

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 Chateau Estates Subdivision
2. Location of Project Conrad Road east of Orient Street
3. Total Acreage of Site 29.00
4. Current Zoning of Site SR-1
5. Proposed Zoning (Classification being requested) (SR-2) Suburban Residential Two
6. Proposed Uses (please specify each use) Single Family Residential - Townhouse Dwelling Unit
7. Names of Applicant(s) Raymond Erpenbeck Consulting Engineers
8. Address of Applicant(s) 4205 Dixie Highway Esmere, KY 41018
9. Name of Property Owner(s) John M. Niehaus
10. Address of Property Owner(s) 5958 Harrison Avenue Cincinnati, OH 45247
11. Proposed Building Intensities (please specify) (8) Eight Units per net acre
12. Are there any existing buildings on the site? no
13. Deed Book 416 Page No. 204 Group No. 387 2025
14. Are you also applying for: Conditional Use Permit Dimensional Variance
15. Have you submitted a Concept Development Plan? yes
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 **Raymond Erpenbeck Consulting Engineers (applicant)** for **John M. Niehaus (owner)** to consider a Zoning Map Amendment from Suburban Residential One (SR-1) to Suburban Residential Two (SR-2) for a 29-acre site located on the south side of Conrad Lane immediately west of Regal Ridge Estates Subdivision, Boone County, Kentucky. The request is for a zone change to allow a single family townhouse dwelling unit development.

March 24, 1999

Request

The applicant, Raymond Erpenbeck Consulting Engineers, is requesting a Zoning Map Amendment for a 29 acre site located on the south side of Conrad Lane, east of Orient Street (a paper street), west of Regal Ridge Estates Subdivision and north of Burlington Elementary School (see attachment #1). The request is to rezone the site from Suburban Residential One (SR-1) to Suburban Residential Two (SR-2) to allow 233 townhouses known as Chateau Estates Subdivision. The current owners of the property are John M. Niehaus and Peter J. Reil. The overall density of the proposed project is 8.03 dwelling units per acre.

Surrounding Zoning and Land Uses

The zoning and land uses, which surround the 29-acre site consists of the following:

- North - Suburban Residential One (SR-1), farming and single-family residential land uses
- South - Suburban Residential One (SR-1) (single-family residential uses)
- East - Suburban Residential One (SR-1) Regal Ridge Estates Subdivision (single-family residential uses)
- West - Suburban Residential One (SR-1) (currently vacant property)

Since the adoption of the 1995 Comprehensive Plan, additional housing construction has occurred in the area in Derby Farms and Regal Ridge Subdivisions and south of the site. Housing has been removed by the Airport along Bullittsville Road and in Ethan's Glen Subdivision. The county's Restricted Custody Center has also been built south of Ethan's Glen Subdivision.

Site Characteristics and Concept Development Plan

The 29 acre site slopes toward the eastern portion of the property. A series of small streams or creeks exist on the site - mostly on the eastern portion of the property. Much of the existing vegetation is located on the southern and eastern portions of the property or toward the Simmons property and Regal Ridge Estates Subdivision. On the western side of the subject property, a 40' street right-of-way exists for the possible extension of Orient Street to Conrad Lane. This is currently an unimproved street right-of-way. Conrad Lane is currently a 24 foot road with a 40 foot street right-of-way. A 12 inch water line exists on the south side of Conrad Lane. Sanitary sewer from the site is being proposed to gravity flow from Conrad Lane to the southeast portion of the site through Regal Ridge Estates Subdivision.

The submitted Concept Development Plan (see attachment #2) depicts 233 townhome condominium units with attached garages located on a series of private streets. The proposed curb cuts or access points onto Conrad Lane for the site are approximately 350 feet from Orient Street and 200 feet from the eastern property line. A detention pond is proposed on the eastern side of the property to handle stormwater runoff from the project.

Relationship With The Comprehensive Plan

The Future Land Use Map, a 25 year projection, of the 1995 Boone County Comprehensive Plan indicates that the subject site be developed as High Suburban Density Residential (HSD) (see attachment #3). This classification suggests single-family and/or attached 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 text of the Land Use Element also discusses the Burlington - KY 18 area. Pages 220 and 221 of the Land Use Element suggest the following uses for the area.

