIAL/RETAIL (C-4 USES)
30.37 Acres ± MULTI-FAMILY - APARTMENTS
7. Names of Applicant(s) SOUTHEAST DEVELOPMENT CORP.
Phone Number 502-587-2820 Fax No. 502-587-6370
8. Address of Applicant(s) 462 SOUTH FOURTH AVE. SUITE 625 MEIRINGER TOWER
LOUISVILLE KY 40202
City State Zip
9. Name of Property Owner(s) CHARLENE F. COMBS
Phone Number _____ Fax No. _____
10. Address of Property Owner(s) 3599 PETERSBURG RD.
BURLINGTON KY 41005
City State Zip
11. Proposed Building Intensities (please specify)
COMMERCIAL/RETAIL (C-4 USES) → 270,410 SF / 29.86 AC = 108,775 SF/AC
MULTI-FAMILY → 240 UNITS / 30.37 AC = 7.9 UNITS/AC
12. Are there any existing buildings on the site? NO
How many? _____
13. Deed Book 569 Page No. 147 Group No. 2031
14. Are you also applying for:
NO Conditional Use Permit
NO Dimensional Variance
15. Have you submitted a Concept Development Plan? SUBMITTED CONCURRENTLY
16. Have you had a pre-application meeting with BCPC Staff? YES
17. 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 Public Works Department
(over)

EXHIBIT "A"

STAFF REPORT

Request of **Southeast Development Corporation (applicant)** for **Charlene F. Combs (owner)** for a Zoning Map Amendment from Commercial Four (C-4) to Commercial Four/Planned Development (C-4/PD), a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four/Planned Development (C-4/PD), and a Zoning Map Amendment from Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD) all for an approximately 55 acre site located on the south side of KY 18 near Taylor Drive, Boone County, Kentucky. The request is for a zone change to allow a commercial/retail center and an apartment complex.

June 26, 1996

The applicant is requesting to rezone a \pm 55.23 acre tract of land which is currently zoned Commercial Four (C-4) and Suburban Residential Two (SR-2) to Commercial Four/Planned Development and Suburban Residential Two/Planned Development (C-4/PD/SR-2/PD). The rezoning would allow the development of a commercial strip center on \pm 24.86 acres and a 240 unit apartment complex on \pm 30.37 acres. The site which is known as the Stith property is located on the south side of KY 18 between Oakwood Drive and Camp Ernst Road. The site adjoins Willow Bend Subdivision to the south and the Flick's/Walgreens Center is located to the north of the site (See Map #1).

Surrounding Zoning And Land Uses (See Map #2)

- North: Flick's/Walgreens Center and other businesses zoned Commercial Two (C-2)
- South: Willow Bend Subdivision zoned Suburban Residential Two (SR-2)
- East: The Crossings of Oakbrook zoned Urban Residential One/Planned Development and undeveloped land zoned Commercial Two/Planned Development (C-2/PD)
- West: Undeveloped land zoned Public Facilities and The First Church of Christ zoned Suburban Residential One (SR-1)

The current Commercial Four (C-4) zoning district allows an intensity of 13,000 square feet per acre and the Suburban Residential Two (SR-2) zoning allows a intensity of 8 dwelling units per acre. The proposed Plan Development Overlay zoning would allow a 50% increase in the intensity in both zones.

Site Characteristics (See Map #3)

The applicant's site contains approximately 1,600 feet of road frontage along KY 18 and the property is approximately 1,700 feet deep. This site has three areas where access can be made to KY 18, one of which has a traffic signal. A 15 feet hill exist along the eastern 1/3 of the KY 18 frontage, while the remaining KY 18 road frontage contains a drainage swale that starts at the western property line and drops approximately 30 feet to the center of the site.

There is an intermittent stream which runs thru the front third of the site. The elevation change from the lowest point of the this creek to the highest point on the site is approximately 71 feet within a distance of 1,200 feet. Approximately 2/3 of the site is covered with vegetation with the majority of this vegetation being comprised of mature trees. A sanitary sewer line runs thru the site along the creek while public water is located along KY 18. A 50 feet easement runs thru the site from KY 18 near the western property line to the south thru Willow Bend Subdivision. This easement contains a 22 inch oil line pipe for Mid-Valley Oil.

The topography of the site changes substantially from KY 18 to the creek dropping on average 40 or more feet. The site then rises approximately 50 feet to the south to a hilltop near the center of the site.

Relationship to the Comprehensive Plan

This request must be reviewed on the basis of its relationship to the adopted 1995 Boone County Comprehensive Plan. The Future Land Use Map of this plan calls for the site to develop as Commercial © 400 feet south of KY 18 and High Suburban Density Residential (HSD). This land use designation calls for single-family housing of up to 8 dwelling units per acre. This classification is typified by townhouse, condominium, and zero-lot line development, and also pertains to mobile home parks.

The adopted Goals and Objectives of the Environment element of the 1995 Boone County Comprehensive Plan states that new development within Boone County is designed, constructed and operated in such a way that the quality of the existing physical environment and social environment are protected and enhanced. Development within Boone County preserves and promotes a better quality of life while allowing a reasonable economic return.

The Land Use Text of the 1995 Comprehensive Plan indicates that KY 18 and KY 237 are important roads to all of Boone County; the primary function of these roads is to move traffic through the area, with direct access to specific properties being a secondary function. Intersections along KY 18 should continue the existing pattern of spacing of major access points of approximately 600 feet. A parallel roadway network should be developed to provide access to properties fronting on the roadway.

The Land Use Text further states that:

West of Oakbrook Market Place development, limited commercial development should occur. Primarily, High Suburban Density Residential development, including townhouse units, should front on the south side of KY 18 opposite Old KY 18. The Future Land Use Map indicates a mixture of land uses along the KY 18 corridor and which will provide a transition into existing and planned public facilities uses near KY 237. The planning of this High Suburban Density residential development should incorporate a road connection between Oakbrook Market Place and Camp Ernst Road, and retain existing mature trees. This area extending south and connecting to Willow Bend Subdivision is a prime location for a potential Transit Oriented Development (TOD) due to the wide variety of surrounding land uses and importance of the KY 18 corridor. This plan recommends that this site be considered for a specific design model to explore the feasibility of the TOD concept.

The Transportation Element defines a Transit Oriented Development (TOD) as:

a mixed-use community within an average 2,000 foot walking distance of a transit stop and core commercial area. TODs mix residential, retail, office, open space, and public uses in a walkable environment, making it convenient for residents and employees to travel by transit, bicycle, foot, or car.

This Element further indicates that one of the most appropriate locations for TODs within Boone County is the undeveloped land on the south side of KY 18 between the Extension Center and the commercial area in Oakbrook and to the north of the Willow Bend Subdivision.

The Housing Element of the Comprehensive Plan indicates within the Housing Densities section that high density residential areas should be located sufficiently near and with convenient access to major streets, highways, and shopping and public facilities. A progression of densities of residential uses from high (multi-family) to low (single family) shall be encouraged. In addition, this section further states that:

TODs offer attractive and affordable housing options. The range of housing options could vary from apartments above commercial uses in the activity centers; nearby garden apartments and condominiums. Adjacent to them would be small-lot single family houses and finally, at the edge of the development, standard, single-family houses. All sections of the TOD development are directly connected with prominent pedestrian system, and are easily accessible to commercial and public land uses.

This Element further states within the Residential Areas section which describes geographical area of the County that the Florence-Burlington Area that:

The undeveloped land on the south side of KY 18 between the Extension Center and Oakbrook Center and the Oakbrook Apartments would be another excellent site for a small transit-oriented, mixed-use planned development. Commercial uses and high-density residential units should be integrated along KY 18 and then normal lot size, single-family houses connected to streets in the Willow Bend Subdivision.

The Business Activities Element of the Comprehensive Plan indicates within the Areas of Future Commercial Activity that:

Many problems with the location and arrangement of commercial uses have emerged, especially along KY 18 and U.S. 42 corridors. Commercial developments along KY 18 and U.S. 42 west of Mall Road should not be regionally oriented nor should they attract additional traffic, but rather be served by the existing of future population of the area.

Concept Development Plan (See Map #4)

The propose plan shows a large strip center which would be approximately 1,150 feet in length facing KY 18. The center would be anchor on the east side of the site by 56,800 square feet grocery store with a future expansion area of 12,000 square feet and to the west by a 30,000 square feet retail use. In between the two anchors would be another 58,000 square feet of retail space used by small retailers. The total square footage of the retail center would be 156,800 square feet with the grocery store addition. The proposed intensity of this retail center would be 10,083 square feet per acre on 15.55 acres. The Commercial Four (C-4) zone allows 13,000 square feet per acre and the Planned Development allows a 50% increase in the intensity. The 8 commercial outlots proposed in front of the retail center would allow for an additional 121,030 square feet of commercial/retail space. The Planned Development Overlay would allow for an increase

of 50% which could permit an additional 60,515 square feet of retail/commercial space. However, the applicant's Concept Development Plan does not indicate specific uses for the outlots other than uses which are permitted within the Commercial Four (C-4) Zoning District (See Exhibit A). The total square footage indicated on the applicant's plan is 338,345 square feet.

The plan also proposes 240 apartments behind the retail center with access from a public road which would be developed along the eastern property line and connect with the existing traffic signal on KY 18. The Suburban Residential Two (SR-2) zoning district where the apartment would be developed allows eight (8) dwelling units per acre. The Concept Development Plan proposes a density of 7.9 units per acre on 30.37 acres. The proposed Planned Development Overlay would allow an intensity of 12 units per acre which would allow 364 apartment units to be developed.

The applicant is also proposing to extend the existing frontage road named Patrick Drive through the site to the western property line. An additional traffic signal is proposed at the western most median cut on KY 18. The development would have three access points from KY 18 and a transit center with bicycle parking at the intersection with KY 18 and the proposed frontage road at the eastern end of the site.

The plan shows a tree buffer along the south property line which has varying widths ranging from 200 feet wide to 60 feet wide. The plan shows that approximately three quarters of the site would be graded and that the intermittent stream which runs through the site would be relocated and piped. The grocery store would be located overtop of the existing location of the creek resulting in approximately 30 to 35 feet of fill.

The applicant's plan shows the existing Commercial Four (C-4) zoning line being relocated 400 feet further to the south behind the proposed grocery store and 314 feet for the rest of the site.

The applicant has prepared a traffic impact study for the proposed development. The total vehicle trips produced according to the study would be 17,843 trips on average for a 24 hour period. However, this does not include the 24 hour average for vehicle trips for the supermarket use. The study also indicates that road improvement will be made to Drive C opposite Taylor Road which would include a turn lane on westbound KY 18 and turn lane on eastbound KY 18. Drive A would have a traffic signal installed and turn lanes for both east and westbound traffic lanes. Drive B will have an eastbound turn lane installed.

Staff Concerns

1. The Comprehensive Plan encourages street connections whenever possible, or practical. The applicant's site adjoins Willow Bend Subdivision to the south which has 321 lots. Currently this subdivision has only one means of ingress and egress

which is from Camp Ernst Road. The applicant's site has two streets off Willow Bend Subdivision which dead-ends at the property line. Staff believes that Hidden Springs Court and Hunters Trace should be extended through the applicant's site and connect with KY 18 at the two traffic lights which are proposed. In addition, staff believes that a connection should be explored with the First Church of Christ to allow another means of ingress and egress for the church which currently uses Camp Ernst Road as its only means of access. Staff believes that both street connections are necessary so as to distribute the subdivision traffic more equally and preventing all of the traffic from being concentrated on one street.

2. Staff believes that the design of the buildings should be explored so that a common design theme is accomplished for the retail center. In addition, building materials, colors, roof treatments, massing and architectural treatments should be reviewed.
3. Staff believes that the number of outlots and the permitted uses of the outlots should be closely examined. If 8 fast food restaurants were to be developed, staff believes this would create a negative visual impact along KY 18. However, if a mixture of office, banking and commercial uses were to be developed, staff believes that the visual impact would be lessened. The outlots will also help to break up the mass of the proposed 1,150 foot retail center which staff believes would be beneficial. The Commission should consider requiring the parking of each outlot to be located behind or to side of any building (KY 18 would be the front of the building) within the outlots and that the uses for each outlot should continue the established design theme of the retail center.
4. Article 15 encourages a development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns. Staff questions whether this development accomplishes this goal when approximately three-fourths (3/4) of the site will be graded.
5. Staff believes that the relocation and expansion of the proposed transit center should be explored. Staff believes that the transit center would be more effective if moved to lot three and the parking area shared with the retail center parking.
6. Staff believes that this development should have connections which encourage pedestrian movement between the retail and the apartments. A more central location should be explored as well as a pedestrian system throughout the apartments.
7. Staff believes that the proposed retail center, commercial outlots and apartments are not innovative nor is this an imaginative design as the Intent Section of Article 15 Planned Development District outlines. Staff believes that the same type of proposal could be developed under the current zoning classifications.

8. Staff believes that a condominium development should be considered where the apartments are proposed as an alternative to this proposal.
9. Staff believes that special consideration should be made regarding lighting for this development in order to minimize the impact to the existing and proposed apartment developments. In addition, staff questions what type of screening will be used to buffer the loading dock area of the grocery store from the existing apartment complex to the east.
10. Staff believes that a comprehensive sign package should be developed for all commercial and residential uses within this proposal. Monument style signs with a minimum height and size should be considered for the outlots and design standards established.
11. Staff received approximately 70 letters (most of them form letters) from concerned citizens regarding this request. Due to the volume of the letters staff has included only one letter as a sample as Exhibit B. The rest of the letters are included in the project file for review.
12. The applicant's traffic study indicates that approximately 80 percent of the vehicle trips produced by the grocery store will be of a past-by-nature, which means these will not be new cars on KY 18. Staff questions the 80 percent figure in traffic report. A significant amount of traffic will be past-by-traffic because of the importance of KY 18 as an east/west corridor in Boone County, however, staff believes that a large amount of existing residents will be coming to this proposed development from the east which would not normally travel west on KY 18.

