

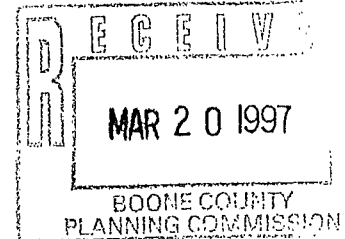


COMMONWEALTH OF KENTUCKY  
OFFICE OF THE COUNTY ATTORNEY  
6024 ROGERS LANE  
P.O. Box 169  
BURLINGTON, KENTUCKY 41005  
(606) 586-9950

BOONE COUNTY ATTORNEY  
LARRY J. CRIGLER

ASSISTANT COUNTY ATTORNEYS  
GWEN C. VICE  
MARK E. IHRIG  
C. J. VICTOR  
JUNEL D. MARKESBERY

March 18, 1997



Kevin Costello  
Executive Director  
Boone County Planning Commission  
2995 Washington Street  
Burlington, Kentucky 41005

Re: Randy Miller - Riddles Run Road Property

Dear Kevin:

On February 11, 1997 the Fiscal Court addressed the Randy Miller - Riddle Run Road Property matter and at that time they requested that a letter be sent to the Boone County Planning Commission requesting a zone change from Agriculture (A-1) to Recreational as relates to the Randy Miller property located off Riddle Run Road and KY 338. I have enclosed a copy of the Fiscal Court minutes from that date for your convenience.

We have been contacted by Wayne Bridges, Attorney for Randy Miller, who is most anxious to have this matter resolved. The fiscal court did not make it clear who was to send the letter and therefore there was a delay in this letter to you due to the confusion.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Larry J. Crigler  
Boone County Attorney

LJC/ss

ENCLOSURE

cc: Wayne Bridges



**EXHIBIT "A"**

## STAFF REPORT

Request of Boone County Fiscal Court for Randy Miller (owner) to consider a Zoning Map Amendment for a parcel located off Riddles Run Road and KY 338, Boone County, Kentucky. The request is for a zone change from Agriculture (A-1) to Recreation (R). (See Sheet #1)

April 23, 1997

This request is for a Zoning Map Amendment from Agriculture (A-1) to Recreation (R) for an approximate 5.84 acre site located at Beaver Road (KY 338) and Riddles Run Road along Gunpowder Creek (See Sheet #2),

### Surrounding Zoning and Land Uses (See Sheet #3)

- North: Gourd property zoned Agriculture (A-1).
- East: Miller property on the east side of Riddles Run Road, the Bunger property and the Schwenke property further to the east zoned Agriculture (A-1).
- South: Palmer property (Camp Turn About) zoned Recreation (R).
- West: Ogden property zoned Recreation (R) across Gunpowder Creek and Agriculture (A-1) on the south side of Beaver Road.

### Site Characteristics

This site has approximately 200 feet of road frontage along Beaver Road and approximately 1,600 feet along Riddles Run Road. The site drops off from Riddles Run Road to Gunpowder Creek at an approximate slope of 45%. The area has mature tree coverage, though not dense. Old Riddles Run Road serves as access to the property and Old Hamilton Rising Sun Road runs northwest parallel to the creek. The abutments of the old bridge are still visible, as shown in the slides. The relocated road begins approximately 55 feet east of Old Riddles Run Road (See Sheet #4). Currently, there are two (2) seasonal residences on the subject property as well as the storage of a few recreational vehicles. This site is within the 100-year flood plain.

### Relationship to the Comprehensive Plan

The Future Land Use Map shows this site as Developmentally Sensitive (DS) which is defined as "Areas that have an existing slope of twenty percent or greater..., or have unique soil or flooding characteristics..., or contain significant wooded areas, creeks, wildlife habitat or other natural features that are important to a site's stability and visual character." The language in the Land Use Element of the adopted 1995 Boone County Comprehensive Plan states:

"The area of KY 338 from Riddles Run Road to Big Bone Church Road may see the development of some seasonal homes as well as recreational vehicle campgrounds."

Staff Comments/Concerns

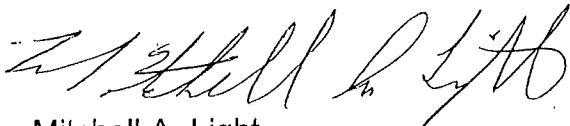
1. Since the Boone County Fiscal Court is the applicant of this request, a Concept Development Plan did not accompany the request.
2. The Recreation (R) zoning district allows for seasonal use of the property, and as an accessory use - dwelling units of the family of the owner/operator.
3. Is a straight Recreation (R) zone appropriate? We do not have any idea what is intended for this property or how it may relate to the existing road network.
4. What types of recreational uses are conducive to this property?

Conclusion

The Boone County Planning Commission and the Boone County Fiscal Court must review this request on the basis of its relationship to the Comprehensive Plan and in terms of the three (3) criteria necessary for a Zoning Map Amendment.

1. The map amendment request is in agreement with the adopted Comprehensive Plan and any specific study designed to further detail the Boone County Comprehensive Plan for the location in question; and
2. The existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and
3. There have been major changes of an economic, physical, or social nature not anticipated in the adopted Comprehensive Plan that substantially alter the areas character.

Respectfully submitted,



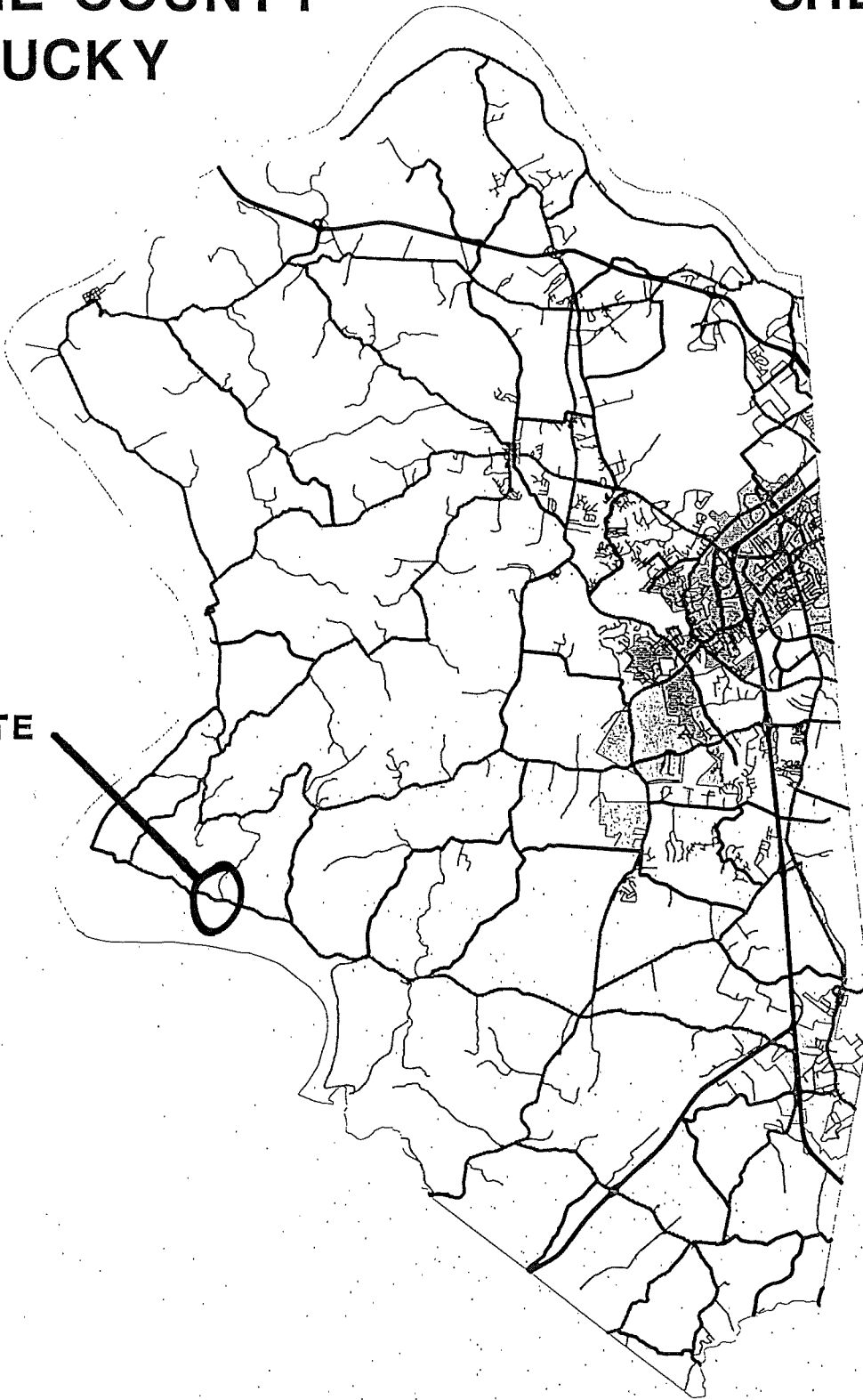
Mitchell A. Light  
Asst. Zoning Administrator/Enf. Officer