"The 1995 Future Land Use map shows Business Park uses extending west from KY 237 to Bullittsville Road with no access to Bullittsville Road. The north side of Conrad Lane shown as Business Park should contain an extensive buffer area to protect developing residential subdivisions to the south."

"Burlington proper should continue to experience growth-related pressures. The influence of residential subdivisions in the surrounding areas, and the associated traffic, will necessitate improved traffic controls and management, particularly at KY 18 and KY 338. Central Burlington includes a National Register Historic District. Historically important structures should be protected from development pressures, or be subject to appropriate adaptive re-use to retain the character of central Burlington. As Boone County grows, there will be a greater need for public facilities and services.

An additional government center should develop in close proximity to the existing Administration Building, however, the placement and design of this structure or parking should not fragment the existing residential areas. A comprehensive Burlington Plan should be finalized that addresses the unique transportation, parking, public facilities, historic preservation, and subdivision characteristics of the area."

"A detailed study proposing road connections throughout the Burlington-KY 18 area must be conducted in a timely fashion, before the opportunities for important transportation options are lost. Included in this study should be recommendations for connections between KY 18 and Conrad Lane, Bullittsville Road and KY 237, and Idlewild Road and Bullittsville Road, in addition to the Rogers Lane connections discussed above."

The Housing Element of the Comprehensive Plan states "the immediate Burlington area will experience infill housing as well as continued growth of the surrounding subdivisions."

"High density residential areas should be located sufficiently near and with convenient access to major streets, highways, shipping and public facilities. A progression of densities of residential uses from high (multi-family) to low (single-family) shall be encouraged. Where traditional progressions of high to low net density are not possible, an appropriate and attractive visual transition should be achieved."

Objective #5 of the Housing Element states that "In order to offer the citizens of Boone County maximum choice in living environment, residential development shall be judged primarily on the progression of density, impact on infrastructure and development design with only secondary consideration given to the type of dwelling unit."

Staff Concerns

1. Utilities - The submitted Concept Development Plan does not show the provision of public sanitary sewer. The applicant has indicated that public sewer will be provided to the site by the construction of a gravity line through Regal Ridge Estates Subdivision. Easement documentation and capacity levels should be provided to the Planning Commission for the construction of such line and capacity. The Burlington Fire Protection District has also stated a concern about water flow for fire protection purposes for the Burlington area (see attachment #4). This issue will have to be addressed by the applicant and by the Boone County Water District.

2. Traffic Management - The applicant has not submitted a traffic study for the proposed development. Even though residences in the area (along Bullitsville Road and in Ethan's Glen Subdivision) have been purchased and removed by the Cincinnati/Northern Kentucky International Airport. The number of vehicle trips may have decreased on the western side of Conrad Lane. However, Conrad Lane still remains as a "back entrance" to Burlington from KY 237. There may be a need to add a west bound left turn lane as a result of the development and to allow the local traffic to get to Burlington.
3. Airport Noise - Since the early 1990's, the Cincinnati/Northern Kentucky International Airport has undertaken a noise mitigation program as it relates to Runway 9/27. The Airport has purchased single family residences west of this site and in Ethan's Glen Subdivision. According to Dale Huber of the Airport, the proposed development is outside the 65 DNL 1997 and 1998 noise contour. Mr. Huber states that his noise contour may or may not be adjusted based upon the recommended and approved operational measures that are part of the on-going Part 150 Noise Study Update (see attachment #5).
4. Architectural Design - The applicant has not provided sufficient information about the architectural design of the proposed units. This includes whether they are condominium units, the height of the units and whether they will have garages.
5. Density and Layout - The proposed building density and layout of buildings fully utilize the site without giving any commitment to recreational uses such as trails, sidewalks, a community center, tennis courts, pool, etc. Additional open space could be available if the building density was reduced or if the buildings were rearranged. There should be more flexibility in the placement of buildings to avoid the "row" look along Orient Street and the southern portion of the property. Access to the site could be made from Orient Street but this should be studied carefully given the existing condition of Orient Street south of the project site.
6. Adequate Buffering - Extra measures should be taken to preserve the existing tree cover on the site especially as it relates to the eastern and southern property lines. By doing so and with additional screening the proposed attached units could be screened from the existing single-family residences. Some buildings may have to be rearranged or removed to assure that this happens as well as to screen it from the existing single-family residences.
7. School Impact - The staff has notified the Boone County School District about the proposed project. Burlington Elementary is currently at capacity. However, the School District is reviewing alternatives to construct a new elementary school in the Burlington area. The applicant has not provided a projected student population from the proposed development or a phasing plan for the development.