Staff also believes that a left deceleration lane should be added to Drive B as indicated on the Concept Plan found within the staff report for traffic traveling west bound on KY 18. The existing frontage road to the east of the applicant's site and the proposed frontage road realignment on the applicant's site creates a concern. Conflicting traffic movements will create a greater potential for accidents at this traffic light which staff believes should be closely examined.

Conclusion

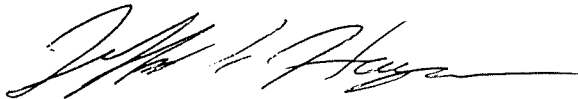
The Planning Commission must use the following criteria in granting approval of a zone change or map amendment:

1. The map amendment is in agreement with the 1995 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 1995 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,



Jeffrey F. Hayes, AICP
Planner

JFH\par

Attachments

EXHIBIT 1

SECTION 1040

COMMERCIAL FOUR (C-4)

The purpose of the Commercial Four district is to provide locally oriented commercial services, either retail, recreational or office uses, in areas located near or adjacent to interstate highways and arterial roads. These areas are either currently or expected to experience rapid growth due to the population projections and recommended land uses in the Boone County Comprehensive Plan and in other land use studies. Such uses would serve to accommodate the service demands of an expanding local population that normally can't be met because of the limited type and scale of office, recreational or retail use in the immediate area. These types are intended to serve the local population or community rather than regional interests. Such districts shall be located near or adjacent to interstate highways and along arterial roads whereby access and visibility are required to serve local residents. These districts shall be limited in size in order to provide maximum egress and ingress for the local population.

SECTION 1041

Principally Permitted Uses

The following uses are permitted, subject to the minimum and maximum size, standards and intensity provisions of this zoning district:

1. Grocery stores and supermarkets;
2. Convenience stores;
3. Banking services (including drive-thru facilities), savings and loan associations, credit unions and other credit services;
4. Postal services;
5. Department stores or general merchandise stores;
6. Gasoline service stations, including vehicle repair maintenance and wash facilities;
7. Eating and drinking establishments, including alcoholic beverages and with drive-thru facilities;
Eating and drinking establishments, including alcoholic beverages (CITY OF FLORENCE ONLY);
8. Furniture stores;
9. Hardware stores;
10. Recreation centers, gymnasiums, clubs and similar athletic uses;
11. Medical offices, clinics and laboratory services;
12. Travel agencies;
13. Legal, architectural, engineering, accounting, insurance and real estate services;
14. Photo finishing services;
15. Florists, excluding greenhouses;
16. Shoe repair and dry cleaning services;
17. Nursery and day care centers;

18. Beauty and barber salons;
19. Veterinary services and pet grooming services;
20. Bakery stores;
21. Apparel shops;
22. Drug store;
23. Garden supplies;
24. Fire stations and related services and police stations;
25. Laundromats and self-service washing and drying;
26. Opticians and optical goods;
27. Television and audio sales and repair;
28. Paint and wallpaper stores;
29. Carpet stores;
30. Books, stationery, gift shops and card shops;
31. Household and electrical appliance stores including repair;
32. Sporting goods stores;
33. Video stores.

SECTION 1042

Accessory Uses

Accessory uses, building and structures customarily incidental and subordinate to any of the permitted uses including:

1. Recreation uses, buildings and structures customarily incidental and subordinate to any of the permitted uses and defined to be:
 - a. Stages and similar assemble areas;
 - b. Auditoriums, exhibition halls and other public assembly spaces;
 - c. Amusement centers;
 - d. Tennis courts and swimming pools;
 - e. Play lots, tot lots, recreation centers and similar athletic uses;
 - f. General leisure, ornamental and other park spaces;
2. Directional and incidental signage (See Article 34);

70 ARTICLE 10

3. Parking (See Article 33);
4. Temporary buildings incidental to construction;
5. Storage, uncrating or unpacking areas provided such activities are an integral function of the permitted uses;
6. Retail sale of gasoline, excluding truck stops.

SECTION 1043

Conditional Uses and Criteria

The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment and Zoning Appeals provided: a) the activity is an integral and subordinate function of a permitted commercial use or service; or b) the use, building or structure is subservient to and not of scale, nature, trade or other character which will compete, detract or conflict with the purpose and permitted uses to the district:

1. Churches, synagogues, temples and other places of religious assembly for worship;
2. Vehicle repair and maintenance businesses;
3. Mini-warehouses or storage facilities;
4. Hotels, tourist counts and motels only where the primary trade is of direct relation or support of the uses and purposes of the district.

SECTION 1044

Intensity

The intensity of use in a Commercial Four (C-4) district is 9,000 - 13,000 square feet of gross floor area per 1 acre. The maximum intensity for any principally permitted use or accessory use shall not exceed 100,000 square feet.

SECTION 1045

Minimum/Maximum Size

The minimum size and extent of a Commercial Four (C-4) district, including all the contiguous private property so designated, shall not be less than three (3) acres. There is no maximum size limit of a C-4 district. However, no development or project in a C-4 district shall exceed 30 acres in size.

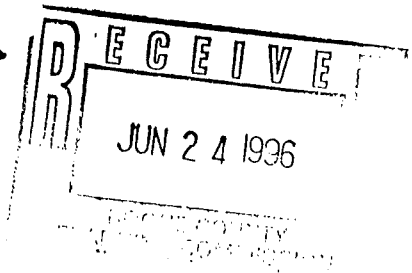
SECTION 1046

Minimum Standards

See Article 31 for dimensional standards. (Site Plan Review required for all permitted uses) (See Article 30)

EXHIBIT B

June 1, 1996



BOONE COUNTY PLANNING COMMISSION MEMBERS

William R. Viox, Chairman (Boone County)
Michael McKinney, Vice-Chairman (Boone County)
Judy Arnett, Secretary-Treasurer (Florence)
Barry Neltner, Temporary Presiding Officer (Florence)
William Bailey (Florence)
Fred Burch (Walton)
Arnold Caddell (Boone County)
Phil Damstrom (Union)
Donald McMillian (Walton)
Bob Millay (Boone County)
Robert Ries (Florence)
Ralph Rush (Boone County)
Linda Schaffer (Florence)
Carol Smith (Boone County)
Earl White (Florence)

I am concerned about the proposal to develop an apartment complex adjacent to the Willow Bend subdivision. My concerns are as follows:

1. Increased traffic through the subdivision will endanger children.
2. Building apartment buildings among houses will affect the property value of these houses.
3. Elimination of the green space will have a negative environmental impact.

Based upon the above listed reasons, I am opposed to this proposed development.