MAL\par

# BOONE COUNTY KENTUCKY

# SHEET #1

SITE

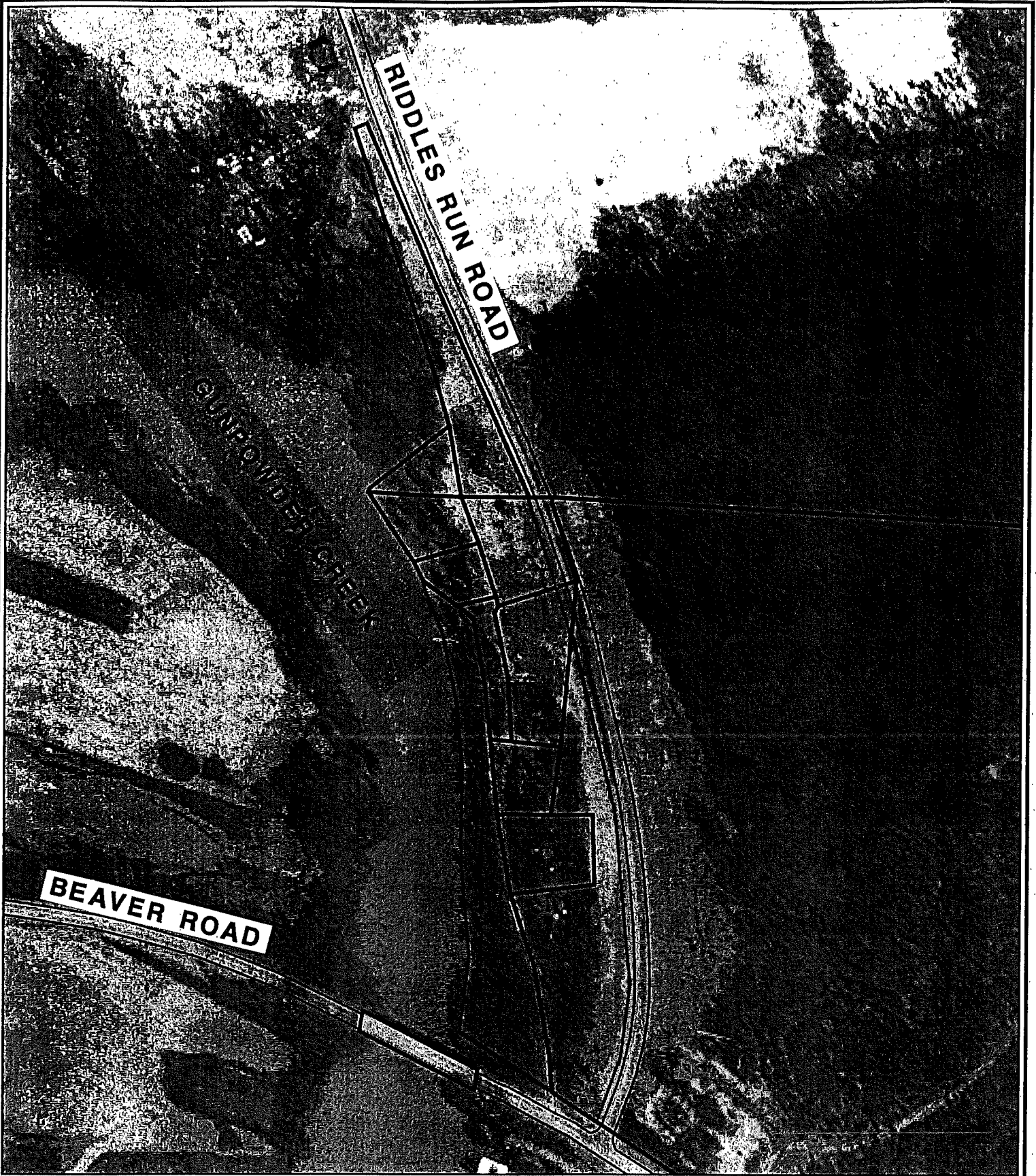


16500 0 16500 Feet

1 inch equals 16500 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
March 25, 1997