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 the provisions in Article 3 of the Boone County Zoning Regulations.

1. The map amendment request is in agreement with the adopted Comprehensive Plan; or
2. The existing zoning classification is inappropriate and the proposed is appropriate; or
3. There have been major changes of an economic physical or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and which have substantially altered the basic character of the area.

If the Boone County Planning Commission and the Boone County Fiscal Court approve this Zoning Map Amendment request the Future Land Use Map would not need to be amended.

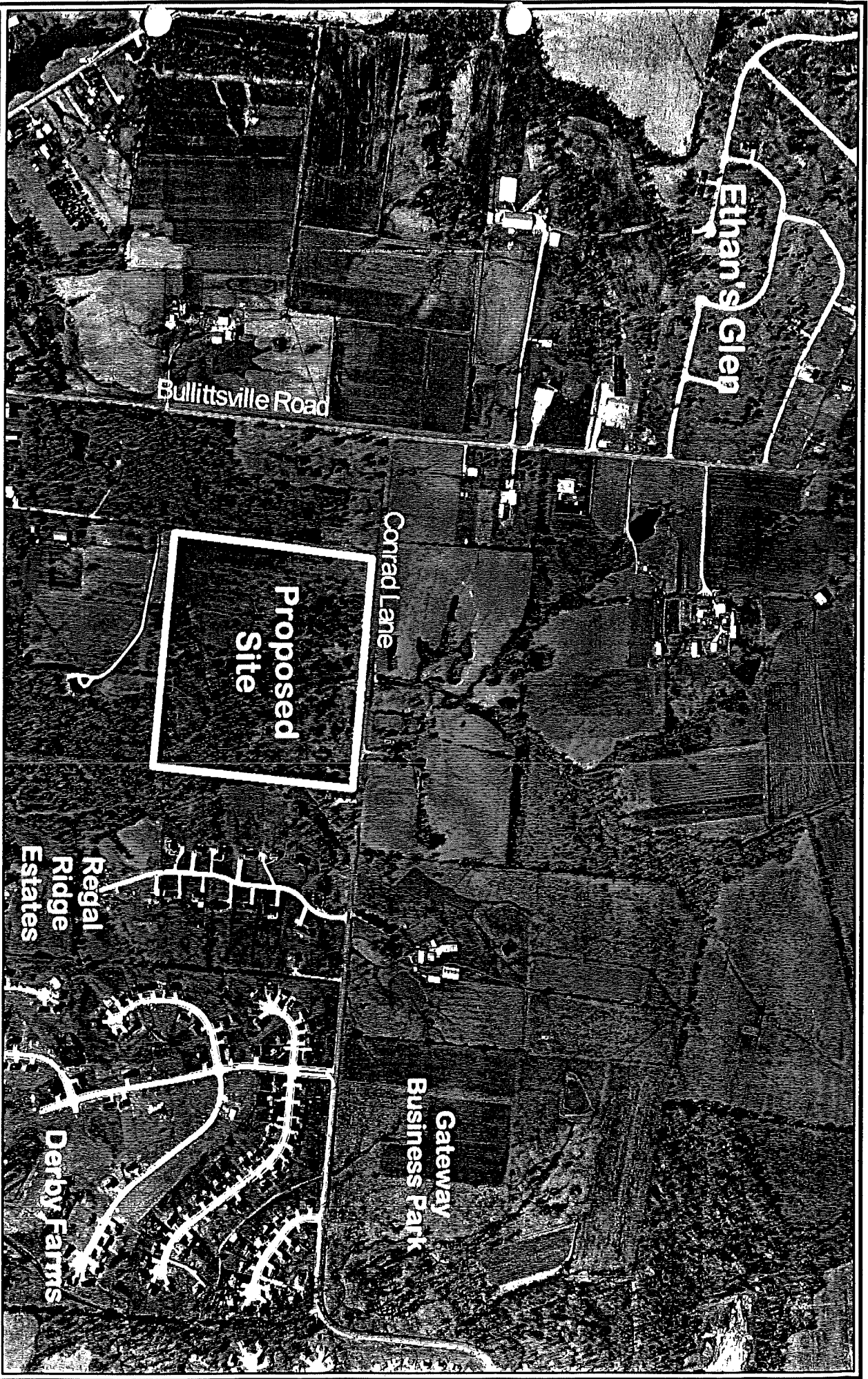
Respectfully submitted,



Kevin P. Costello, AICP
Executive Director

KPC\pr

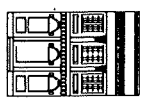
- Attachment #1 - Aerial Photograph of Site
- Attachment #2 - Concept Development Plan
- Attachment #3 - Future Land Use Map, 1995 Boone County Comprehensive Plan
- Attachment #4 - Letter from Burlington Fire Protection District
- Attachment #5 - Letter from Cincinnati/Northern Kentucky International Airport



Proposed Chateau Estates Subdivision



1 inch equals 700 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 March 23, 1999



Airport



Milburn

Orient St.