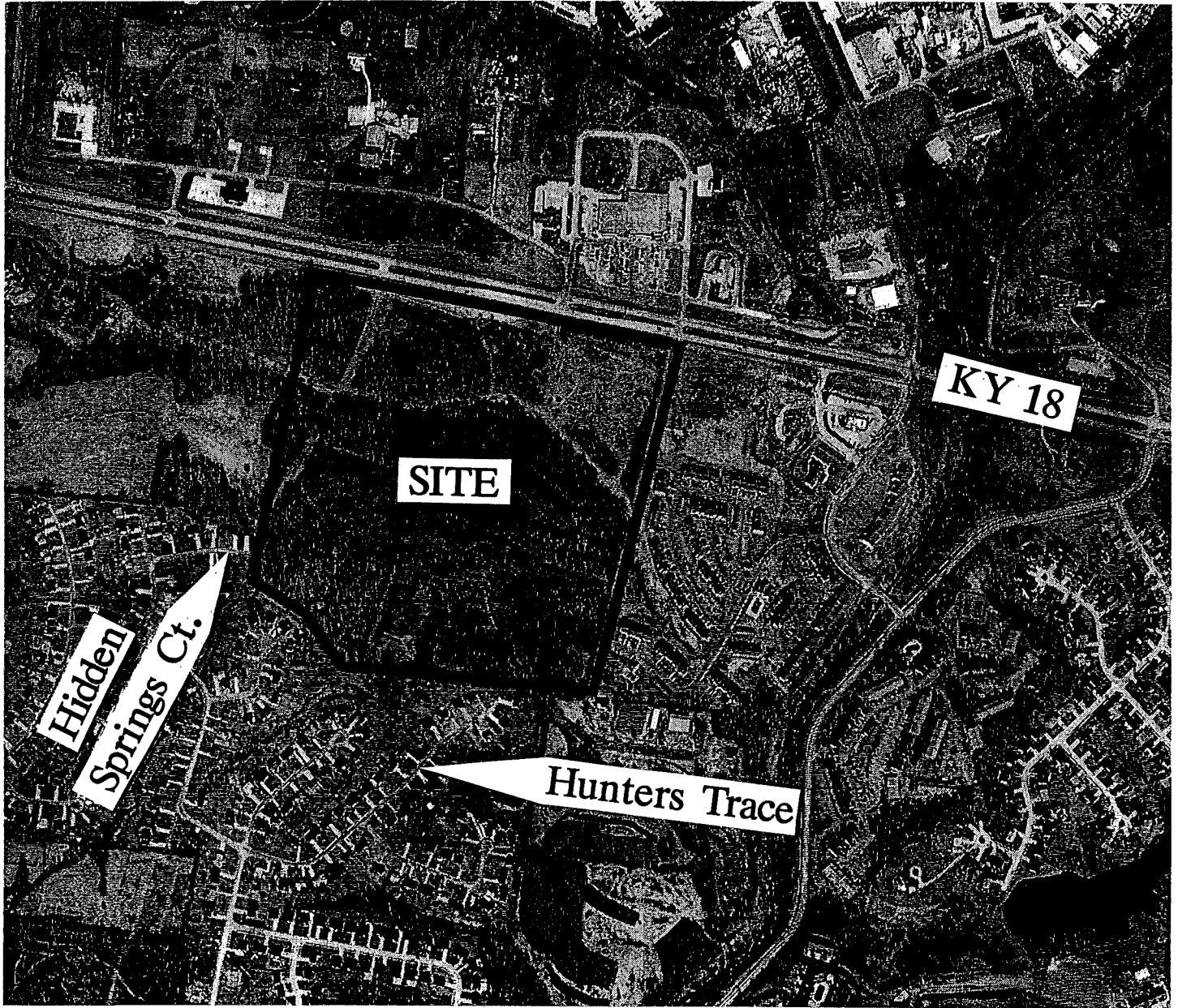
Sincerely,

Lela J. Farmer
Lenny Farmer

*1820 Clearbrook Dr.
Burlington Ky. 41005*

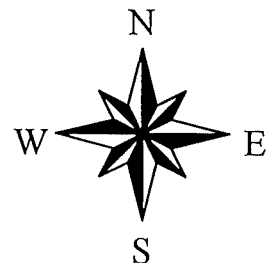

Southeast Development Corporation

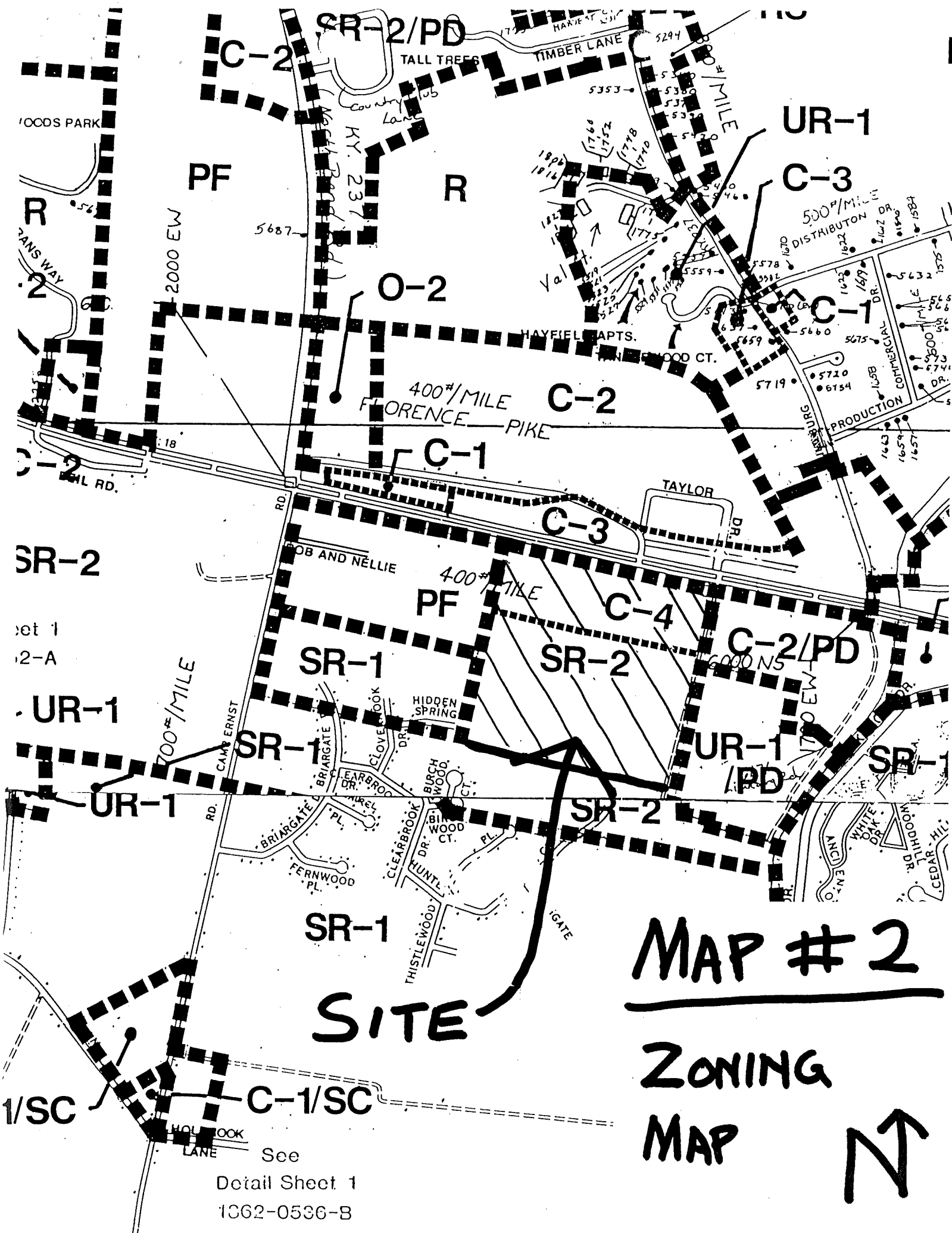
Project Site



MAP # 1

0 500 1000 1500 2000 Feet





SITE

MAP # 2

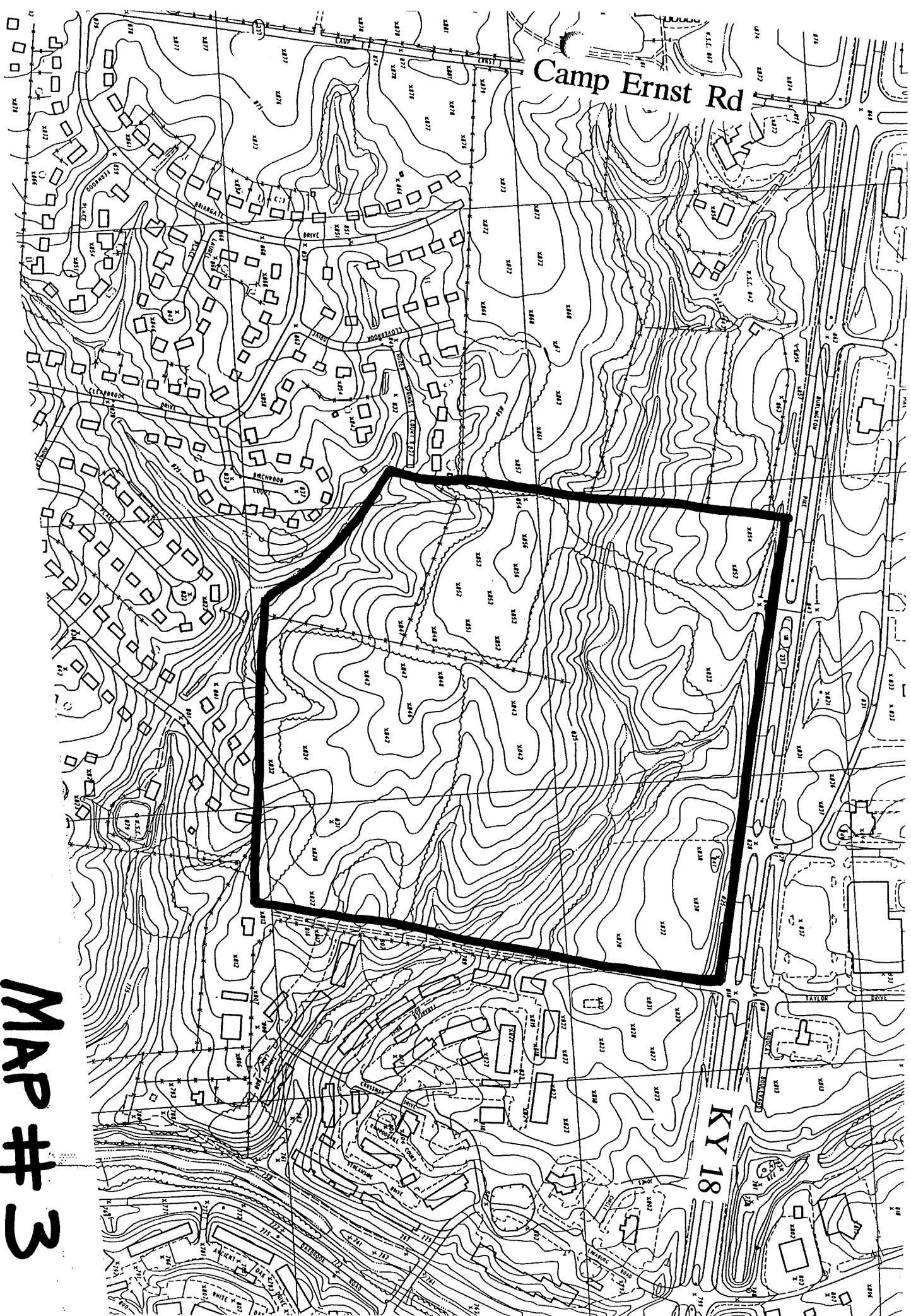
**ZONING
MAP**



See
Detail Sheet 1
1062-0536-B

TOPOGRAPHY MAP

MAP # 3





NOTE: TURN LANE IMPROVEMENTS AT ALL ACCESS POINTS TO BE AS REQUIRED IN TRAFFIC REPORT AND COORDINATED WITH K.O.D.T.

CONCEPT
PLAN

MAP #
4



BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
August 28, 1996
7:00 P.M.

PUBLIC HEARINGS

Commission members present: Mrs. Arnett - Secretary/Treasurer, Mr. Bailey, Mr. Damstrom, Mr. McKinney - Vice Chairman, Mr. Millay, Mr. Neltner, Mr. Ries, Mr. Rush, Mrs. Schaffer, Mrs. Smith, and Mr. Viox - Chairman.

Mr. William Viox, Chairman, called the meeting to order at 7:10 P.M.. Following an explanation of the Public Hearing process by Counselor Wilson, Chairman Viox introduced the first item on the Agenda:

1. Applicant: Southeast Development Corporation for Charlene Combs (owner)

Request: Zoning Map Amendment

The request of Southeast Development Corporation (applicant) for Charlene Combs (owner) for a Zoning Map amendment from Commercial Four (C-4) to Commercial Four/Planned Development (C-4/PD), a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four/Planned Development (C-4/PD), a Zoning Map Amendment from Commercial Four (C-4) to Suburban Residential Two/Planned Development (SR-2/PD), and a Zoning Map Amendment from Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD), all for an approximate 55-acre site located on the south side of KY 18 near Taylor Drive, Boone County, Kentucky. The request is for a zone change to allow a commercial/retail center and an apartment complex.

Staff Member Kevin Wall presented the Staff Report prepared by Staff Member Jeff Hayes. Mr. Wall stated that the slides were shown at the June 16, 1996 Public Hearing and are available this evening if requested. (See Staff Report). Mr. Wall advised that a letter was received this afternoon from TANK indicating that they are in support of this concept and it is something TANK would like to see happen. Mr. Wall added a Staff Concern #13 to the Staff Report in regard to the configuration of the driveway proposed between the apartment complex and the Pennington property. He stated that this is an area of concern and the Staff asks the Planning Commission to seek a 90 degree or greater intersection.

Chairman Viox asked for the applicant's presentation.

Attorney Gerry Dusing stated that they were before the Planning Commission several weeks ago in regard to this property and will be more succinct with the understanding that all of the comments from the previous public hearing will be part of this application.

Counselor Wilson advised that the record of the prior Public Hearing can be made a part of the record this evening.

Mr. Dusing stated that this second Public Hearing is occurring because there were 11 or 12 concerns from the previous Staff Report in regard to their proposal and they have made significant modifications in direct response to those concerns. He stated that it was determined at the Zone Change Committee Meeting that the changes could be construed as major changes to the plan and that there should be a second Public Hearing in regard to the modifications. Mr. Dusing introduced Jay Bayer, a design engineer who is on the Kenton County Planning Commission.

Mr. Dusing displayed an exhibit of the Zoning Vicinity Map, which was shown at the previous Public Hearing, to help illustrate Map #2 attached to the Staff Report. The exhibit shows their existing plan in relation to what is there now. He stated that they are in conformity with the Comprehensive Plan and are a logical fit with what has been developed. Reviewing the exhibit, he indicated KY 18, the existing grocery store, and the existing commercial zoning, which are compatible with their existing commercial strip. The light yellow on the exhibit indicates existing apartments of 12 units per acre. To the south is Willow Bend Subdivision (single-family homes) and there are public facilities towards KY 18. He stated that they propose a plan which, as Staff indicated in their report, has cut the amount of commercial in half from the first request and used the same amount of land for residential to the rear of the commercial, but increased the number of units. It is the same amount of land, buffer zone, and amenities, so that there is the same or greater green space. He stated that with these revised features, they comply with the Comprehensive Plan and there would not need to be a change in the Future Land Use Map. Reviewing the exhibit, he stated that their current C-4 Zoning is 400 feet deep (the dark black line is the zoning line) and they have offset that line with green space. He stated that if TANK is interested, a future TOD facility could be developed or it could stay park. He stated that to the rear is high suburban density residential zoning, which is called for in the Comprehensive Plan. Other reasons they comply with the Comprehensive Plan are that Flick's market across the street and the existing commercial at the Oak Brook Subdivision are at a greater depth than what they are talking about. He stated that the residential is compatible because they are at a significantly lower density than what is existing in the apartment development as part of Oak Brook.

Mr. Dusing stated that he would address the concerns brought up at the last Public Hearing -- specifically the number of outlots, the square footage, the depth of the commercial, and that there was not enough green space. He stated that this plan is much better than if they were to use existing zoning and meet the current code. He presented an exhibit "Existing Zoning". He stated that there are 13 outlots using existing curb cuts. The 8-units per acre townhomes under existing zoning would

have three bedrooms and 900 - 1,200 square feet, with a sale price in the \$90,000 range. He stated that because the zoning line is straight and due to the economics and cost involved of putting together a package, they are here under the Planned Development Overlay to meet what is called for on the site. Mr. Dusing submitted a letter from Southeast Development Corporation to the Boone County Planning Commission, dated August 28, 1996 (see Exhibit 1). He noted that the points in the letter are directed to the Staff Concerns in the previous Staff Report (they did not receive the current Staff Report until this evening). He displayed the current plan next to the previous plan to show the differences. The current residential takes advantage of much more green space and accommodates the same buffer zones around the perimeter -- and allows them the number of units they need to make this work. He referred to Staff Concern #1 in the current Staff Report and stated that there should not be a connection to Willow Bend Subdivision in the interest of the residents and in the interest of this development. They have not shown the connection on their plan, but will do it if required by the Planning Commission. He stated that they feel there are significant public safety issues and planning principles involved, and they disagree with the Staff in regard to the connection to Willow Bend Subdivision. He stated that making street connections would damage the buffering element of the plan. He noted the light green color shown on the revised plan, which represents existing vegetation, and stated that they have placed the units to maintain that light green area. If they have to cut through that area two times, the isolation and visual block will be destroyed -- and that planning principle overrides the general principle to connect. There is also the consideration of the age and substandard residential streets without sidewalks in Willow Bend Subdivision.

Mr. Dusing referred to the letter submitted (Ex. 1). He showed an exhibit of the proposed apartments and stated that they are 1 and 2 bedroom units to address the children and school crowding issues. They are willing to work with the Planning Commission in regard to the architecture of the commercial center. They realize they will be subject to architectural review. They promise that this center, which features Kroger's as the anchor, will be as high quality as the one approved in Union. They will work with the design to be compatible with the neighborhood. The offset and courtyard feature are more soft and warm than a straight feature. He stated that the previous plan showed 1,100 feet in length of commercial and the present plan is between 680 - 750 feet, because Kroger's has expansion ability. He stated that the number of outlots was the subject of considerable concern. Existing zoning allows 12 outlots and they show 8, which is 50% less than what they previously requested. (He noted a correction to the letter under Item #3, which says the outlots have been reduced from 4 to 8 -- this should read from "8 to 4".) He referred to Item #4 in the letter and stated that they believe the new plan appropriately utilizes the natural topography and features of the site. It is a mixed use development with neighborhood commercial and residential that preserves 47% natural space. Some of the other 53% is parking lot and some is under roof. He noted the large block of green space to the west of the commercial center, which is mostly natural. Mr. Bayer advised that the lighter green color shows existing wooded area that will remain. Mr. Dusing stated that it includes much of the stream mentioned in the Staff Report. He stated that the area shown in dark green would be

available for the TOD facility (a bus turnaround/pedestrian user facility), and there is a letter from TANK indicating that they would be interested in using it. Mr. Dusing stated that they have a pedestrian connection (a white line indicated on the exhibit by Mr. Bayer), which would double as a bike path. It is designed to keep bikes and pedestrians away from any trucks that will utilize the site. The trucks will enter at the traffic light on KY 18 and come to the back of Kroger's and back into the loading dock, which is reconfigured from the previous plan. There is pedestrian access from the residential area to the potential bus facility and the uses in the front.

Mr. Dusing stated, in regard to the four outlots in the front, that the Staff Report made an illusion that there would be concern if there were four fast food uses there and they will agree to a maximum of two fast food uses there. They anticipate a video or book store for one of the lots, but do not have any contracts for the end users at this time. He stated that the apartments are two-bedroom units, which is much better for Boone County. The buffering is able to be preserved and they are basically self-contained. The rents will be the highest they know of in Boone County -- the units will be above \$700 per month. In order to attract the type of families to Boone County -- to have the amenities and the rents that high -- they have to have that many units, which does not impact anyone off-site any differently than the 240 units or three-bedroom townhomes would, but it will beneficially impact the amount of children. Mr. Dusing stated that they will agree to down-directed lighting (lighting that does not bleed off site). He stated that they have reconfigured the road and the loading dock. They used a worse case scenario -- the closest apartment in the Drees development, using their elevation and a person on the second floor looking out the bedroom window at the loading dock area, and found that with a six-foot fence, the line of sight misses the top of the building. They are agreeable to landscaping buffer or a fence, which would accomplish the same thing. They have no problem with limitations on sign review. He stated that they are not looking for free-standing signs on each outlot, but there needs to be an identification and monument-type sign for the development.