## Vicinity Map



**BCFC / Miller ZMA**

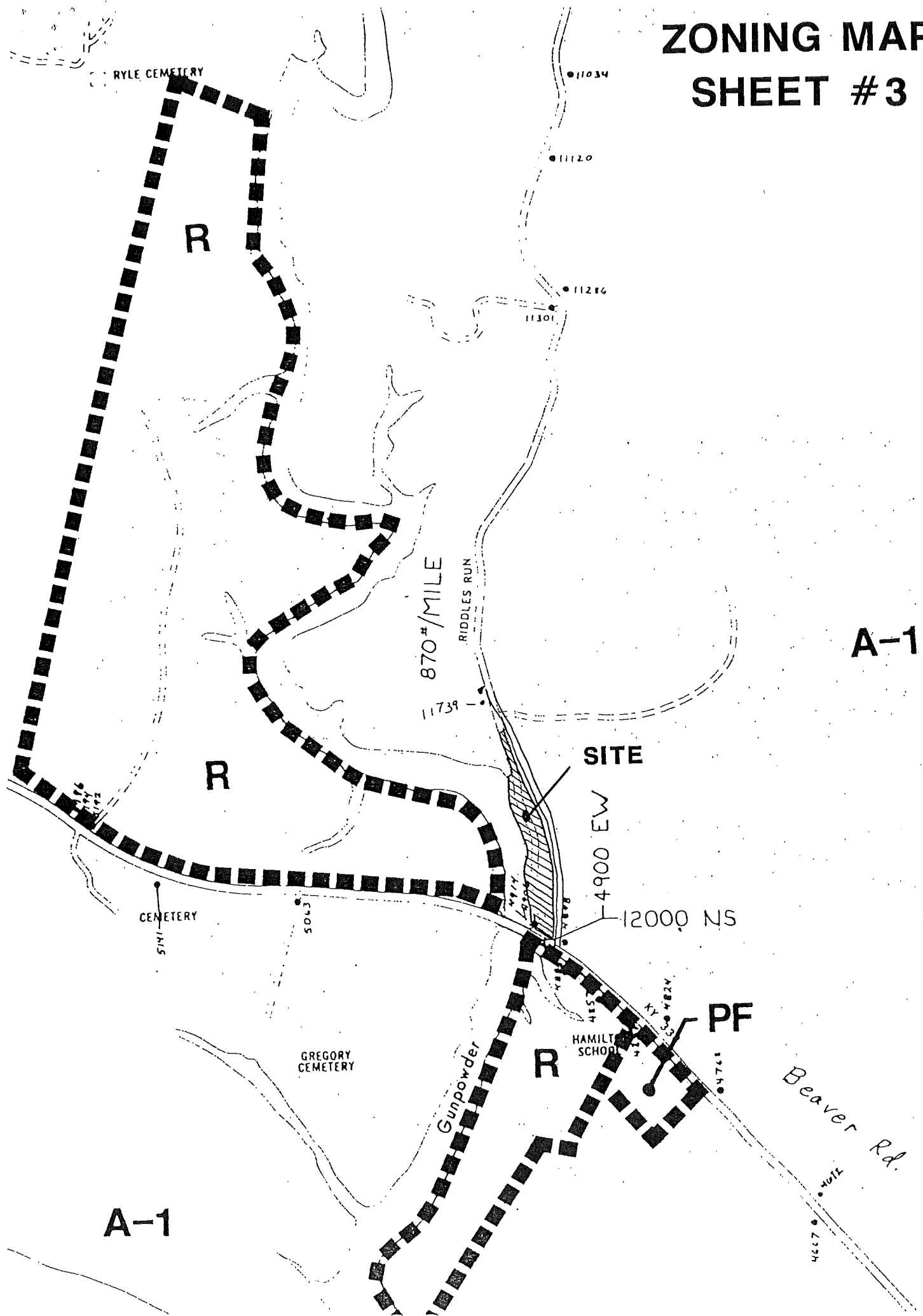
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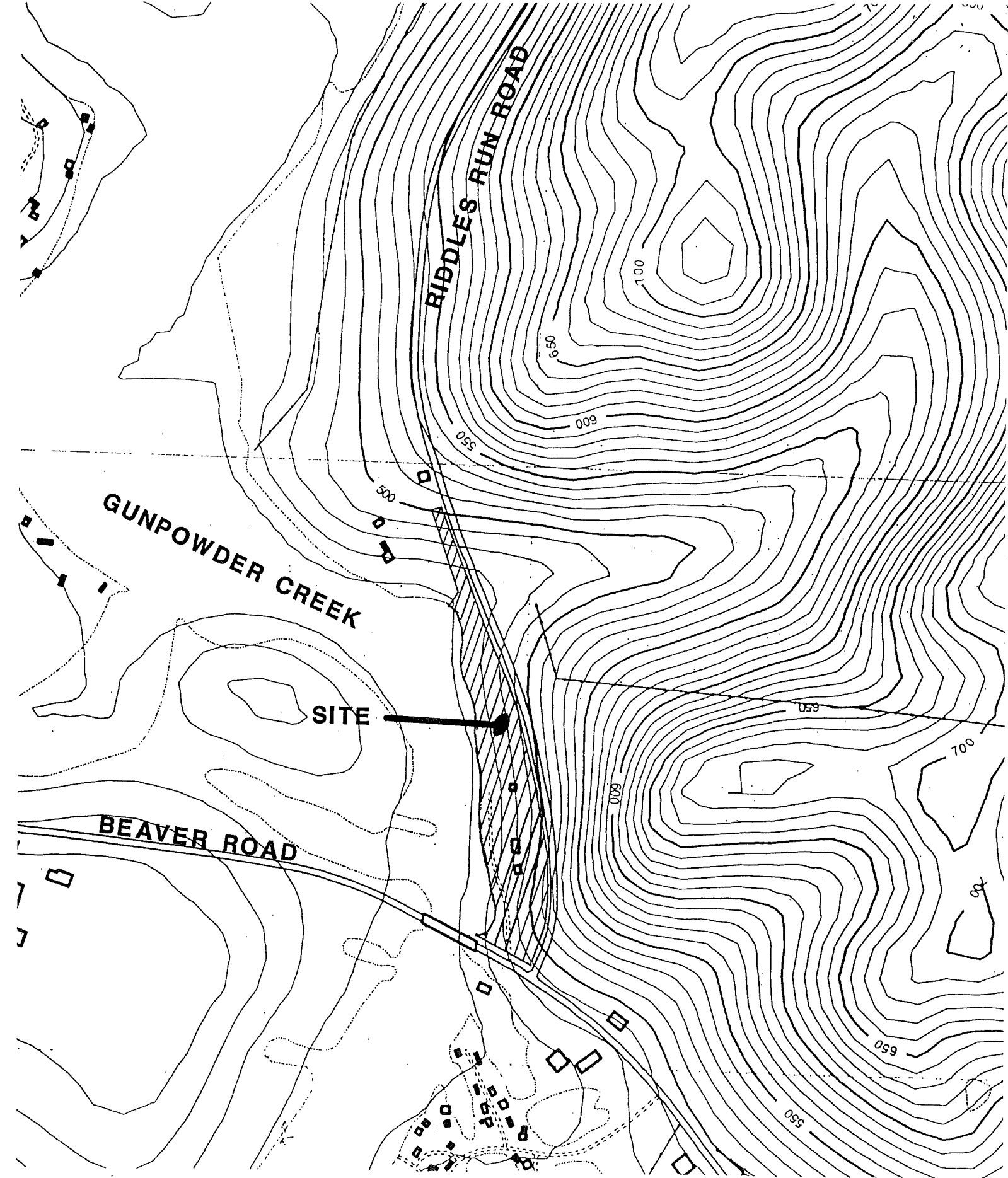
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Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 22, 1997



**SHEET # 2**

# ZONING MAP SHEET #3





**BASE MAP  
SHEET #4**

PUBLIC HEARING ITEM NO. 1:

Commission members present: Mr. Brown, Mr. Burch, Mr. Caddell, Mr. McKinney - Chairman, Mr. McMillian, Mr. Millay, Mr. Neltner, Mr. Ries - Vice Chairman, Mr. Rush, Mrs. Schaffer, and Mr. Viox.

Following the Public Hearing for Item #2, the Chairman introduced the first item on the Agenda:

1. Applicant: Boone County Fiscal Court for Randy Miller (owner)

Request: Zoning Map Amendment

The request of the Boone County Fiscal Court for Randy Miller (owner) to consider a Zoning Map Amendment for a parcel located off Riddles Run Road and KY 338, Boone County, Kentucky. The request is for a zone change from Agriculture (A-1) to Recreation (R).

Staff Member Mitch Light presented the Staff report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Randy Miller, the owner of the property, offered to answer any questions.

The Chairman questioned the intended use of the property.

Mr. Miller stated that he wants to take the property back to 1979 and the way things were before they had problems with Boone County. They want to camp and fish. They want to bring campers down there and build a cabin. He stated that the county has chopped the property up so badly and they have to have reduced setback requirements to get close to the new road.

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

Mr. John Bunger submitted a document from his brother, who is an adjoining property owner. He stated that his brother is strongly opposed to this zone change.

Olin Gourd, who lives north of Mr. Miller, questioned what would stop from happening what has happened at Camp Turnabout. His concern is what control there will be over the use of the property.

Susan Cabot, Historic Preservation Planner for the Boone County Planning Commission, stated that her comments are more of concern than opposition. She is also concerned about what has already happened in the area. She stated that in 1994, this property was part of the area designated as one of the first state scenic byways. It is important from a scenic,

historic, and agricultural point of view. A lot has happened in the general area of this request that is not very scenic. She stated that this type of application is hard to monitor and can quickly become unsightly. It may become objectionable as part of the scenic byway. She stated that Mr. Bungler represents a family that owns a major farm on Riddles Road in excess of 500 acres. The farm has been in the same family for over 200 years and it is an important historic landmark. She would not like to see anything on this property that would negatively impact that farm.

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

Mr. Ries questioned why the county is the applicant rather than Mr. Miller. He noted that if Mr. Miller was the applicant, he would have to submit a Concept Plan.