Malberry

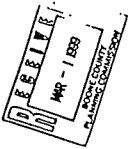
Chateau Estates

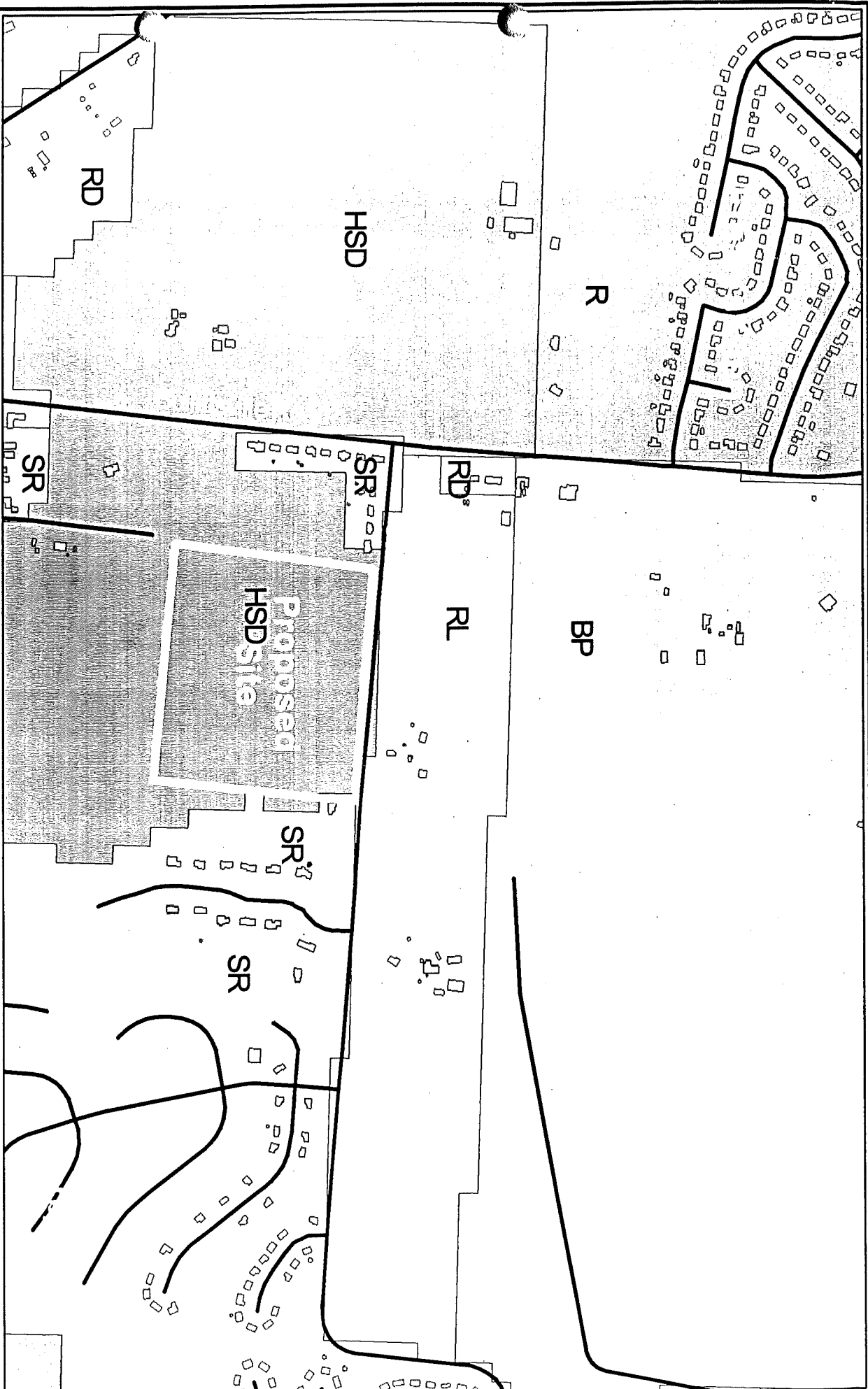
Dringenburg

Simmons Property



Regal Ridge Estates Sub.

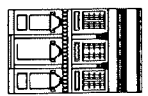




**Proposed Chateau Estates Subdivision
Future Land Use**

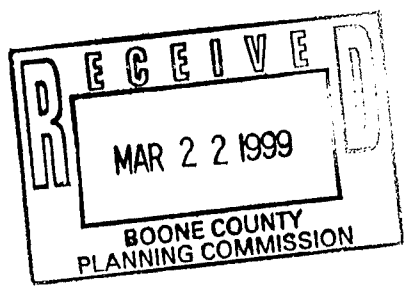


Produced by the
Boone County Planning Commission
GIS Services Division
March 23, 1999



Burlington Fire Protection District

P.O. Box 264
BURLINGTON, KENTUCKY 41005



March 19, 1999

Boone County Planning Commission
Attention: Kevin Costello
2995 Washington Street
Burlington, Kentucky 41005

Mr. Costello,

It was recently brought to my attention that Raymond Erpenbeck Consulting Engineers made a request for a zone change on 29.2 acres off Conrad Lane. The proposed change will allow for 233 townhomes to be built on the property.

In order to increase the water delivery capabilities during a fire not only in the proposed development but on North Orient Street this fire district would like to see a water line extended from Chateauridge Lane to North Orient Street. The distance from the property line of the proposed development to the last fire hydrant on North Orient Street is 440 feet. I feel that this water line extension would benefit fire protection in the area, by creating yet another loop in the water system.