Mr. Dusing stated that there were letters from Willow Bend Subdivision, which were mostly form letters, and Exhibit B of the Staff Report is an example of the form letter. The concerns in the letter are threefold: 1) increased traffic through the subdivision will endanger children -- but they are not doing that unless the Planning Commission makes them do it; 2) building apartment buildings among houses will affect the property value of the houses -- but they are not proposing to build apartment buildings among houses, the apartments are self-contained from KY 18 and there is 60' - 80' minimum buffer at the back and up to 110' -120' buffer, and only 30' is required; 3) elimination of the green space will have a negative environmental impact -- but they are leaving 47% of the site natural. In regard to the traffic, Mr. Dusing submitted a bar graph, "GENERATED TRIPS, PM PEAK HOUR" (Exhibit 2), which was developed from the trip generation manual. He stated that the traffic engineer was present to address any questions. Mr. Dusing reviewed the bar graph and stated that it shows what the existing zoning would generate if they never went through this process. He stated that their previous plan is shown in the center and their current plan is the last bar on the graph, and it shows a

reduction of 25.6%. He stated that they addressed the captured traffic at the last Public Hearing -- they are talking about a store that would serve residents in the area. He stated that Tim MacNamara from Kroger's was present to answer any questions. Mr. Dusing stated that there is no intent to close the Kroger's on Mall Road. The traffic information is based on Kroger's market area and the traffic generation book. Mr. Dusing submitted and displayed a second bar graph "COMMERCIAL AND RETAIL SQUARE FOOTAGE" (Exhibit 3). He stated that the chart indicates the amount of square footage under roof allowed under existing zoning and the bottom bar indicates the amount of square footage under roof with the revised plan. The center bar shows the amount of commercial square footage under roof with the previous plan. He stated that they cut the square footage more than in half. They used a worst case scenario -- the most square footage they could get (186,760 square feet), which is slightly less than the existing zoning allows (191,360 square feet). They took the four outlots (under 3.8 acres and a C-4 zone). He stated that in a C-4 Zone you can have 13,000 square feet per acre and, with a PD Overlay, you can increase that by 50% to about 20,000 square feet per acre which, times the four lots is 72,000 square feet of the 186,769 square feet. The retail center is only 111,000 square feet -- about half of what is allowed under current zoning. The outlots will average 5,000 - 6,000 square feet under roof with neighborhood commercial type stores. They expect that this development will have about 130,000 square feet -- which they can discuss. He stated that it is significantly less than what they show on the bar chart.

Mr. Dusing stated that they spent a lot of time addressing each Staff concern. They have a development that meets the existing zoning in the front. It is pointed out in the Staff Report that they have skewed the line to the benefit of the overall plan. He stated that they go back 570 feet, instead of 400 feet where the Kroger store is, but they surrender about 230 square feet on that side for green space or public facility if needed. They have about the same amount of C-4 with this plan as they would have without a zone change. Mr. Dusing offered to answer any questions.

Chairman Viox called Mr. Steve Thomas to speak first.

Mr. Thomas stated that he is a resident of Willow Bend Subdivision and will speak for his wife who is ill. Mr. Thomas read a letter written by his wife, which indicated that Mr. and Mrs. Thomas purchased property in Willow Bend Subdivision seventeen years ago because they thought Boone County would be a nice place to live. Mrs. Thomas is concerned about air-pollution. The 285 apartments could translate into 570 cars and, with the cars coming to Kroger's and the outlots, there could be thousands of vehicles. She is concerned about the pollution. She wants their daughter to remember horses and farms. Mr. Thomas stated that there is non-stop commercial on Colerain Avenue and it takes 40 minutes to drive 8 miles there -- and it looks like that is what is starting to happen here. He stated that the Five-Year Plan says no more commercial will be done past the intersection of Pleasant Valley and U.S. 42, but that is what they are doing -- they are stretching it. He stated that if there is connection to the subdivision, people will cut through.

Mr. Ed McCarthy, a resident of Hidden Springs for 17 years, stated that the sales person told them that Hidden Springs Court would never continue on. He is concerned about the traffic. He is satisfied with the proposal presented.

Susan McCarthy stated that she spoke at the Public Hearing in June -- she has the same feelings, and some additional points. She stated that the streets are in deplorable condition. Hidden Springs Court has seven houses and is a dead-end street. About six years ago, one of the neighbors had their car swallowed up by the pavement in his driveway after a heavy rain -- they don't call it Hidden Springs for no reason. The hidden springs come alive when there is heavy rain. She feels that more than 88 people responded with the last letter. She wrote a lengthy letter to everyone here and sent a copy to The Boone County Recorder. She questioned where the people who would live in the apartments and pay \$700 - \$800 per month would come from -- she does not think they live in Boone County now. If they are working, who will be home with the children? The children will roam the bicycle path and the woods and wander into the subdivision and be up to no good. Kroger's is lessened, but they have an option to expand and could get back the amount of territory they wanted to begin with. When the church was built, things were promised, but things changed once it was under construction and that will happen here. She stated that she mentioned the runoff problem and the water affecting their homes and streets. She wants assurance that the water, mud, and rocks that are washed out will not affect their property. She wants people and money to come into the county, but not at her expense. She does not want to lose her home or her life as it is, which will happen if this development occurs.

Cindi Barcey stated that the roads are too narrow for the traffic to pass. There is one entrance and exit to the subdivision, which has to be changed before new houses are built. Getting out of KY 18 will be a problem on Camp Ernst or KY 237, which will have to be a wider highway -- particularly with Kroger's and the other outlet stores. She lives in a new house off Deer Run -- there are 100 houses and they all come and go out of one entrance and one exit. She stated that it will be dangerous, particularly with children coming and going into the area.

Tim Higdon, a resident of Willow Bend Subdivision, agreed with the prior speakers. He questioned the drainage on the property behind Burchwood and the buffer zone. He is concerned about doubling the population since the apartment units are almost equal to another whole subdivision population. The schools have to be considered. There are added expenses for roads, police protection, and school expansion -- and the property value loss when strip malls are built has been proven in places like Heritage Trails. The property values at Oak Brook have dropped. When property values drop, revenues drop.

Mr. Daniel Keller is concerned about the natural drainage flowing from this development into the creek area. The stream is 90% on their property -- it has consumed the edges of their property and eroded their property on Burchwood Court. Once the paving is done, there will be more force and volume of water to erode their properties even more. About five years ago, the creek was clogged in his neighbor's yard and Boone County said it

was not their responsibility -- and the neighbor had to hire a backhoe operator. He is concerned about how much debris will go into the stream and that they will have to fix the drainage out of their own pockets.

Mr. Bob Hudson is concerned about the apartments and the commercial development. He questioned the height of the apartment buildings. He is concerned about the traffic and opening up Hidden Springs and Hunters Trace. The streets are not that wide and they do not have sidewalks. He is concerned about cars coming through Willow Bend Subdivision to get to Route 32 as it will be quicker to go back that way, particularly to the industrial park in Florence. He referred to the publication "What's Happening in Boone County" and noted that it says when you have grass, it is 25% runoff, but with blacktop and paved areas it is 100% runoff -- and this runoff will come their way. He stated that the Planning Commission should follow the rules set up in the Comprehensive Plan -- it took years to make it and it is in the best interest of the community. He stated that once you start the ball rolling, you can't stop it. He is against the apartments and the commercial center, and he is opposed to opening up the two roads in Willow Bend subdivision.

Mr. Paul Thornberry had no comments.

Ruth Harrison had no comments.

E. C. Pennington had no comments

Sherri Poole, 1719 Hunters Trace, stated that her property adjoins the subject property. She asked if the applicant would have to come to the Planning Commission for approval if they stay with the existing commercial zoning. She questioned what kind of commercial could be on the property with the existing zoning.

Mr. Costello advised that the property is currently zoned Commercial Four and about 25 uses are currently allowed in that zoning district. Those uses would be automatically approved. For a permitted use, they would only need to obtain Site Plan approval.

Ms. Poole noted that the residents have stated and the applicant has stated that they do not want the road to continue. She asked if there is anything to assure them that this will not take place.

Chairman Viox advised that the Planning Commission has heard the request and will consider it. Counselor Wilson explained that the Committee that will be appointed to review this request will come back to the full Planning Commission with a report which will indicate how they feel about that issue. He advised that this Commission just recommends, and the residents should follow up with the Fiscal Court. The Fiscal Court has the ultimate say. He stated that the Planning Commission has not made up its mind on the connection -- the Comprehensive Plan recommends it, but a decision has not yet been made.

Mr. Michael Gray, a resident of Willow Bend Subdivision, agreed with the safety concerns in opening up the through streets. He stated that he does not believe the Comprehensive Plan encourages street connections between

residential and commercial developments. He stated that 53% of the green space will be eliminated, which will increase the runoff at least 200% to the adjoining property according to "What's Happening in Boone County". He stated that the Comprehensive Plan says to maintain as many trees as possible -- and a 53% elimination does not follow the guidelines. He read from a traffic survey done in 1994 that 23,500 cars is the daily average on KY 18. He stated that the apartment units will add 1,000 cars and Kroger's will have 4,300 cars daily going in and out -- which adds another 10,000 cars to the 1994 figure on KY 18. He quoted from the Comprehensive Plan in regard to traffic.

Attorney Dave Schneider, with the law firm of Ziegler & Schneider, stated that the whole application is based on the assumption that they are entitled to a Planned Development district -- but no one is entitled to it -- they have to make findings that it is in agreement with the Comprehensive Plan and follow the zoning code. Article 15 sets out specific limitations on who is entitled to a PD. If this does not fit that category, then all the numbers fall apart. He asked, is it imaginative or innovative? Does it preserve the natural terrain? He stated that the terrain looks flat on a drawing, but that is not the way the topography exists. There will be changes to the topography and they will move an oil/gas line. He stated that all of the testimony from the prior hearing is incorporated by reference. He noted that he had presented a written statement on all of the reasons why this is not in agreement with the Comprehensive Plan and most of those reasons relate to traffic on KY 18 and the Planning Commission's prior decision on what to do on that side of KY 18. He stated that the Staff Report says they would not need a change in the Land Use Map, but that is not what the statute says. He stated that there has to be a finding made that it is in agreement with the Comprehensive Plan, which includes all of the elements. He stated that it is important to take into consideration all of the written evidence that has been presented -- and when looking at that, the request is not in agreement with the Comprehensive Plan and should be turned down.

The Chairman asked Mr. Dusing if he wished to respond to the comments made.

Mr. Dusing stated that the exhibit "Existing Zoning" shows what they could do without an approval process. He stated that Mr. Schneider is not correct. He stated that it is not based on their assumption of a PD Overlay, it is based on straight C-4 Zoning, straight SR-2 Zoning, and 8 townhouses per acre. He stated that they are not moving any oil or gas lines. The plan accommodates the existing infrastructure. In regard to the concern about the access road connection to existing Patrick Drive, he stated that theirs is a better way, but they will do it the way the Planning Commission suggests -- it does not matter to them. He stated that the Kroger expansion is the same with this plan as it was with the previous plan. He asked Mr. Bayer to respond to the question of how this plan is different from the previous plan in regard to the possible future expansion of Kroger's.

Mr. Bayer advised that the potential expansion was shown on the previous plan and on this plan. Mr. Dusing advised that it is the same -- it does not get bigger in this plan. He stated that the reduction in the commercial building is on the space outside of Kroger's. There are less uses to be rented out.

Mr. Steven Poe stated that it is 39' - 40' to the very top of the roof of the apartment buildings. They will do high roof pitches to make the building appear more expensive.

Mr. Gray stated that they are starting 30' - 40' above the houses in the subdivision.

Mr. Poe stated that they are talking about working with the existing grades. The building would be 39' - 40' above the existing grades.

Mr. Dusing stated that the Planning Commission is extremely familiar with the drainage and runoff issue. He stated that one thing that is very different in Boone County since Willow Bend Subdivision was built is Stormwater Management. Their understanding of current regulations is that they will have to develop facilities in accord with the requirements that exist -- the runoff in volume, location, and velocity has to be the same as it is in the natural state -- which is accomplished through detention, retention, and engineering.

Chairman Viox asked if there were any comments from the Commissioners.

Mr. Ries stated that he does not see any retention ponds on the drawing. He is concerned about where the water will go. He noted that there has been flooding recently and there is a lot of concern in this regard.

Mr. Bayer reviewed the exhibit and stated that they envision two stormwater retention basins on the site and they will be piping the bulk of the water to the site. They have the advantage of being able to retain water off-site also. Mr. Ries stated that the retention basins will take up some of the green space. Mr. Bayer advised that they do not intend to grade that area and will be retaining the water back up the existing channel.

In response to a question from Mrs. Smith, Mr. Bayer indicated the location of the stream -- where it enters the site and how it runs through the site. Mrs. Smith commented that the stream is not close to the homes in Willow Bend Subdivision. Mr. Bayer indicated the location of several swales and the main drainage facility. Mr. Dusing advised that the stormwater management retention basin will be dry and not take up any green space.

Mrs. Arnett questioned the process in the future if Kroger's decides to expand into the green space. Counselor Wilson advised that if there is a recommendation of approval and a final action of approval subject to this Development Plan, they would have to come back before the Planning Commission to amend the Development Plan. Another Public Hearing would be required.

Mr. Neltner stated that often nice treelines are shown -- but then there are cuts for sanitation, utilities, etc.. He asked if any of the treeline around the perimeter would be disturbed for utilities.

Mr. Bayer stated that the sanitary sewer generally follows the existing swale that runs through the site and the water that will be passing from KY 18. He stated that the Water District may require them to loop the water to the existing subdivision. They do not have control over that, and it may be required from a fire protection standpoint. They will bring the other utilities from KY 18, and they will be primarily underground. They should not have to go into the existing subdivision -- unless UHL&P decides they need to make a connection to improve service.

Mr. Millay asked if the sanitary sewer will be relocated. Mr. Bayer indicated where they will relocate the sanitary sewer to pick up the outlots and the proposed facilities and meet the grade of the existing sanitary sewer.

Mr. Bailey questioned how far back the C-4 line is from KY 18 in the area behind Kroger's and how far back it is on the other side where the open space is. Mr. Bayer stated that the C-4 line is shown on the exhibit as a dark black line. Referring to the exhibit, he stated that they plan to add approximately 180 feet to the area indicated. They are moving the zoning line about 240 feet. Mr. Bailey asked how far it is from KY 18 to the back behind the Kroger's store. Mr. Bayer advised that it is 570 feet to the back of the building.

Mr. Neltner asked if Kroger's would be willing to give a commitment that the store on Mall Road will not close for "X" number of years so that the Planning Commission can rely on the traffic information.