Mr. Light stated that he does not know the entire history of the site and does not know why the Fiscal Court is the applicant.

Mr. Miller advised that he entered into an agreement with Boone County. He stated that this was a recreational area and it was PD. When it was a recreational area, they fished and hunted. He stated that the county needed to relocate the road because it was continually under water and causing problems, so they agreed that the county could move the road on the upper side. He stated that something went wrong and all of his property was given away to individuals -- county employees. It was a nightmare, and almost a civil rights violation. He stated that the purpose of this rezoning is to get back his rights as they were in 1979 so that he can build a cabin and fish and hunt, and have his family down there in their campers. He stated that he has no intention of ending up like Camp Turnabout -- which has now been cleaned up and does not look bad when it is not flooded.

Mr. Ries asked Counselor Wilson to comment. Counselor Wilson stated that he does not know how lots were created out of property that Mr. Miller says he owns. He stated that apparently Fiscal Court feels that Mr. Miller may be satisfied if he gets his zone change. He noted that the Planning Commission is only a recommending body and is not here to help or hurt any proposed settlement between Mr. Miller and the county. The Planning Commission is just doing its job in terms of reviewing the request.

Mr. Ries asked if the county owns the property.

Mr. Miller stated that he owns the property. The deeds are all his. He stated that the county gave this property to the state of Kentucky, but it was done illegally and the state of Kentucky does not recognize it. The road has collapsed and the state will not fix it. He stated that this needs to be resolved and it has gone on since 1979. He stated that deeds were made up and lots given away. He stated that it is an unbelievable story.

Counselor Wilson stated that just because Fiscal Court is the applicant, does not mean that they own the property. Fiscal Court has the right to originate a zone change on property they do not own.

Mr. Miller stated that he owns the property.

Mr. Costello advised that he was called to a meeting two or three years ago and the county explained that there was something going on with Mr. Miller and one of the aspects was the zoning of the property. At that time, he tried to do some research on the past history of the property and could find very little. He stated that in Mr. Miller's discussion with Fiscal Court, one of his ideas was a recreational type zone to match some of the uses that were there years ago. The Fiscal Court wanted the Planning Commission to look at the possibility of recreational zoning for the area.

Mr. Miller stated that he owns Riddles Run Road. He will not sign the papers over to the county or the state until they let him back in. He stated that when they put the new road in, he had to move out and everything he had was destroyed. Then Planning & Zoning said that he had to stay 85 feet from the new road, which he owns anyway. He stated that in order to use this property, he must have recreational zoning for the density requirements and to get within 30 feet of the road. He stated that in regard to the Historic Register, there is nothing on there because everything was bulldozed away by Boone County and destroyed.

Mr. Ries asked if Mr. Miller would be agreeable to some conditions on the property. Mr. Miller responded "no". Mr. Ries questioned a restriction regarding boat ramps. Mr. Miller stated that they have the right now to hunt, fish, and boat. He stated that they have stayed off the property because they were told that if they used it they could be fined up to \$1,300 a day. He stated that it is an unbelievable story that is true and documented.

Mr. McKinney advised that this might be an issue for another forum, other than the Planning Commission.

Mr. Neltner asked if Mr. Miller is saying that he wants to use the property for his own personal use. Mr. Miller responded "that is correct". Mr. Neltner asked if he would be willing to accept a condition that he not operate any commercial type operation. Mr. Miller responded "no". Mr. Neltner asked if he wants to be able to charge people to launch boats. Mr. Miller stated that he wants the rights that were taken away from him in November, 1979 -- which includes the right to build a marina or put campers in there. He stated that he is taking his rights back one at a time.

Mr. Brown questioned what was happening on the property in 1979. Were they operating a public facility? Mr. Miller stated that it was a private camp grounds. It was private for family members, friends, and their cabins. Mr. Brown stated, "There was no money being exchanged.". Mr. Miller responded "no, but I want that right.". He added that there are marinas there. Mr. Brown stated that they were not operating a marina in 1979. Mr. Miller agreed that he was not, but stated that he had

intentions. He stated that he started on the boat ramp and talked to the Army Corps of Engineers. He stated that he wants his rights back. He has no plans to build a marina or campgrounds.

Mr. McMillian asked Mr. Miller if he plans to sell off any of the lots for any purpose. Mr. Miller responded "no" and stated that the property has to stay in the family. He stated that he would intend to make a trade. He stated that he owns probably 500 feet and he owns all of the land under the water, and he has no use for it. He stated that he has no intentions and he cannot sell it off. He stated that you have to have a couple of acres before you can sell it off.

Mr. McMillian advised that you can sell whatever you want -- but building on it is another matter.

Mr. Miller stated that the way it was set up, they were not allowed to cut up parcels and sell them. He stated that this was set up by Planning & Zoning.

Mr. Costello advised that the current zoning is A-1, which is a minimum five-acre lot to build a house. He advised that land that is not buildable can be transferred.

The Chairman asked if there were any further questions.

Mrs. Schaffer referred to Sheet #2 attached to the Staff Report and asked if there is significance to the black lines that indicate lots. Mr. Miller advised that they are different parcels and they are already lots. Mrs. Schaffer stated that she thought Mr. Miller wanted to use the property for his friends and family and for personal use, but he cannot do that with A-1. Mr. Light advised that the lots Mrs. Schaffer is referring to are legal lots of record. Mr. Miller stated that those lots were bought back into the family over the years. Mr. McKinney stated that Mr. Miller is saying that each is a separate deed, but not a platted lot. Mrs. Schaffer stated that they could be sold off. Mr. Light advised that they could be sold, but the owner would have to go to the Board of Adjustment in order to build on them.


Mrs. Schaffer questioned if Mr. Miller wants recreational vehicles and trailer camps. Mr. Miller stated that he wants the full spectrum of Recreational zoning. Mrs. Schaffer stated that trailers and campers provided for such use are transitional and need to conform to KRS -- permits are required and Site Plan Review is required. Mr. Light stated that Site Plan Review would be required for a marina, for any type of campground, boat storage, or recreational vehicle storage.

Ms. Cabot stated that should the applicant decide to use the property under Recreational zoning for any type of use that involves the creek, such as a boat ramp or marina, an Army Corps of Engineers Permit would be required. The impact on the Bunger property would have to be considered, and an archaeological survey would have to be done. She stated that the area is rich in archaeological resources.

There being no further comments, Mr. McKinney stated that the Committee Meeting for this item will be on May 12, 1997 at 5:30 P.M. in the second floor conference room. This item will be on the Agenda for the Business Meeting on May 21, 1997 at 7:30 P.M..

The Chairman closed this Public Hearing.

APPROVED:

  
Michael McKinney, Chairman

Attest:

  
Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
COURTROOM 3A  
BUSINESS MEETING  
May 21, 1997  
7:30 P.M.

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Mr. Michael McKinney, Chairman, called the meeting to order at 7:44 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett, Secretary/Treasurer  
Mr. Larry Brown  
Mr. Fred Burch  
Mr. Arnold Caddell  
Mr. Mike McKinney, Chairman  
Mr. Don McMillian  
Mr. Bob Millay  
Mr. Robert Ries, Vice Chairman  
Mr. Ralph Rush  
Mrs. Linda Schaffer  
Mrs. Carol Smith  
Mr. William Viox  
Mr. Earl White, Temporary Presiding Officer

COMMISSION MEMBERS NOT PRESENT:

Mr. Phil Damstrom  
Mr. Barry Neltner

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director  
Mr. Ed Coleman  
Ms. Jan Hancock, Secretary  
Mr. John Huth  
Mr. Mitch Light  
Mr. Kevin Wall, AICP

APPROVAL OF THE MINUTES:

Mr. McKinney stated that each Commission member had received a copy of the Minutes of the May 7, 1997 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. Ries seconded the motion and it carried unanimously.