Hydrant test records from 1998 showed that both fire hydrants on North Orient Street flowed around 500GPM and the only fire hydrant on Park Street flowed 200GPM. A building 1,500 square feet in size, fully involved requires 500GPM to extinguish. Without the water line extension I feel that the available water on North Orient Street will continue to decrease, as will the water pressure further back in the proposed development, thus decreasing the gallons per minute available to fight a fire.

If you should have any questions feel free to call me at (606)586-6161 Monday through Friday 8AM to 5PM.

Yours in Service,

A handwritten signature in cursive script that reads "David E. Biddle".

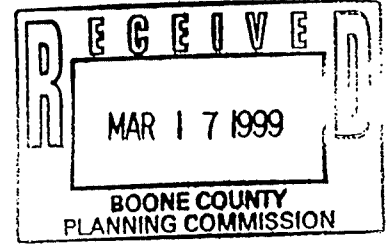
David E. Biddle
Fire Chief

Attachment #5



CINCINNATI/NORTHERN KENTUCKY INTERNATIONAL AIRPORT

P.O. BOX 752000 CINCINNATI, OH 45275-2000 (606) 767-3151 FAX (606) 767-3080



March 16, 1999

Mr. Kevin Costello
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

Dear Mr. Costello:

Thank you for forwarding a copy of the Chateau Estates Concept Development Plan for comment on the development location and aircraft activity from the Cincinnati Northern Kentucky International Airport.

A review of actual noise contours for 1997 and 1998 reveals that the proposed development site is outside of the 65 DNL contour. To that extent, the proposed development would be a compatible land use with respect to aircraft operations.