Mr. MacNamara advised that he could not make that commitment. He stated that they just spent half a million dollars on the Mall Road facility to add a liquor store and other improvements. In order to do that, they had to extend their lease. He stated that they see the two locations as separate trade areas and this facility would serve the Burlington and Hebron areas. He noted that the Mall Road facility is doing very well.

Mr. Ries stated that he does not see a lot of designated parking on the outlots. He asked if they will have self-contained parking. Mr. Bayer advised that they will -- they are providing enough on-site parking for each of the outlots. Mr. Ries stated that the expansion of the Kroger's will take a number of parking spaces. He asked if there are enough parking spaces in the front to provide the parking. Mr. Bayer advised that they have provided the parking for the future if the expansion occurs.

Mr. Damstrom questioned the amenities for the apartments -- tennis courts, swimming pools, play areas, etc.. -- and where will they be located. Mr. Poe responded "all of the above" and noted the tennis courts, play areas, and jogging path. He stated that there will be a business center in the clubhouse with FAX machines and computers.

Bob Hudson stated that he read that they could not build apartments on the south side of KY 18.

Michael Gray questioned an initial agreement between this development and TANK and if TANK would eliminate the green space with a TOD there -- he stated that they cannot pull the buses into the trees. He stated that the green space is history according to the facts presented.

Mr. Bill Dilley, a resident of Willow Bend Subdivision, questioned who will pay for the expansion of the streets and the schools. The schools are already overcrowded. He questioned who is going to pay for the schools to be able to handle the kids from this development -- will the existing residents pay for it with more taxes or lower property values?

There being no further comments, Chairman Viox stated that the Committee Meeting for this item will be on September 9, 1996 at 4 P.M. in the Circuit Court Room on the second floor of the old courthouse -- interested persons should check with the Staff to be sure of the date and location of the meeting. This item will be on the Agenda for the Business Meeting on September 18, 1996 at 8 P.M..

The Chairman closed this Public Hearing.

APPROVED:



William R. Viox, Chairman

Attest:



Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
September 18, 1996
8 P.M.

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

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett, Secretary/Treasurer
Mr. William Bailey
Mr. Arnold Caddell
Mr. Phil Damstrom
Mr. Mike McKinney, Vice Chairman
Mr. Bob Millay
Mr. Robert Ries
Mr. Ralph Rush
Mrs. Linda Schaffer
Mrs. Carol Smith
Mr. William Viox, Chairman
Mr. Earl White

COMMISSION MEMBERS NOT PRESENT:

Mr. Fred Burch
Mr. Don McMillian
Mr. Barry Neltner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Mr. Jeff Hayes, AICP
Ms. Jan Hancock, Secretary
Mr. Mitch Light

Approval of the Minutes:

Chairman Viox stated that each Commission member had received copies of the Minutes of the August 28, 1996 Public Hearings, the September 4, 1996 Public Hearing, and the September 4, 1996 Business Meeting. He asked if there were any comments or corrections.

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

UNFINISHED BUSINESS:

Chairman Viox stated that the following item is recommended for deferral to the October 2, 1996 Business Meeting at 8 P.M.:

2. Zoning Map Amendment

The request of Answers in Genesis (applicant) for Robert L. and Ida Mae Shelton (owners) for a Zoning Map Amendment from Agricultural Estate (A-2) and Agriculture Estate/Small Community (A-2/SC) to Recreation/Planned Development (R/PD) for an approximate 40-acre site at 11757 U.S. 42, Boone County, Kentucky. The request is for a Zoning Map Amendment to allow museum, outdoor education and recreation, and office uses.

Mrs. Schaffer moved to defer Item #2 to the October 2, 1996 Business Meeting. Mrs. Smith seconded the motion and it carried unanimously.

1. Zoning Map Amendment

The request of Southeast Development Corporation (applicant) for Charlene Combs (owner) for a Zoning Map Amendment from Commercial Four (C-4) to Commercial Four/Planned Development (C-4/PD), a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four/Planned Development (C-4/PD), a Zoning Map Amendment from Commercial Four (C-4) to Suburban Residential Two/Planned Development (SR-2/PD), and a Zoning Map Amendment from Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD), all for an approximate 55-acre site located on the south side of KY 18 near Taylor Drive, Boone County, Kentucky. The request is for a zone change to allow a commercial/retail center and an apartment complex.

Staff Member Jeff Hayes presented the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). The applicant and owner have signed the letter agreeing to the conditions. He advised that three Committee members were in favor of the Committee Report, two were absent, and Mr. Damstrom was opposed.

In response to a question from Chairman Viox, Mr. Hayes advised that the conditions include the Concept Development Plan.

Mr. Millay moved by resolution to the Boone County Fiscal Court that the request be approved based on the Staff and Committee Reports. Mr. White seconded the motion.

Mrs. Smith questioned if the easement from the property line of the church to the applicant's site was mentioned at the Public Hearing. She does not recall hearing anything about it at the Public Hearing. Mr. Hayes advised that it was mentioned in the Staff Report that they should explore the possibility of a connection to the property to the west, which is the church property, and there was discussion at the Committee Meeting in this regard -- and the Committee felt it was an appropriate condition. Mrs. Smith asked if the church is going along with this and if they will provide the road. Mr. Hayes stated that he has talked with the Building Manager for the church and he expressed an interest. Mr. Hayes stated that the condition is written that it is up to the church if they want to proceed with it. If the church chooses not to proceed, then this condition would not apply. The applicant is not responsible to build the road, but only to give an easement.

Mrs. Schaffer questioned the open space and noted that it is stated in the Staff Report that it is 3 acres. She stated that the total zone change is for approximately 55.23 acres, but if you add the commercial and apartment they come to 54 acres -- which is an acre short.

Mr. Hayes advised that the 3 acres of open space is taken out of the overall site. He stated that it is shown as an open area -- meaning there is no vegetation. It is a flat area next to the proposed extension. Using an exhibit of the Concept Development Plan, he indicated the flat area where there is no vegetation and stated that it is approximately 3 acres. He stated that this is the area that is labeled as open space for the transit center in the Staff Report. It is an approximate area. Mrs. Schaffer stated that it is zoned SR-2/PD, but it is going to be indicated as open space. Mr. Hayes added "or a transit space".

Mrs. Schaffer stated that if it is "transit space", then it would be paved. She questioned how this would reduce the 47% open space. Mr. Hayes advised that it would be reduced by 3 acres. Mrs. Schaffer questioned how this affects the stormwater detention area. Mr. Hayes advised that the stormwater detention area would also be classified as open space.

Mrs. Schaffer questioned what happens with the space if TANK does not want to use it in the future. Mr. Hayes advised that it would remain as open space. Mrs. Schaffer questioned what would happen if it had already been paved and TANK did not want to use it. Mr. Hayes advised that the condition is worded that TANK would have to indicate that the demand is there for the transit center. He spoke with TANK and they have not done a study at this time to determine the demand, but they believe there will be a demand in the future for a facility there, such as a Park & Ride. The space was set aside for the need if it arises in the future and, if not, it would be open space.

Mrs. Schaffer stated that Planned Development is supposed to be more of a flexible zone change. She stated that SR-2 is 8 units per acre, which is townhouses, and SR-2 does not allow apartments. She stated that they are using PD as a vehicle for changing the use and she does not see the flexibility, or the innovative design, or the mixed use. She has not seen any reason to change the zone or the density. She cannot see changing apartments from townhouses, when it is already zoned that way. She does not think the PD should be used for that purpose.

Mr. McKinney stated that in the August 28, 1996 Staff Report, it was indicated that the applicant's traffic figures were questioned. He stated that it was indicated in the Staff Report that a significant amount of traffic would be pass-by traffic because of the importance of KY 18 as an east/west collector, and the Staff believed that a large amount of existing residents would be coming to this development from the east who would not normally travel west on KY 18. He questioned what has happened since August 28 when the Staff had that concern, and tonight when it is not addressed.

Mr. Hayes advised that the Committee felt that there is adequate capacity on KY 18. He stated that the design capacity of KY 18 has not been reached and KY 18 can handle more traffic. The Committee felt that this development would not reduce the level of service of KY 18 with the improvements the applicant is making, and the Committee did not include it as a concern. Mr. Millay agreed that it was not a concern to the Committee because KY 18 can handle a lot more traffic.

Mr. McKinney stated that he lives and works in this area and he cannot see KY 18 handling a lot more traffic -- particularly if this development is going to bring in more traffic lights.

Chairman Viox asked if there were any further comments. A lady in the audience asked to speak in regard to Item #2. The Chairman refused her comments.

Chairman Viox asked for a vote on the motion made by Mr. Millay which found Mr. Bailey, Mr. Caddell, Mr. Millay, Mr. Ries, Mr. Rush, Mr. White, and Chairman Viox in favor. Mrs. Arnett, Mr. Damstrom, Mr. McKinney, Mrs. Schaffer, and Mrs. Smith were opposed. The motion carried by a vote of 7 to 5.

Counselor Wilson advised that the Planning Commission's recommendation will go to the Fiscal Court. The Fiscal Court may go along with the recommendation or override it, and may have its own Public Hearing. Interested persons should follow up with the Fiscal Court.

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Robert Millay, Chairman

DATE: September 18, 1996

RE: Request of **Southeast Development Corporation (applicant)** for **Charlene F. Combs (owner)** for a Zoning Map Amendment from Commercial Four (C-4) to Commercial Four/Planned Development (C-4/PD), a Zoning Map Amendment from Suburban Residential Two (SR-2) to Commercial Four/Planned Development (C-4/PD), and a Zoning Map Amendment from Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD) all for an approximately 55 acre site located on the south side of KY 18 near Taylor Drive, Boone County, Kentucky. The request is for a zone change to allow a commercial/retail center and an apartment complex.

REMARKS:

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

Findings of Fact

1. The Committee believes that this request is in conformance with the 1995 Boone County Comprehensive Plan, Future Land Use Map and Text. The Land Use Map generally indicates Commercial and High Suburban Density Residential as the two land use designations for the applicant's site. The Text of the Comprehensive Plan indicates a mixture of land uses along the KY 18 corridor which are designed in such a way that the existing physical quality of the environment is protected and enhanced. The Committee believes that this Planned Development as proposed will protect this quality over the existing zoning districts.
2. The Committee believes that the apartments provide an appropriate transition between the existing single family residential and the proposed commercial development. In addition, the Housing Element of the Comprehensive Plan indicates that high density residential should be located sufficiently near and with convenient access to major streets, highways, and shopping. This development will also provide open space for a transit center to be developed when needed and a bicycle path and sidewalks, which the committee believes promotes the concept of the Transit Oriented Development.

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September 18, 1996

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3. The Committee believes that proposed Planned Development Overlay zoning provides a physical design which creates a substantial value to the community over the current zoning for this site. The applicant's proposal leaves approximately 47 percent of the site as open space and retains a large amount of the existing mature vegetation. The Committee believes the open space and vegetation are additional elements of the plan which offer substantial value to the community over the current zoning districts.
4. The Committee believes that the proposed density for both the apartments and retail uses are appropriate and are consistent with existing densities within the rapidly growing Burlington area and the KY 18 corridor. The density requested by the applicant is under the maximum permitted by the underlying Commercial Four zoning by approximately 2,800 square feet per acre and an additional 6,500 square feet per acre under the maximum permitted by the Planned Development Overlay zoning. The proposed density for the apartment development is at approximately 9.78 units per acre which is under the 12 units per acre permitted by the Planned Development Overlay zoning.
5. The Committee believes that the conditions listed below effectively address the concerns stated at the August 28, 1996 Public Hearing.

Conditions

The applicant and owner are being asked to agree to and include these items as part of the Zoning Map Amendment and to address questions and comments at the Public Hearing:

1. The applicant shall provide an easement from the property line of the First Church of Christ through the applicant's site which shall afford the church the ability to connect with the proposed traffic light at KY 18. The Church shall be responsible for the development and payment of the roadway and shall work out the details of the placement of the easement and the construction of the driveway with the applicant. The driveway should be designed to prevent public use as a cut thru to Camp Ernst Road or KY 18.
2. The applicant shall be required to undergo Design Review for the retail center and outlots during the Site Plan Review procedure. The Planning Commission shall review the development as it relates to the surrounding environment of KY 18 and Burlington. The development should create a unique design to the area, but at the same time be sensitive to the established character of KY 18 and Burlington. A unified design theme shall be incorporated throughout the development for the retail center, outlots and apartments. This design theme will not prohibit corporate identity, but rather enhance any franchise style design, thus creating a design which is unique to this development. Architectural details, roof types, and shapes, scale, landscaping, color and materials, roof equipment screening and quality of

design are all elements which shall be reviewed by the Planning Commission during Design Review. The design of the apartments shall be as presented at the Public Hearing.

3. All signage for the site shall be required to undergo Design Review along with the review of the building design. All outlot signs shall be of a monument design with stone, brick or like material for the base. The maximum height of these signs shall be 10 feet from the ground level. The retail center shall be permitted one free-standing sign which shall not exceed forty (40) feet in height and shall be designed with similar materials to that of the center. No support structures shall be uncovered and visible to adjoining properties or public right-of-way.
4. The four outlots will not be permitted to have parking in front of the building facing KY 18. However, driveways shall be permitted in the front of the building. The applicant shall also be held to only developing two of the outlots for fast-food restaurants which shall be defined as a restaurant which has a drive-thru and high customer turn over. Restaurants which have a drive thru, but are more of a family oriented sit down type of restaurant, in which the food is served to the customer at their table, shall not be classified as fast food restaurant.
5. The approximately three acre Open Space area shown on the applicant's Concept Development Plan, shall be set aside for use by TANK in the future. The applicant shall work with TANK to develop a Park & Ride facility as the need and demand develops. The applicant shall develop the facility at their expense, but can develop the Park & Ride facility in two phases. The facility shall be constructed as the need is identified by TANK and shall include a transit shelter if needed by TANK. The maximum size of the park & ride facility required to be developed by the applicant would be 50 parking spaces.
6. The applicant shall provide sidewalks within the development and between the apartments and retail uses. In addition, the applicant shall provide a bicycle path which connects the apartment use to the retail uses from KY 18. Bicycle racks shall also be provided near the retail center.
7. The applicant shall clearly indicate the grading limits on the appropriate subdivision review plan. These grading limits shall be clearly marked in the field and it shall be the responsibility of the applicant to contact the Boone County Planning Commission Staff to review the location of the grading limits before any grading can occur. The undisturbed areas shall remain the same as identified on the submitted Concept Development Plan.