UNFINISHED BUSINESS:

The Chairman advised that the following item is recommended for deferral:

2. Zoning Map Amendment

The request of Lawrence Howe and Mary Lou Howe (owners) to consider a Zoning Map Amendment for an approximate 9.6 acre tract at 492 Maher Road, Boone County, Kentucky. The request is for a zone change from Industrial One (I-1) to Rural Suburban (RS).

The Chairman stated that the deferral would be to the June 18, 1997 Business Meeting. The Committee Meeting will be on June 9, 1997 at 5:30 P.M. in the second floor Conference Room. Mr. Caddell so moved, seconded by Mr. Millay. Mr. Caddell advised that the applicant did not attend the last Committee Meeting and it is not known if there was a miscommunication. The Committee wants to give the applicant another opportunity to attend the Committee Meeting. Mr. Costello advised that the applicant has submitted a letter waiving the 90-day time limitation.

The Chairman asked for a vote on the motion made by Mr. Caddell to defer the request. The motion carried unanimously.

1. Zoning Map Amendment

The request of Boone County Fiscal Court for Randy Miller (owner) to consider a Zoning Map Amendment for a parcel located off Riddles Run Road and KY 338, Boone County, Kentucky. The request is for a zone change from Agriculture (A-1) to Recreation (R).

Staff Member Mitch Light presented the Committee Report which recommended denial of the request based on the findings of fact (see Committee Report).

Mr. McMillian moved by resolution to the Boone County Fiscal Court that the request be denied based on the Committee Report. Mr. Ries seconded the motion.

Mr. Viox questioned Finding of Fact #2 in the Committee Report. He has trouble with the language in this finding and questioned since when the applicant has to prove that the existing zoning is inappropriate. He questioned this being an Agricultural area and how Recreation got there.

Mr. Light stated that the Fiscal Court is the applicant and did not submit anything but a letter asking the Planning Commission to look at a possible zone change. A Concept Plan is not required and no plan of any type was submitted. All that was submitted was Mr. Miller's testimony. Mr. McKinney stated that when the county builds a park, the county does not have to have a zone change. They can just about do what they will.

Mr. Viox noted that the request is by the Fiscal Court -- and they must have had a reason to submit it -- he questioned the vote. Mr. Light advised that it was unanimous. Mr. McKinney stated that the Fiscal Court submitted the request on behalf of the owner. The county is not the owner. Mr. Viox questioned why the request was submitted.

Mr. Light stated that Mr. Miller has some problems with Fiscal Court and one of his requests was to get the property back to recreational use rather than A-1. He commented that with the A-1 zoning there would be a five-acre minimum. He stated that it is not known why the Fiscal Court sent the matter to the Planning Commission.

Mr. Viox stated that the Fiscal Court is the applicant and is asking for Recreation in an Agricultural area. Mr. Light noted that there is Recreation to the south (Camp Turnabout) and also to the west. Mr. Viox agreed and referred again to Finding of Fact #2. He stated that Finding of Fact #2 is saying that neither the applicant (the Fiscal Court) nor the owner made a demonstration of why Recreation is being requested, but that does not mean that Recreation is inappropriate. He questioned what the Comprehensive Plan says for this area. He questioned how there would be parks anywhere if this is the case.

Mr. McKinney stated that when the county wants to build a park as the owner, they can do that because they take responsibility to maintain it.

Mr. Light stated that Finding of Fact #2 does not say Recreation is inappropriate -- but no evidence was submitted with the application to show that it is more appropriate than what is there.

Mrs. Schaffer stated that part of the concern was that "parks" is not the only use in Recreation, and the owner indicated that he wanted to use the site for a seasonal cabin -- and everything that he wanted to do he could do in A-1 -- except meet the setback, and he can request a Variance for that. She stated that the Committee looked at all of the different uses and that is the reason for Finding of Fact #2.

Mr. Miller asked to address the Planning Commission. The Chairman refused and explained that the Public Hearing has already been held and there is a motion on the floor. He stated that additional testimony will not be taken. The next step would be the Fiscal Court.

The Chairman asked for a vote on the motion made by Mr. McMillian to deny the request. Counselor Wilson explained that a vote in favor of the motion is a vote to deny the request. The vote found Mrs. Arnett, Mr. Brown, Mr. Caddell, Mr. McKinney, Mr. McMillian, Mr. Millay, Mr. Ries, Mrs. Schaffer, and Mr. White in favor. Mr. Burch, Mr. Rush, Mrs. Smith, and Mr. Viox were opposed. The motion carried by a vote of 9 to 4.

EXHIBIT "B"

## COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Don McMillian, Chairman

DATE: May 21, 1997

RE: Request of Boone County Fiscal Court for Randy Miller (owner) to consider a Zoning Map Amendment for an approximate 5.84 acre parcel located off Riddles Run Road and KY 338, Boone County, Kentucky. The request is for a zone change from Agriculture (A-1) to Recreation (R).

### REMARKS:

We, the Committee, recommend denial of the request based upon the following findings of fact:

#### Findings of Fact

1. The approved 1995 Boone County Comprehensive Plan, Future Land Use Map shows this site as Developmentally Sensitive (DS); more specifically though, the text states:

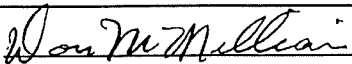
"The area of KY 338 from Riddles Run Road to Big Bone Church Road may see the development of some seasonal homes as well as recreational vehicle campgrounds."

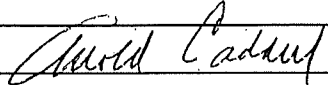
This site is located on the west side of KY 338 along Riddles Run Road not within the area specified above. Thus, the Committee has concluded that the request is not in agreement with the Comprehensive Plan.

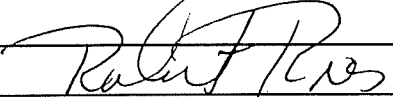
2. Neither the applicant nor the property owner provided evidence which demonstrates that the existing zoning classification of Agriculture (A-1) is inappropriate and that the proposed zoning classification of Recreation (R) would be appropriate.
3. Neither the applicant nor the property owner have demonstrated that there have been major changes of a physical, social or economic nature within the area which were not anticipated in the adopted 1995 Comprehensive Plan which have substantially altered the basic character of the area.

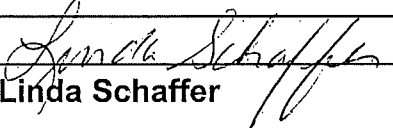
4. Based on findings 1, 2, and 3, the Committee concludes that this proposal does not fulfill any of the three statutory criteria necessary for a zone change.

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.

			
<b>Don McMillian, Chairman</b>			
For	<input checked="" type="checkbox"/>	Against	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	Absent	<input type="checkbox"/>

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

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

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

<b>TOTAL:</b>	<u>4</u>	<b>FOR</b>	<u>0</u>	<b>AGAINST</b>	<u>0</u>	<b>ABSTAIN</b>	<u>0</u>	<b>ABSENT</b>
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PUBLIC HEARING ITEM NO. 1:

Commission members present: Mr. Brown, Mr. Burch, Mr. Caddell, Mr. McKinney - Chairman, Mr. McMillian, Mr. Millay, Mr. Neltner, Mr. Ries - Vice Chairman, Mr. Rush, Mrs. Schaffer, and Mr. Viox.

Following the Public Hearing for Item #2, the Chairman introduced the first item on the Agenda:

1. Applicant: Boone County Fiscal Court for Randy Miller (owner)

Request: Zoning Map Amendment

The request of the Boone County Fiscal Court for Randy Miller (owner) to consider a Zoning Map Amendment for a parcel located off Riddles Run Road and KY 338, Boone County, Kentucky. The request is for a zone change from Agriculture (A-1) to Recreation (R).

Staff Member Mitch Light presented the Staff report which included a slide presentation (see Staff Report).