8. The applicant shall provide a detailed lighting plan for the overall development with special emphasis given to the loading dock area of the retail center. The applicant shall provide details of the lighting fixtures which include specification on the power and direction of each light. There shall be no spill over lighting into any of the adjoining residential properties. In addition, the applicant shall provide berming or fencing along the eastern property line which shall be reviewed during Site Plan review to the satisfaction of the Planning Commission. The objective of the berming or fencing shall be to screen the loading dock area of the retail center and the side parking area from the view of the existing apartment development to the east.
9. The alignment of the roadway to the apartments and the Pennington property shall be redeveloped so that the roadway continues south to the Pennington property and the apartments access this road at a right angle. This design shall be reviewed during the appropriate development review procedure by the Planning Commission.
10. The applicant shall be required to work with the property owner to the east to create an even alignment of Patrick Drive. This alignment should allow for the stacking of appropriately 5 to 7 automobiles between the traffic light on KY 18 and the intersection of Patrick Drive. If this alignment cannot be secured the applicant shall work with the Boone County Planning Commission to their satisfaction regarding a secondary alignment. In addition, the control of the intersection shall be reviewed to the satisfaction of the Planning Commission during the appropriated development review procedure.

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.

COMMITTEE REPORT - Southeast Development Corp.

September 18, 1996

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Robert Millay
Robert Millay, Chairman

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

William Bailey
William Bailey

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

Fred Burch

For	<input type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

Arnold Caddell
Arnold Caddell

For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

Phil Damstrom
Phil Damstrom

For	<input type="checkbox"/>	Against	<input checked="" type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

Barry Neltner

For	<input type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

TOTAL: 3 FOR 1 AGAINST ABSTAIN 2 ABSENT

SUPPORTING INFORMATION

BOONE COUNTY PLANNING COMMISSION



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

September 18, 1996

Mr. Steven Poe
Southeast Development Corporation
462 South Fourth Ave
Suite 625, Meidinger Tower
Louisville, KY 40202

RE: Recommended Conditions of Approval for the Zoning Map Amendment Application for the Southeast Development Corporation and Charlene Combs Site.

Dear Mr. Poe:

The following represent potential conditions of approval as agreed by the Boone County Planning Commission's Zone Change Committee. If you, as the applicant 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 the Planning Commission office by Tuesday, September 17, 1996.

Conditions of Approval

1. The applicant shall provide an easement from the property line of the First Church of Christ through the applicant's site which shall afford the church the ability to connect with the proposed traffic light at KY 18. The Church shall be responsible for the development and payment of the roadway and shall work out the details of the placement of the easement and the construction of the driveway with the applicant. The driveway should be designed to prevent public use as a cut thru to Camp Ernst Road or KY 18.
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1966-1996

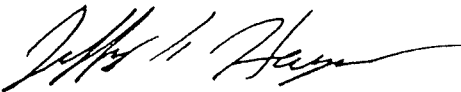
"30 YEARS OF PLANNING THE FUTURE OF BOONE COUNTY"

3. All signage for the site shall be required to undergo Design Review along with the review of the building design. All outlot signs shall be of a monument design with stone, brick or like material for the base. The maximum height of these signs shall be 10 feet from the ground level. The retail center shall be permitted one free-standing sign which shall not exceed forty (40) feet in height and shall be designed with similar materials to that of the center. No support structures shall be uncovered and visible to adjoining properties or public right-of-way.
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Mr. Steven Poe
Southeast Development Corporation
September 18, 1996
Page 3

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Sincerely,



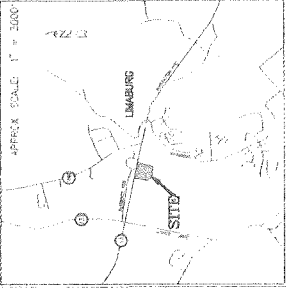
Jeffrey F. Hayes, AICP
Planner

JFH\par

We, the owner/applicant, agree to the above listed condition for approval of the request for the Southeast Development Zoning Map Amendment.


Steven Poe (Applicant)
Charlene Combs, (Owner)

VICINITY MAP



PROJECT DATA:
 Site Area = 55.03 acres
 Prop & Ex Zone C-4 = 14.72 acres
 Prop & Ex Zone SR-2 = 40.31 acres
 Note: 2.9-acre strip just outside prop & ex zone along the east boundary was owned by Lexington and others.

COMMERCIAL/RETAIL:
BUILDING DATA:
 C-4 USES FOR OUTLOTS
 1,300 sq ft / 1,500 sq ft MAX ALLOWABLE = 75,000 sq ft
 TOTAL = 100,700 sq ft

(Note: Outlets to provide landscaping infrastructure)

- MULTI-FAMILY:**
- BUILDING TYPE III DATA
 ALL 2-BEDROOM UNITS
 - BUILDING TYPE IV DATA
 1-BEDROOM UNITS AND
 2-BEDROOM UNITS

TOTAL # OF UNITS = 286 UNITS

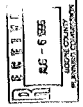
1 denotes 2-story @ front of building, 3-story in rear.
 All other footprints buildings to be 3-story.

NOTES

1. Documented utility lines were shown from 1"=50' aerial photos, utility maps and site inspection.
2. Boundary shown by dashed line.
3. Property lines shown by solid line.
4. Property lines shown by dashed line.

LEGEND

---	EXISTING TENC
---	EXISTING 27" OIL LINE
---	PROPOSED CONTOUR
---	EXISTING TREE LINE
---	PROPOSED TREE LINE
---	EXISTING SAC LINE
---	EXISTING DRAINAGE SWEP
---	EXISTING DRAINAGE SWEP



APPROVED

Boone County
 Planning Commission
 4-15-16

NOTE: WHEN LANE ADJUSTMENTS AT ALL ACCESS POINTS TO BE AS REQUIRED IN TRAFFIC REPORT AND COORDINATED WITH LOCAL AGENCIES.



KY #18 (BURINGTON PIKE)

PROPOSED SIGNALIZED INTERSECTION

27" GRADE OIL PIPE LINE
 50" OIL LINE BASEMENT

ACCESS POINT

PROPOSED TRUCK-ON FRONT-OUT ONLY

ACCESS POINT

PROPOSED TRUCK-ON FRONT-OUT ONLY

ACCESS POINT

PROPOSED TRUCK-ON FRONT-OUT ONLY

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PROPOSED TRUCK-ON FRONT-OUT ONLY

ACCESS POINT



CONCEPT DEVELOPMENT PLAN
 51TH/COMBS PROPERTY
 for
 SOUTHEAST DEVELOPMENT CORP.
 KY 218
 BOONE COUNTY, KY

DATE	DESCRIPTION
11/17/15	PRELIMINARY PLAN
12/17/15	REVISED PLAN
1/17/16	REVISED PLAN
2/17/16	REVISED PLAN
3/17/16	REVISED PLAN
4/17/16	REVISED PLAN
5/17/16	REVISED PLAN
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NOTES

- 1. METALS
- 2. GUARD RAIL
- 3. WOOD AND PLASTIC
- 4. CHAIRS, DECORATIVE BUTTER.
- 5. TERRAZZO AND MORTARE PROTECTOR
- 6. CONCRETE ROOFING TILES
- 7. CHIMNEY CAP
- 8. DOORS AND WINDOWS
- 9. ALUMINUM SCREEN ENCLOSURE
- 10. FINISHES
- 11. EXTERIOR TRIM SYSTEM
- 12. GENERAL NOTES
- 13. ELECTRICAL
- 14. CONTROL SYSTEM

NOTE:
SECTION CUT TAGS AND
NOTES ARE TYPICAL
FOR ALL ELEVATIONS

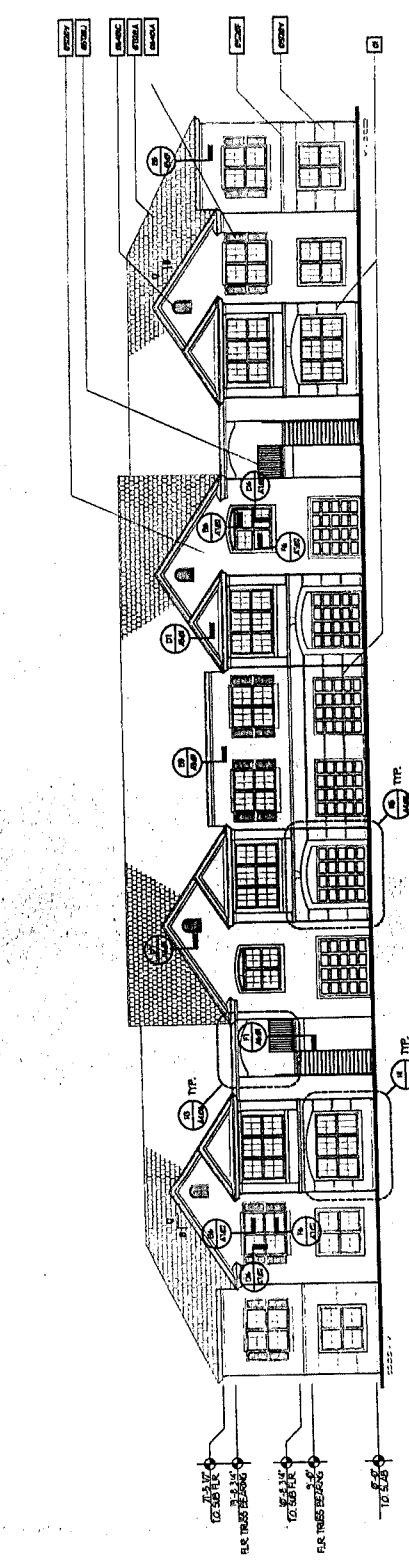
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FUGLBERG KOCH ARCHITECTS
Orlando
1000 South Orange Avenue, Suite 1000
Orlando, Florida 32814
Tel: 407-851-1111
Fax: 407-851-1112

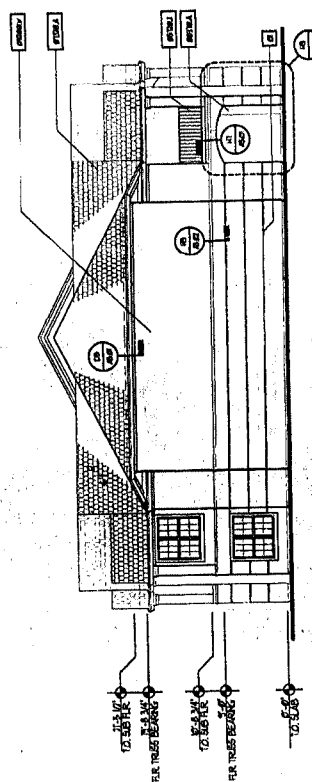
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PROJECT NO. 100-11-00
DATE: 10/1/00
DRAWN BY: J. K. KOCH
CHECKED BY: J. K. KOCH
SCALE: AS SHOWN

ELEVATIONS
TYPE IV
(CDDC)
A4.03



D2 FRONT ELEVATION - BUILDING TYPE IV
1/8" = 1'-0"



G4 END ELEVATION - BUILDING TYPE IV
1/8" = 1'-0"

NOTES

1. TYPICAL
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99. BRICK
100. BRICK

(C) FRONT ELEVATION - BUILDING TYPE VIII
18'-1 1/2"

(E) FRONT ELEVATION - BUILDING TYPE IX
18'-1 1/2"

(H) END ELEVATION - BUILDING TYPE VIII
18'-1 1/2"