The Chairman asked for the applicant's presentation.

Mr. Randy Miller, the owner of the property, offered to answer any questions.

The Chairman questioned the intended use of the property.

Mr. Miller stated that he wants to take the property back to 1979 and the way things were before they had problems with Boone County. They want to camp and fish. They want to bring campers down there and build a cabin. He stated that the county has chopped the property up so badly and they have to have reduced setback requirements to get close to the new road.

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

Mr. John Bunger submitted a document from his brother, who is an adjoining property owner. He stated that his brother is strongly opposed to this zone change.

Olin Gourd, who lives north of Mr. Miller, questioned what would stop from happening what has happened at Camp Turnabout. His concern is what control there will be over the use of the property.

Susan Cabot, Historic Preservation Planner for the Boone County Planning Commission, stated that her comments are more of concern than opposition. She is also concerned about what has already happened in the area. She stated that in 1994, this property was part of the area designated as one of the first state scenic byways. It is important from a scenic,

historic, and agricultural point of view. A lot has happened in the general area of this request that is not very scenic. She stated that this type of application is hard to monitor and can quickly become unsightly. It may become objectionable as part of the scenic byway. She stated that Mr. Bunger represents a family that owns a major farm on Riddles Road in excess of 500 acres. The farm has been in the same family for over 200 years and it is an important historic landmark. She would not like to see anything on this property that would negatively impact that farm.

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

Mr. Ries questioned why the county is the applicant rather than Mr. Miller. He noted that if Mr. Miller was the applicant, he would have to submit a Concept Plan.

Mr. Light stated that he does not know the entire history of the site and does not know why the Fiscal Court is the applicant.

Mr. Miller advised that he entered into an agreement with Boone County. He stated that this was a recreational area and it was PD. When it was a recreational area, they fished and hunted. He stated that the county needed to relocate the road because it was continually under water and causing problems, so they agreed that the county could move the road on the upper side. He stated that something went wrong and all of his property was given away to individuals -- county employees. It was a nightmare, and almost a civil rights violation. He stated that the purpose of this rezoning is to get back his rights as they were in 1979 so that he can build a cabin and fish and hunt, and have his family down there in their campers. He stated that he has no intention of ending up like Camp Turnabout -- which has now been cleaned up and does not look bad when it is not flooded.

Mr. Ries asked Counselor Wilson to comment. Counselor Wilson stated that he does not know how lots were created out of property that Mr. Miller says he owns. He stated that apparently Fiscal Court feels that Mr. Miller may be satisfied if he gets his zone change. He noted that the Planning Commission is only a recommending body and is not here to help or hurt any proposed settlement between Mr. Miller and the county. The Planning Commission is just doing its job in terms of reviewing the request.

Mr. Ries asked if the county owns the property.

Mr. Miller stated that he owns the property. The deeds are all his. He stated that the county gave this property to the state of Kentucky, but it was done illegally and the state of Kentucky does not recognize it. The road has collapsed and the state will not fix it. He stated that this needs to be resolved and it has gone on since 1979. He stated that deeds were made up and lots given away. He stated that it is an unbelievable story.

Counselor Wilson stated that just because Fiscal Court is the applicant, does not mean that they own the property. Fiscal Court has the right to originate a zone change on property they do not own.

Mr. Miller stated that he owns the property.

Mr. Costello advised that he was called to a meeting two or three years ago and the county explained that there was something going on with Mr. Miller and one of the aspects was the zoning of the property. At that time, he tried to do some research on the past history of the property and could find very little. He stated that in Mr. Miller's discussion with Fiscal Court, one of his ideas was a recreational type zone to match some of the uses that were there years ago. The Fiscal Court wanted the Planning Commission to look at the possibility of recreational zoning for the area.

Mr. Miller stated that he owns Riddles Run Road. He will not sign the papers over to the county or the state until they let him back in. He stated that when they put the new road in, he had to move out and everything he had was destroyed. Then Planning & Zoning said that he had to stay 85 feet from the new road, which he owns anyway. He stated that in order to use this property, he must have recreational zoning for the density requirements and to get within 30 feet of the road. He stated that in regard to the Historic Register, there is nothing on there because everything was bulldozed away by Boone County and destroyed.

Mr. Ries asked if Mr. Miller would be agreeable to some conditions on the property. Mr. Miller responded "no". Mr. Ries questioned a restriction regarding boat ramps. Mr. Miller stated that they have the right now to hunt, fish, and boat. He stated that they have stayed off the property because they were told that if they used it they could be fined up to \$1,300 a day. He stated that it is an unbelievable story that is true and documented.

Mr. McKinney advised that this might be an issue for another forum, other than the Planning Commission.

Mr. Neltner asked if Mr. Miller is saying that he wants to use the property for his own personal use. Mr. Miller responded "that is correct". Mr. Neltner asked if he would be willing to accept a condition that he not operate any commercial type operation. Mr. Miller responded "no". Mr. Neltner asked if he wants to be able to charge people to launch boats. Mr. Miller stated that he wants the rights that were taken away from him in November, 1979 -- which includes the right to build a marina or put campers in there. He stated that he is taking his rights back one at a time.

Mr. Brown questioned what was happening on the property in 1979. Were they operating a public facility? Mr. Miller stated that it was a private camp grounds. It was private for family members, friends, and their cabins. Mr. Brown stated, "There was no money being exchanged.". Mr. Miller responded "no, but I want that right.". He added that there are marinas there. Mr. Brown stated that they were not operating a marina in 1979. Mr. Miller agreed that he was not, but stated that he had

intentions. He stated that he started on the boat ramp and talked to the Army Corps of Engineers. He stated that he wants his rights back. He has no plans to build a marina or campgrounds.

Mr. McMillian asked Mr. Miller if he plans to sell off any of the lots for any purpose. Mr. Miller responded "no" and stated that the property has to stay in the family. He stated that he would intend to make a trade. He stated that he owns probably 500 feet and he owns all of the land under the water, and he has no use for it. He stated that he has no intentions and he cannot sell it off. He stated that you have to have a couple of acres before you can sell it off.

Mr. McMillian advised that you can sell whatever you want -- but building on it is another matter.

Mr. Miller stated that the way it was set up, they were not allowed to cut up parcels and sell them. He stated that this was set up by Planning & Zoning.

Mr. Costello advised that the current zoning is A-1, which is a minimum five-acre lot to build a house. He advised that land that is not buildable can be transferred.

The Chairman asked if there were any further questions.

Mrs. Schaffer referred to Sheet #2 attached to the Staff Report and asked if there is significance to the black lines that indicate lots. Mr. Miller advised that they are different parcels and they are already lots. Mrs. Schaffer stated that she thought Mr. Miller wanted to use the property for his friends and family and for personal use, but he cannot do that with A-1. Mr. Light advised that the lots Mrs. Schaffer is referring to are legal lots of record. Mr. Miller stated that those lots were bought back into the family over the years. Mr. McKinney stated that Mr. Miller is saying that each is a separate deed, but not a platted lot. Mrs. Schaffer stated that they could be sold off. Mr. Light advised that they could be sold, but the owner would have to go to the Board of Adjustment in order to build on them.


Mrs. Schaffer questioned if Mr. Miller wants recreational vehicles and trailer camps. Mr. Miller stated that he wants the full spectrum of Recreational zoning. Mrs. Schaffer stated that trailers and campers provided for such use are transitional and need to conform to KRS -- permits are required and Site Plan Review is required. Mr. Light stated that Site Plan Review would be required for a marina, for any type of campground, boat storage, or recreational vehicle storage.

Ms. Cabot stated that should the applicant decide to use the property under Recreational zoning for any type of use that involves the creek, such as a boat ramp or marina, an Army Corps of Engineers Permit would be required. The impact on the Bunger property would have to be considered, and an archaeological survey would have to be done. She stated that the area is rich in archaeological resources.

There being no further comments, Mr. McKinney stated that the Committee Meeting for this item will be on May 12, 1997 at 5:30 P.M. in the second floor conference room. This item will be on the Agenda for the Business Meeting on May 21, 1997 at 7:30 P.M..

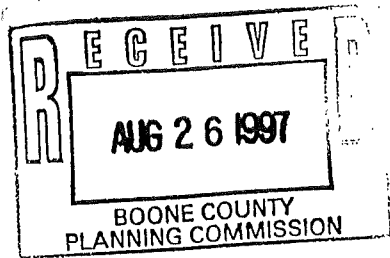
The Chairman closed this Public Hearing.

APPROVED:

  
\_\_\_\_\_  
Michael McKinney, Chairman

Attest:

  
\_\_\_\_\_  
Jan Hancock, Recording Secretary



KPL ✓  
jlm

MINUTES  
BOONE COUNTY FISCAL COURT  
July 8, 1997  
10:00 A.M.

ITEM I. CALL TO ORDER

Judge Ken Lucas called to order the meeting of the Boone County Fiscal Court.

Present: Kenneth R. Lucas, County Judge/Executive  
Irene Patrick, Commissioner, District 1  
Shirley Meihaus, Commissioner, District 2  
Harold L. Campbell, Commissioner, District 3  
Larry Crigler, County Attorney  
Gwen Vice, Assistant County Attorney

Staff: Lisa Buerkley, Finance Officer  
Jim Collins, County Administrator  
Marilyn Rouse, Personnel Director  
Barb Lubrecht, Executive Secretary  
Harvey Pelley, Director of Public Services  
Carol Rudicill, Fiscal Court Clerk  
Greg Sketch, Director of Engineering Services

ITEM II. APPROVAL OF MINUTES

Commissioner Patrick moved, seconded by Commissioner Campbell, to approve the minutes of the meeting held June 17, 1997. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

Commissioner Meihaus moved, seconded by Commissioner Patrick, to approve the minutes of the special meeting held June 24, 1997. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

ITEM III. ORDINANCES & RESOLUTIONS

RESOLUTION NO. R-07-08-97-01-PZ - RANDY MILLER

Judge Lucas read a summary of Resolution No. R-07-08-97-01-PZ, a resolution of the Boone County Fiscal Court recommending denial for a request of Randy Miller (Owner) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Agriculture (A-1) to Recreation (R) for a parcel generally located off Riddles Run Road and KY 338, Boone County Kentucky, recommended (9-4) by the Boone County Planning Commission via Resolution R-97-007-D. Judge Lucas asked if there was anyone present who wished to make comment and hearing none, he stated this situation has been going on for a number of years.

Judge Lucas then questioned Mitch Light, Planner with the Boone County Planning & Zoning Commission, if the matter could be handled by a variance if it were approved by the Board of Adjustments.

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BOONE COUNTY FISCAL COURT  
July 8, 1997  
10:00 A.M.

Mr. Light said Mr. Miller would like the full Recreation zoning and Mr. Miller did not want to agree to any conditions. Mr. Light said he wanted the full spectrum of the Recreation which allows basically anything within a recreation setting from an RV park or summer homes. Mr. Light said there is a five acre minimum lot requirement within an A-1 zone and while there are bits and pieces of parcels, he does not believe there are five acres total. Mr. Light said there are two or three structures on the site and at least one is a permanent dwelling and the other is a summer home for someone that's been there for some time. Judge Lucas asked if it is currently occupied. Mr. Light responded that last time he was there was just after the flood and there was work being done and he thought the one located higher up was being occupied. He stated the motor home looked like it has been there sometime, however, he does not know whether or not its being occupied, but probably is on a recreational basis.

Mr. Light said there are some uses Mr. Miller could get through the variance process, however, he doesn't get the full spectrum. Mr. Light said Planning and Zoning was looking at the matter based on the request, which was Recreation.

Commissioner Meihaus said from the minutes from the Planning Commission she understands that Mr. Miller keeps restating that he only wants to be able to hunt, fish and build a cabin and put some recreational vehicles for his family and friends. Mr. Light said questions were asked of Mr. Miller if he would be willing to limit the use if granted and Mr. Miller was not willing to any conditions, stating he wanted the full Recreation zoning.

Commissioner Meihaus said she does have some sympathy for the situation as the situation has been ongoing for a number of years and his property was cut up when the road was put in. She stated it was her understanding that the A-1 zoning allows for hunting and fishing and Mr. Light confirmed that it does. Commissioner Meihaus questioned if Mr. Miller could build a cabin. Mr. Light said since there is already one permanent structure on the site, he does not know if there is enough acreage on the site to allow for a second and it would have to be researched. Commissioner Meihaus asked if Mr. Miller can bring campers in along the creekside. Mr. Light said he cannot do that without the Recreation zoning. Mr. Light said the A-1 is a typical five acre minimum lot size agricultural zone that is in a lot of the western part of the county. Mr. Light said there is some topography to deal with and the geography of the land in that it is much wider than it is deep, and the set back is very challenging. Mr. Light said Mr. Miller can go to the Board for some relief on the setback if the zoning was unchanged and there was enough acreage to do so.

Commissioner Meihaus said the setback was a major issue and noted that it would have to go before the Board of Adjustments and Mr. Light confirmed it would. Commissioner Meihaus questioned if some kind of a variance can be given to allow him to put a camper(s) or something for his family. Mr. Light said if he was granted the Recreation zoning, he could split it up into a recreational park type of setting and the number of

MINUTES  
BOONE COUNTY FISCAL COURT  
July 8, 1997  
10:00 A.M.

units could be controlled. Mr. Light said if Mr. Miller would have been willing to agree to a certain number of units then the Planning Commission may or may not have gone with it, however, Mr. Miller was only interested in the full spectrum of the Recreational zoning.

Commissioner Meihaus questioned if the Fiscal Court could put a limit on the number of units and Mr. Light indicated they could. Commissioner Meihaus then questioned what number Mr. Light would recommend. Commissioner Meihaus said there was not much to deal with because the minutes from Planning & Zoning were very brief indicating the applicant really wasn't willing to agree to anything, therefore, no suggestions. Mr. Light said there was little discussion because there was inflexibility on the part of the applicant.

Judge Lucas said he believes the experience at the Planning & Zoning level was the same as that experienced by the Court when Mr. Miller previously appeared before the Fiscal Court. Judge Lucas said he feels the Court has tried in some reasonable manner to accommodate Mr. Miller, however, he is rather demanding on the full spectrum in that he wants to have carte blanche as to what to do with the property. Judge Lucas stated he believes the Court is at an impasse as Mr. Miller's demands are a bit unreasonable.

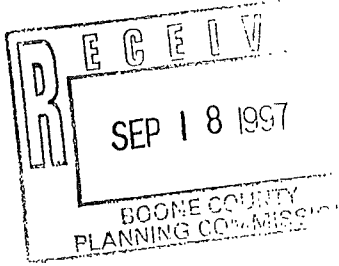
Attorney Crigler suggested that since Mr. Miller, nor his attorney (Mr. Bridges) were present, the matter be postponed until he can contact Mr. Bridges in the hopes of reaching some middle ground.

Commissioner Campbell moved, seconded by Commissioner Patrick, to defer this matter to the meeting of August 12th, which begins at 10:00 a.m. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

RESOLUTION NO. R-07-08-97-02-PZ - BAYER BECKER ENGINEERS/ ERPENBECK/ FEAGAN

Judge Lucas read a summary of Resolution No. R-07-08-97-02-PZ, a resolution of the Boone County Fiscal Court recommending denial for a request of Bayer Becker Engineers (Applicant) for William Erpenbeck, Jr. and Glenn D. Feagan (Owners) for a change in an approved Concept Development Plan in a Commercial Four (C-4) zone for an approximate 1 acre site known as Lot 1, Daniels Business Park, generally located at the intersection of Mt. Zion Road and Demia Way, Boone County, Kentucky, recommended (9-4) by the Boone County Planning Commission via Resolution R-97-010-D.