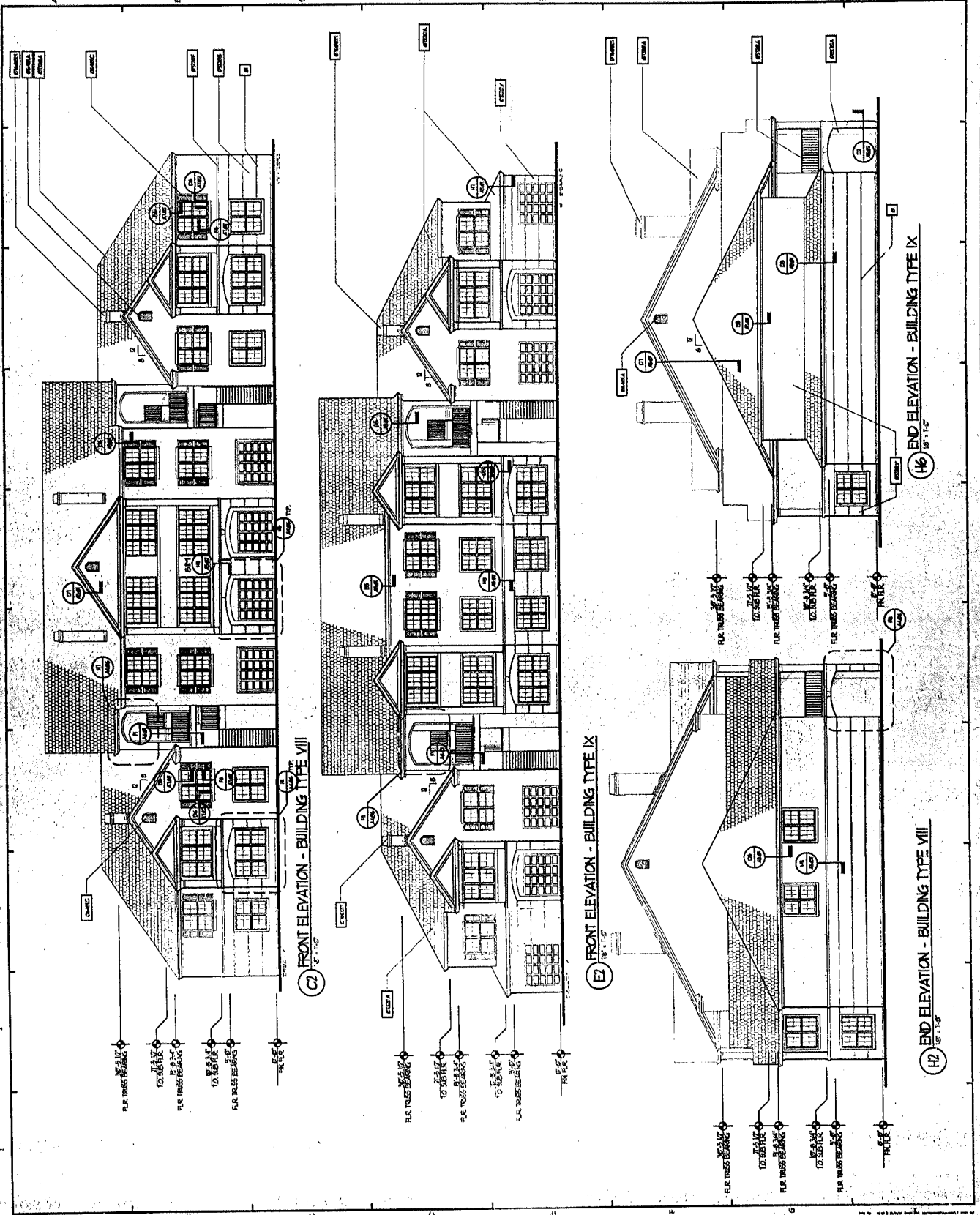
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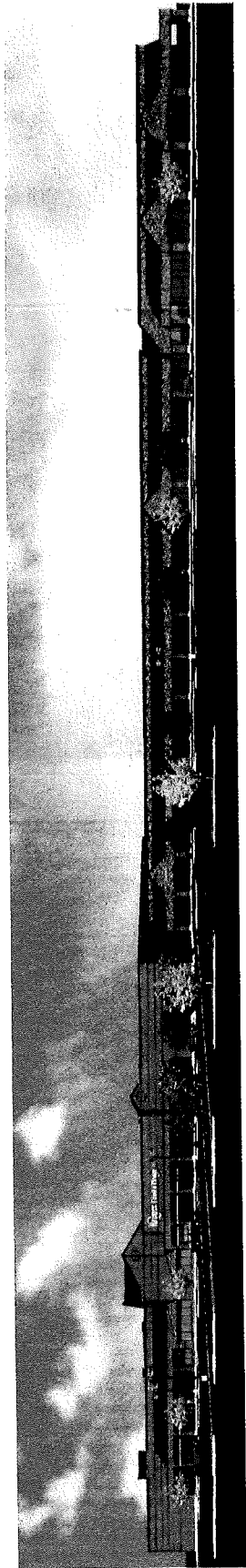
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CONSTRUCTION INFORMATION

DATE: 08/14/05
SCALE: AS SHOWN
PROJECT: ELEVATIONS BUILDING TYPES VIII & IX DIA/ADVE
DRAWN BY: AA/05
CHECKED BY: AA/05



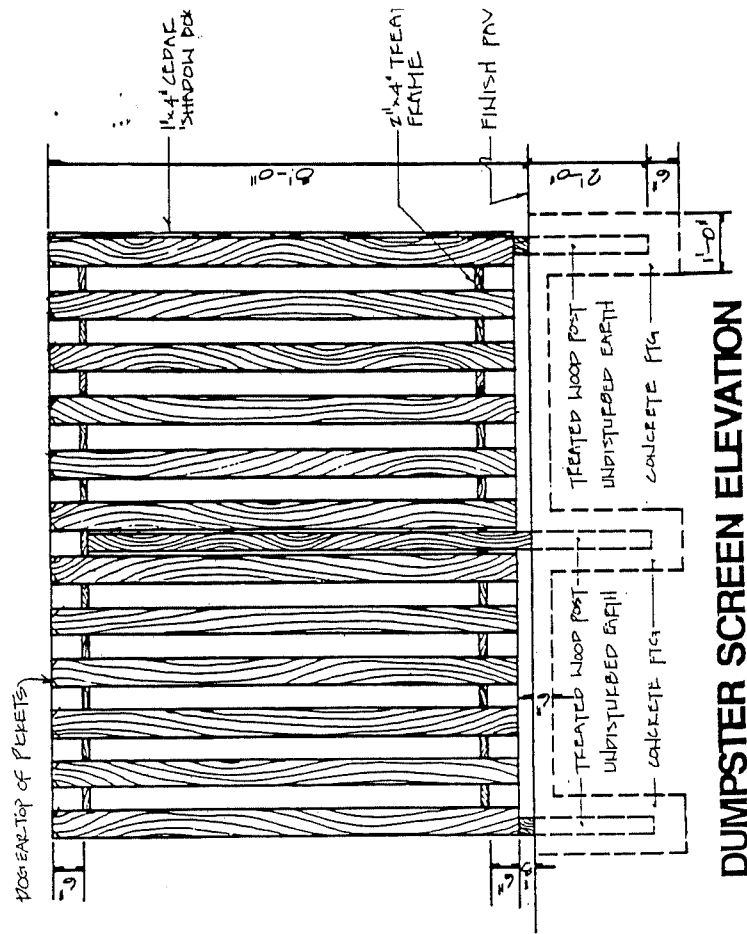
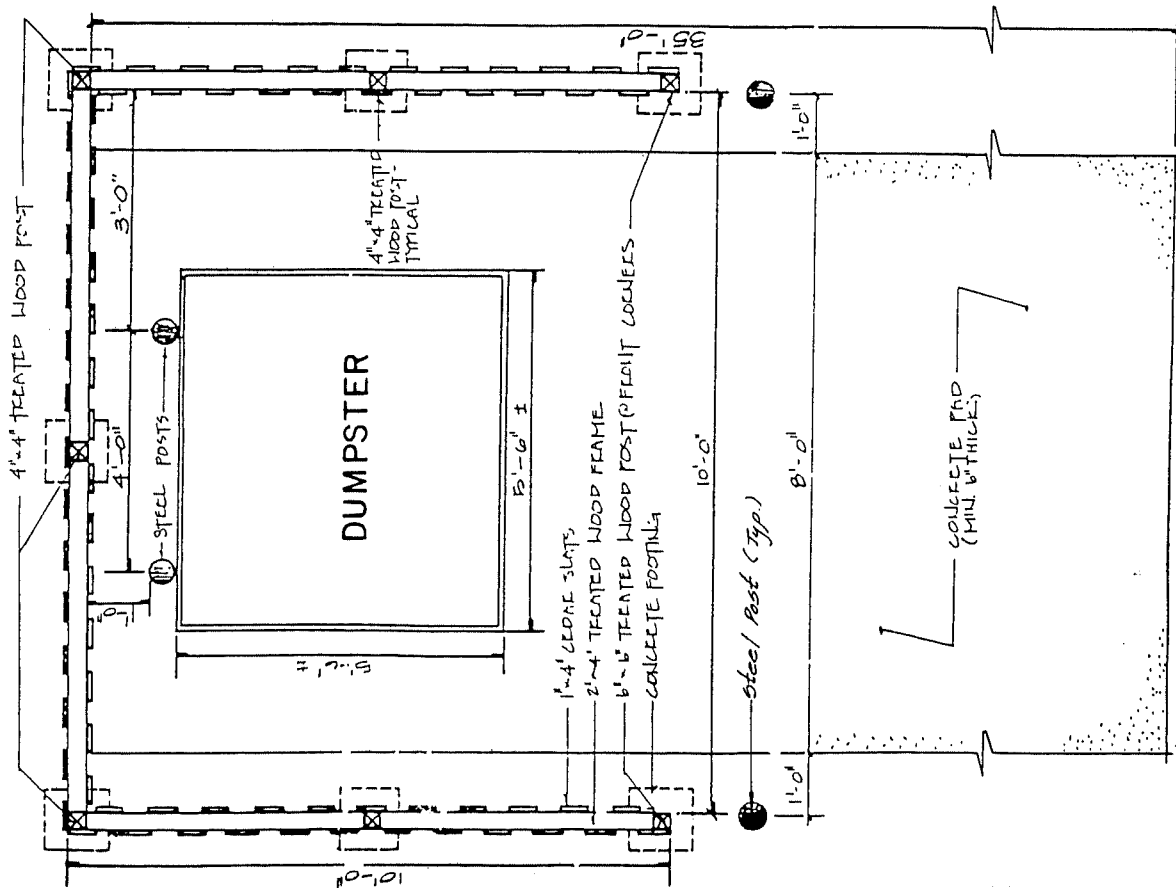


BRENTWOOD CROSSINGS



Foley-Bassell Architects

BURLINGTON DEVELOPMENT, L.P.



DUMPSTER SCREEN ELEVATION

DUMPSTER PAD PLAN

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Commissioner Meihaus asked Jeff Hayes, Planner with the Boone County Planning Commission, to define Planned Development as she is hearing two different interpretations. Mr. Hayes responded that there is room for interpretation on both sides as to how it is interpreted. He said the Planning Commission has always looked at Planned Development as something better than what could be gotten with the conventional zone, something that would provide a greater benefit to the community, something with better design, better amenities, and better access.

Commissioner Meihaus questioned if he was saying there is nothing defined to say a mix or a variety of housing is needed. Mr. Hayes responded that it is somewhat interpretative and it's the role of the Planning Commission and the Fiscal Court to determine whether an applicant's request complies, based on the criteria in Article 15, with the Planned Development.

Commissioner Meihaus said she has always had a problem with EPD because so much has been left to interpretation rather than fine line rules and regulations.

Commissioner Patrick expressed concerns about the school system being adequate to accommodate the number of children as a result of this development. Commissioner Patrick said she is cutting herself off from voting for apartments and high density housing because it is very important that children be provided with proper education and tools for later years.

Commissioner Campbell questioned if commercial units in front have been reduced, if the blacktop is less than originally proposed and where the retention is located. Mr. Dusing said the commercial units have been reduced in the front, the blacktop is less and that is significant retention is part of the green space planned.

Judge Lucas asked the approximate footage from the back of the building to Willow Bend Subdivision and Mr. Dusing said it is approximately 800 feet.

Commissioner Meihaus stated the plus side of this project is a better proposal than what can be done with the existing zoning noting the setback and buffering is very important and gives greater protection with the P/D. Commissioner Meihaus questioned the time frame for action on this project and said she is not sure if she is ready to vote at this time. Commissioner Meihaus was advised December 17th is the deadline. Commissioner Patrick stated she is ready to vote. Commissioner Campbell questioned the easement referred to in the letter from the First Church of Christ and Mr. Dusing said that is a condition of Planning & Zoning.

Commissioner Patrick then moved to deny Ordinance No. 920.339. Judge Lucas seconded the motion to get it on the floor. Judge Lucas then called for a vote of the motion, Commissioner Patrick voted AYE, Commissioner Meihaus voted NO, Commissioner Campbell voted NO and Judge Lucas voted NO. Motion denied.

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Court makes the final decision based on whether this project is in agreement with the Comprehensive Plan. He referred to page 221 and said that commercial uses should be of a local variety, should be evaluated as to traffic generation, visual impact and buffering. Attorney Schneider said it's pretty plain as to what is appropriate. Attorney Schneider said the property can be developed as is without this zone change.

Judge Lucas declared the Public Hearing closed at 6:42 p.m. and asked the commissioners for their comments or questions.

Commissioner Meihaus questioned why the existing zoning is not appropriate. Commissioner Meihaus said she realizes the proposed P/D has a lot of good things in it, for example the 47% green space and development quality, but feels it is very dense as far as the apartments and feels with the PD overlay a good mix is not being shown, but rather a lot of apartments and a lot of commercial. She said what she expected out of a P/D overlay would be single family, or at least townhomes or condos, and then phase in a transition to apartments and to commercial.

Attorney Dusing said this is what his client can do with existing zoning, however, he submits this may not be what the Court envisioned, not what the Court would like, and would consider it inappropriate. Attorney Dusing said the real test the court can make is one of three findings of fact, the proposed plan conforms with the Comprehensive Plan which he feels that it does because it is not regional and that finding entitles his applicant to approval. Attorney Dusing said someone could come as a matter of right and put in thirteen fast food restaurants upfront, thirteen forty foot high signs, townhomes attached of much lower quality, much more impact in the community, and setbacks of 50 feet against peoples back yard, but instead his applicant tried to do a trade off with 47% greenspace. Mr. Dusing said economically, you can't have 47% greenspace, upscale development, pedestrian oriented amenities, 100 feet setback, only four outlots instead of thirteen, and have clubhouse pools, tennis courts, pedestrian ways clustered in a coordinated way and have single family on the back row.

Commissioner Meihaus said she understands him to be saying what is the best deal as far as protection of the adjoining residential area, more set back and quality development, however, when reading what the intent of Planned Development is, it is to provide an innovative, mixed use of residential and commercial and she does not see a mixed use of residential. Attorney Dusing stated it says mixed use of residential and commercial.

Commissioner Meihaus questioned if this means a mixed use of residential, meaning not just apartments. Attorney Dusing reiterated it means a mixed use of residential and commercial.

Attorney Schneider reiterated that Article 15 encourages a variety of housing. Attorney Dusing said it means a variety of housing that P/D can accommodate, it doesn't mean that there has to be more than one kind on a given project.