Mr. Bill Erpenbeck, one of the owners of the property, appeared before the court to ask for a Public Hearing, stating he felt like they had gotten caught in a crossfire within the Planning Commission as they seemed to have a disagreement between themselves. Mr. Erpenbeck said he did not feel this matter was as important to the Planning Commission as their own disagreement. Mr. Erpenbeck said the Planning Commission had asked them to get some more information for the next meeting, however, at the next meeting, they



*KAC*  
*mlm*

MINUTES  
BOONE COUNTY FISCAL COURT  
August 12, 1997  
10:00 A.M.

ITEM I. CALL TO ORDER

Judge Ken Lucas called to order the meeting of the Boone County Fiscal Court.

Present: Kenneth R. Lucas, County Judge/Executive  
Irene Patrick, Commissioner, District 1  
Shirley Meihaus, Commissioner, District 2  
Harold L. Campbell, Commissioner, District 3  
Larry Crigler, County Attorney  
Gwen Vice, Assistant County Attorney

Staff: Lisa Buerkley, Finance Officer  
Jim Collins, County Administrator  
Robin Curry, Contracts Administrator  
Marilyn Rouse, Personnel Director  
Barb Lubrecht, Executive Secretary  
Harvey Pelley, Director of Public Services  
Vaughn Rogers, Treasurer  
Carol Rudicill, Fiscal Court Clerk  
Greg Sketch, Director of Engineering Services

ITEM II. APPROVAL OF MINUTES

Commissioner Patrick moved, seconded by Commissioner Meihaus, to approve the minutes of the meeting held July 29, 1997. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

ITEM III. ORDINANCES & RESOLUTIONS

RESOLUTION NO. R-07-08-97-01-PZ - RANDY MILLER

Attorney Crigler advised he had spoken with Randy Miller's attorney and thought some sort of resolution could be reached, however, due to a conflict Attorney Bridges could not attend this meeting, and therefore, Attorney Ogden is present on his behalf.

Mr. Miller arrived during discussion of this matter, and Judge Lucas reiterated the discussion that had taken place to Mr. Miller.

Commissioner Patrick moved, seconded by Commissioner Meihaus, to reject Resolution No. R-07-08-97-01-PZ, a resolution of the Boone County Fiscal Court recommending denial for a request of Randy Miller (Owner) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Agriculture (A-1) to Recreation (R) for a parcel generally located off Riddles Run Road and KY 338, Boone County Kentucky, recommended (9-4) for denial by the Boone County Planning Commission via Resolution R-97-007-D. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

**MINUTES**  
**BOONE COUNTY FISCAL COURT**  
**August 12, 1997**  
**10:00 A.M.**

Commissioner Campbell then moved, seconded by Patrick, to accept the 90 day waiver in which the Court is to act, requested and agreed to by both Mr. Miller and Attorney Ogden, to allow the County Attorney more time for negotiation with Attorney Bridges. Attorney Crigler said he will also ask Attorney Bridges to follow up with a letter agreeing to the 90 day waiver.

**RESOLUTION NO. R-07-08-97-02-PZ - BAYER BECKER**  
**ENGINEERS/ERPENBECK/FEAGAN**

Judge read a summary of Resolution No. R-07-08-97-02-PZ, an ordinance of the Boone County Fiscal Court recommending denial for a request of Bayer Becker Engineers (Applicant) for A. William Erpenbeck, Jr. and Glenn D. Feagan (Owners) for a change in an approved Concept Development Plan in a Commercial Four (C-4) zone for an approximate 1 acre site known as Lot 1, Daniels Business Park, generally located at the intersection of Mt. Zion Road and Demia Way, Boone County, Kentucky, recommended (9-4) for denial by the Boone County Planning Commission via Resolution R-97-010-D.

Mr. Jay Becker, applicant, presented an overview of the request, and said there are two issues, one is signage and the other is an access point which is primarily for safety. Mr. Becker also passed out an excerpt from the Comprehensive Plan and said that some parts were left out in the Staff Report which he felt was very important to this issue. He noted the highlighted areas that indicate commercial activity associated with the interchange should be concentrated on the east side of the interstate and accesses for these commercial uses should be located a sufficient distance from the interchange to avoid traffic congestion. Mr. Bayer stated this project is on the east side and is a sufficient distance from the interchange to provide distance for traffic in the area. Mr. Bayer said the project is a commercial activity that is associated with the interchange and because of that the signage associated with the interchange is needed for this project. Mr. Bayer presented an excerpt of the land use map for the area and noted adjacent property noting the red area is all commercial and the blue area is industrial. Mr. Bayer said that Mt. Zion Road is a major access between the interstate and the industrial area. Mr. Bayer then deferred to Mr. Tom Feagan (owner) relative to the turn lane and safety issue.

Mr. Feagan said the tanker truck cannot get in to fill the tanks off of Demia Way if someone is coming out of Demia Way. Mr. Feagan further stated that when the tanker returns onto Demia Way he has back out on to Mt. Zion Road because there is not enough room for him to turn around.

Commissioner Meihaus commented this reflects very poor planning to build a gas station under these circumstances, knowing that the tankers could not get in and out. Mr. Feagan said this all goes back to the proposed site plan when they thought they were going to have access onto the property. Commissioner Campbell said he agreed with

**MINUTES**  
**BOONE COUNTY FISCAL COURT**  
**March 31, 1998**  
**5:30 P.M.**

between the County of Boone, Kentucky, Roosevelt Paper Company and Corestates Bank, N.A. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "B"

**RESOLUTION NO. R-03-31-98-02 - NORTHERN KENTUCKY INDEPENDENT DISTRICT HEALTH DEPARTMENT**

Commissioner Patrick moved, seconded by Commissioner Meihaus, to approve Resolution No. R-03-31-98-02, a resolution of the Boone County Fiscal Court supporting the request that the Kentucky Department of Health Services grant a waiver to the Northern Kentucky Independent District Health Department regarding the dispensing of emergency contraceptive services under the Title X Program. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "C"

**ORDINANCE NO. 03-98-01 - MILLER**

Judge Lucas read a summary of Ordinance No. 03-98-01 and declared a Public Hearing open at 5:38 p.m. Hearing no objection, Judge Lucas declared the Public Hearing closed at 5:39 p.m.

Commissioner Meihaus moved, seconded by Commissioner Patrick, to approve on Second Reading Ordinance No. 03-98-01, an ordinance of the Boone County Fiscal Court to consider the request of Randy Miller (Owner) for a Zoning Map Amendment for a parcel located off Riddles Run Road and KY 338, Boone County, Kentucky, amending the zone change from Agriculture (A-1) to Recreation (R) based on the Findings of Facts as follows:

- (1) The original zone placed upon the subject property of the zone change map amendment was incorrect and inappropriate Agricultural (A-1).
- (2) The appropriate zone for the subject property should have been and is Recreation (R).

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

**ITEM IV.**

**JUDGE'S REPORT**

**APPOINTMENTS**

Commissioner Meihaus moved, seconded by Commissioner Campbell, to approve the appointments of Dan Ziegler, Mary Kathryn Dickerson, Rick Lunnemann, and Mary F. Shinkle to the Technical Advisory Committee of the Northern Kentucky Solid Waste Management Area. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

Commissioner Meihaus moved, seconded by Commissioner Patrick, to approve the appointments of Donald Bowman, Steve Janzen, David G. Thorburn, Ron Sharp, August Charles Stark and Lisa Hoffman to the Building Inspector Advisory Board. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.