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Attorney Dusing said some inaccuracies need to be cleared up. He stated the comment that SR-2 zoning in the back requires detached single family is wrong, as it specifically authorizes up to eight units per acre of townhouses attached. In regard to the request that Kroger's hours be limited and the streets dedicated, Mr. Dusing responded to place a condition to limit their hours and dedicate the streets will kill the projects as there cannot be a Kroger that doesn't operate twenty-four hours a day, nor is there an upscale apartment complex in Northern Kentucky, much less Boone County, that has dedicated streets in the interior. Attorney Dusing said the project is completely isolated from Willow Bend so the traffic or interaction is not an issue. Attorney Dusing said the concerns from residents in Willow Bend about diesel trucks, lights, smoke and fumes are not an issue. He said his client had to meet a condition with Drees, developer of the apartments relative to visibility of the trucks, berming, lighting, privacy fence, etc. Attorney Dusing said to imply that the Court will be throwing out the Comprehensive Plan if they approve this project is a scare tactic and is untrue. Attorney Dusing said this project meets the criteria of the Comprehensive Plan as required by the Planning Commission. Attorney Dusing said to state there is no finding about P/D is untrue. Attorney Dusing said his applicant spent a lot of time and money with imposed consulting fees on traffic with a very well done report. Attorney Dusing said he has mislead no one about the impact of this project on schools, but rather contacted the school system and asked them for their best data on the Drees apartment next door (which is a larger unit than the one currently being proposed) and another highest density one that can be found close by. Attorney Dusing said that one to two bedroom apartments close to an airport and amenities at a cost of \$700-800 per month are not conducive to the life style of young families with school age children. Attorney Dusing said there can be no reasonable doubt that his applicant has gone to great lengths to conform and exceed every criteria required by the Comprehensive Plan.

Attorney Schneider said Attorney Dusing is emphasizing certain things in the Comprehensive Plan which is what the Fiscal Court is voting on rather than the Land Use Map. Attorney Schneider said so many people are confused when voting whether the findings of fact have to be in agreement with the Comprehensive Plan or with the Land Use Map. Mr. Schneider said at the first go around the Planning Commission said this project will take a change in the Land Use Map, however, the second time around, the Planning Commission changed their point of view. Mr. Schneider said that doesn't change the idea of whether it's in agreement with the Comprehensive Plan and that's what the statute says must be voted on.

Attorney Schneider again referred to his handout regarding the relationship of the 1995 Comprehensive Plan and noted does not say from any standpoint that this relates to the Land Use Map or the land use element of the Comprehensive. Mr. Schneider said he is citing from portions of the land use element, portions of the business activity and the portions on the housing. Mr. Schneider said that when looking at all of this together, it is the Comprehensive Plan and the Planning Commission via its vote of 7 to 5 had a disagreement as to whether this was in agreement with the Comprehensive Plan. Attorney Schneider said the Planning Commission is an advisory body and the Fiscal

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amendment to the Comprehensive Plan and KRS 100.171 requires that any change in the Comprehensive Plan must be approved by a majority of the total membership of the Planning Commission. Mr. Schneider noted the vote of the Planning Commission was 7 to 5, and it would take an 8 to 4 vote to change.

Attorney Schneider said the Court's options are 1) to deny the application, 2) approve the changing of the C-4 line - to move it back but deny the P/D overlay, 3) if the P/D is approved for the SR-2, at least follow the guidelines that require a mixture or variety of housing and, 4) if the P/D is approved for the C-4, set some guidelines to guarantee that it is a true neighborhood store by restricting time of delivery, and limiting the number of hours the store is open. Mr. Schneider reiterated that the decision the Court makes on this issue determines the future of the Comprehensive Plan.

Mr. Steve Heffernan said he is opposed to the zone change and expressed concerns about the number of students added to an already overloaded school system and the increased traffic.

Mr. Allen Campbell said he feels the project is an attack to the character of the northern part of Boone County. He too expressed concerns about traffic and the density of the project.

Mrs. Susan McCarthy, 1888 Hidden Springs in Willow Bend Subdivision, voiced concerns about a connector road to her street. She further cited previous water run-off problems from a prior developer and said she wanted a phone number to call when it happened again.

Judge Lucas said it was his understanding there will be no connector streets to Willow Bend and Attorney Dusing agreed.

Gay Stotman said she fears Kentucky 18 is going to become another Colerain Avenue and the area will lose its community atmosphere. She further stated she is not opposed to growth, but emphasized it must be planned and controlled.

Mr. Bob Flick, owner of Flick's Foods, said that when he appeared before the court several months back relative to his project in Hebron, he was told to downsize and restrict delivery times in order to comply with the Comprehensive Plan. Mr. Flick asked that the same guidelines be applied to Kroger.

Mr. John Scales, Willow Bend Subdivision, questioned why this developer should receive special treatment and asked the court to stick to the current zoning.

Mr. Jim Hedden, Willow Bend Subdivision, cited traffic concerns.

Mr. John Pingle mentioned the potential for noise problems.

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Schneider compared the approval of this zone change to the Great Depression of 1929 and said he hoped this would not be another "Black Tuesday". He stated that a C-4 zoning was initiated to stop regionally oriented type commercial development and to emphasize local community type commercial. Mr. Schneider referred to the purpose clause of the C-4 zoning indicating it is intended to serve a local population, not a regional interest. Mr. Schneider also referred to another handout relating to the Comprehensive Plan citing it as evidence that the application is not in agreement with the Comprehensive Plan because it says that regionally oriented type commercial development is to be kept at the Mall Road/Houston Road area and not to be extended along U.S. 42 and KY 18. Mr. Schneider said that 56,000 square feet as proposed by Kroger Store (to be expanded to nearly 70,000 square feet) is not a neighborhood type store and made size comparisons to other stores in the area such as Biggs, Thriftway, etc.

Mr. Schneider questioned why the Planned Development (P/D) Overlay request if, in fact, the store can be placed in the current C-4 zoning. Attorney Schneider then referred to another handout outlining the PD overlay noting that it is permissive zoning which means that no one is entitled to a PD unless it is shown by evidence in the record that the applicant is entitled to the PD. Attorney Schneider said that permissive allows a variety of uses in exchange for imaginative designs, a variety of housing, and preserving the natural topography. Attorney Schneider questioned whether the proposed development preserves the natural terrain and what is unique about a blacktop parking lot with a store to deserve a P/D overlay. Mr. Schneider said the first plan was so bad it was pulled and now it's a trade-off game of a certain C-4 zone for an SR-2 zone. Mr. Schneider said transit and water retention are commercial related uses, not an SR-2.

Attorney Schneider referred to the handout on Planned Development and noted that it says the applicant must show proof before being entitled to a P/D overlay and the uses must not adversely affect the specific objectives of the Comprehensive Plan. Attorney Schneider said the Planning Commission absolutely made no findings in relation to justification of a P/D overlay district.

Attorney Schneider said the original plan was for the apartment complex was for 240 units and the revised plan is for 396 units. Mr. Schneider said the SR-2 zone does not permit apartments, but rather a single family detached zone and noted this is why the applicant is asking for the P/D overlay. Attorney Schneider said the P/D overlay basically changes the SR-2, the existing zone, to an Urban Residential zone which does allow apartments. Attorney Schneider said the proposed apartment complex is a far cry from the SR-2 single family zone. Attorney Schneider said that while the P/D overlay will allow for the apartments, but there still must be proof under Article 15. He reiterated Article 15 encourages a variety of housing while this proposal is for apartments only, not a variety of housing, thus it becomes an urban density zone. He questioned whether the Comprehensive Plan had been amended to be an urban density zone rather than as suburban density. He said he wanted to raise the legal question as to whether making the C-4 with a P/D is in affect a C-2, and does changing an SR-2 with a P/D become an UR. Attorney Schneider said if this is what happens, then it becomes an

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ITEM VIII.

ORDINANCES & RESOLUTIONS

ESCUE/ALLIED LAND DEVELOPERS

Judge Lucas presented a Letter of Withdrawal for the zone change requested by Joseph Cleves (Applicant) for Frazier and Dorothy Escue (Owners) and Allied Land Developers, LLC (Owners by Option). Exhibit "D"

ORDINANCE NO. 920.339 - SOUTHEAST DEVELOPMENT CORPORATION/COMBS

Judge Lucas read a summary of Ordinance No. 920.339, and declared a Public Hearing open at 5:46 p.m.

Mr. Jerry Dusing, attorney representing the applicant and property owners, introduced his clients and various associates regarding the proposed development. Mr. Dusing referred to the information packet previously forwarded to Fiscal Court members and noted this has been a lengthy process with a lot of fact presentation relative to the requirements. Attorney Dusing pointed out there has been a committee meeting subsequent to the public hearing by the Planning Commission that was significant in that the plan has been revised. Mr. Dusing presented an overview of the revised plan, noting the current zoning for adjacent properties. Attorney Dusing said his client is in line with the existing zoning. Attorney Dusing explained the apartment complex is very upscale with one to two bedrooms, few children, rent \$700-800 per month. Mr. Dusing noted the demographics render the impact of children in the school system to be minimal. Attorney Dusing referred to the traffic analysis in the court packet stating it demonstrates minimal impact on KY 18 through traffic. Attorney Dusing noted there is 47% green space in this proposed development when in fact the most stringent regulation in the county for greenspace for this type of development is 20%. Mr. Dusing said the density is less than that approved for Mr. Pennington's property. Mr. Dusing stated his client has agreed to limit the outlots to four when in fact there could be eight to thirteen. Attorney Dusing said the existing zoning authorizes 191,000 square feet of commercial and his client is at 186,000 square feet. Attorney Dusing advised there will be no connector streets to Willow Bend Subdivision and virtually no interaction with those residential units. Attorney Dusing emphasized the proposed development is in compliance with the text and map of the Comprehensive Plan and approved by the staff and the Boone County Planning Commission.

Mr. Bob Hudson stated he is opposed to the requested zone change and expressed concerns about water run-off.

Mr. Dave Schneider, attorney representing residential and commercial clients in the area, stated this zone change could bring about the possible demise or "death" of the 1995 Comprehensive Plan. Attorney Schneider said if the court votes to approve the zone change requested, it could determine the future of zoning on Kentucky 18. Mr.

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Commissioner Campbell then moved, seconded by Commissioner Meihaus, to approve on Second Reading Ordinance No. 920.339, an ordinance to consider the request of Southeast Development Corporation (Applicant) for Charlene Combs (Owner) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Commercial Four (C-4) to Commercial Four/Planned Development (C-4/PD) and from Suburban Residential Two (SR-2) to Commercial Four/Planned Development (C-4/PD) and from Commercial Four (C-4) to Suburban Residential Two/Planned Development (SR-2/PD) and from Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD) on an approximate 55 acre site generally located on the south side of KY 18 near Taylor Drive, Boone County, Kentucky, recommended by the Boone County Planning Commission (7-5) via Resolution No. R-96-024-A. Judge Lucas called for a vote of the motion, Commissioner Patrick voted NO, ALL OTHERS PRESENT VOTING AYE. Exhibit "E"

ORDINANCE NO. 10-96-01 - BANK FRANCHISE FEES

Judge Lucas read a summary of Ordinance No. 10-96-01, and declared a Public Hearing open at 7:01 p.m. Hearing no objection, Judge Lucas declared the Public Hearing closed at 7:02 p.m.

Commissioner Campbell moved, seconded by Commissioner Meihaus, to approve on Second Reading Ordinance No. 10-96-01, an ordinance relating to franchise fees on bank deposits which are held by all financial institutions within the County of Boone, for the health, education, safety welfare and convenience of the inhabitants of Boone County and repealing Ordinance No. 07-96-03. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "F"

ORDINANCE NO. 10-96-02 - ENTEX OCCUPATIONAL LICENSE FEE

Judge Lucas read a summary of Ordinance No. 10-96-02, and declared a Public Hearing open at 7:03 p.m. Hearing no objection, Judge Lucas declared the Public Hearing closed at 7:04 p.m.

Commissioner Patrick moved, seconded by Commissioner Meihaus, to approve on Reading Ordinance No. 10-96-02, an ordinance of the County of Boone, Kentucky providing for a credit of its Occupational License Fee on new Kentucky-Resident employees as part of an economic development project by Entex Information Services, Inc. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "G"

ORDINANCE NO. 10-96-03 - NIELSEN COMPANY OCCUPATIONAL LICENSE FEE

Judge Lucas read a summary of Ordinance No. 10-96-03, and declared a Public Hearing open at 7:05 p.m. Hearing no objection, Judge Lucas declared the Public Hearing closed at 7:06 p.m.

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Commissioner Meihaus moved, seconded by Commissioner Patrick, to approve on Second Reading Ordinance No. 10-06-03, an ordinance of the County of Boone, Kentucky providing for a credit of its Occupational License Fee on new Kentucky-Resident employees as part of an economic development project by the Nielsen Company. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "H"

RESOLUTION NO. R-10-29-96-01 - CITY OF UNION - INTERLOCAL AGREEMENT/ANIMAL SHELTER

Commissioner Patrick moved, seconded by Commissioner Campbell, to approve Resolution No. R-10-29-96-01, a resolution of the Boone County Fiscal Court, pursuant to their Interlocal Cooperative Act (KRS 6.210) to renew and again enter into an annual interlocal agreement with the City of Union for purpose of the Boone County Animal Shelter providing services through its enforcement personnel within the city limits of the City of Union for the purpose of enforcing the City of Union's Animal Control Ordinance Number 90-006. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "I"

RESOLUTION NO. R-10-29-96-02 - CITY OF UNION - INTERLOCAL AGREEMENT

Mr. Collins asked that Resolution No. R-10-29-96-02, a resolution regarding the annual agreement with the City of Union for purpose of the Boone County Public Works providing services through its enforcement personnel within the city limits of the City of Union the minimum specifications for the inspection, enforcement, construction and reconstruction of streets, highways, roads, storm water drains and culverts be deferred as the City of Union has hired an engineer and clarification is needed.

RESOLUTION NO. R-10-29-96-03 - CITY OF UNION - INTERLOCAL AGREEMENT/POLICE DEPARTMENT

Commissioner Patrick moved, seconded by Commissioner Meihaus, to approve Resolution No. R-10-29-96-03, a resolution of the Boone County Fiscal Court, pursuant to their Interlocal Cooperative Act (KRS 6.210) to renew and again enter into an annual agreement with the City of Union for purpose of the Boone County Police Department to provide protection to the City of Union and to enforce traffic, parking and nuisance ordinances within the city limits of the City of Union. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "J"

RESOLUTION NO. R-10-29-96-04 - CITY OF UNION - INTERLOCAL AGREEMENT/STREET MAINTENANCE AND SNOW REMOVAL

Mr. Collins asked that Resolution No. R-10-29-96-04, a resolution regarding the annual agreement with the City of Union for purpose of the Boone County Public Works Department to provide street maintenance and snow removal on all streets within the