The proposed development is also compatible with the draft 2004 baseline contour. However, this is an unmitigated noise contour that may or may not be adjusted based on recommended and approved operational measures that will come out of the current ongoing Part 150 Study. Copies of all three contours are enclosed. If I may be of further assistance, please feel free to call.

Regards,

Dale Huber
Deputy Director of Aviation

DH:dch

Enclosures

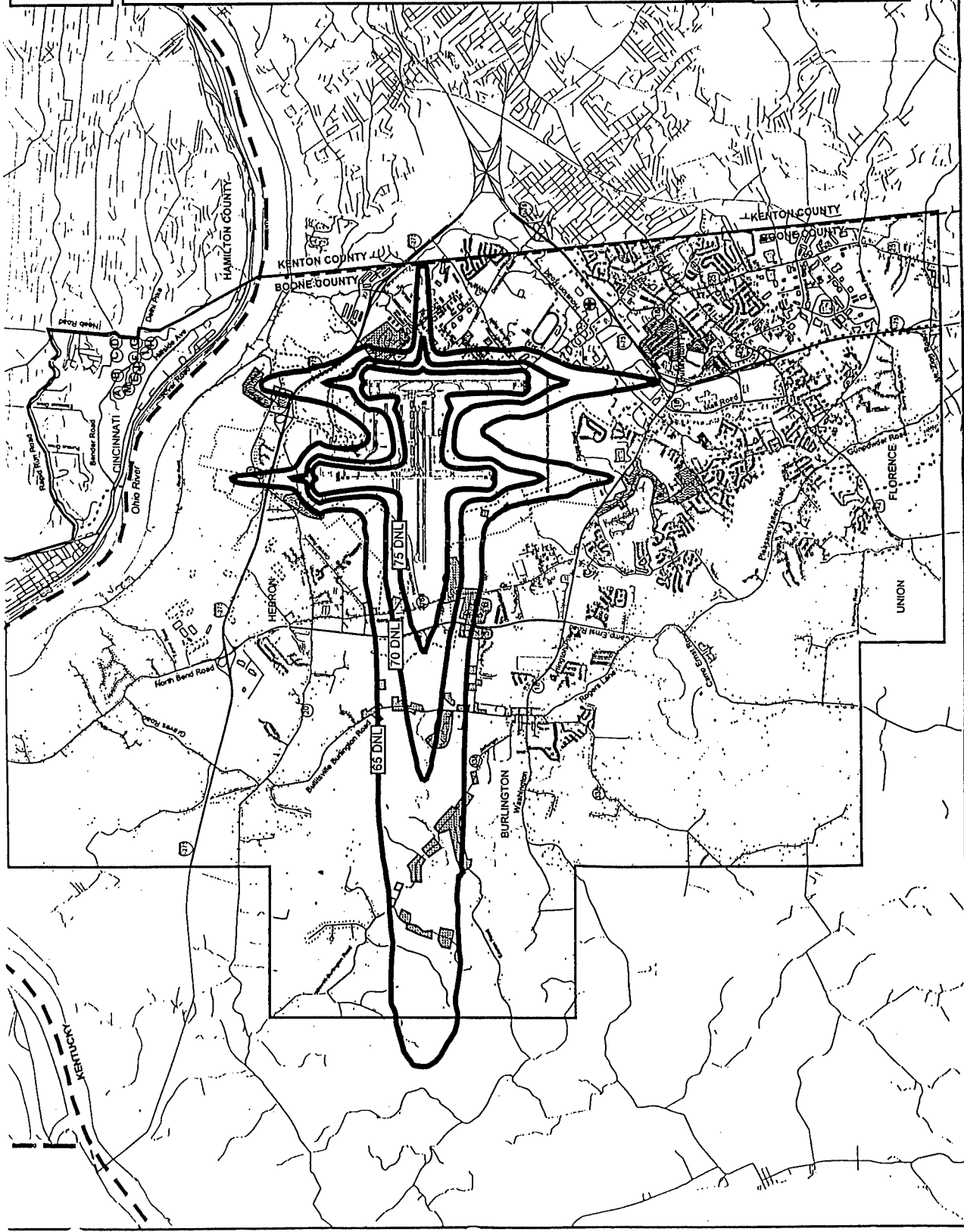


LEGEND

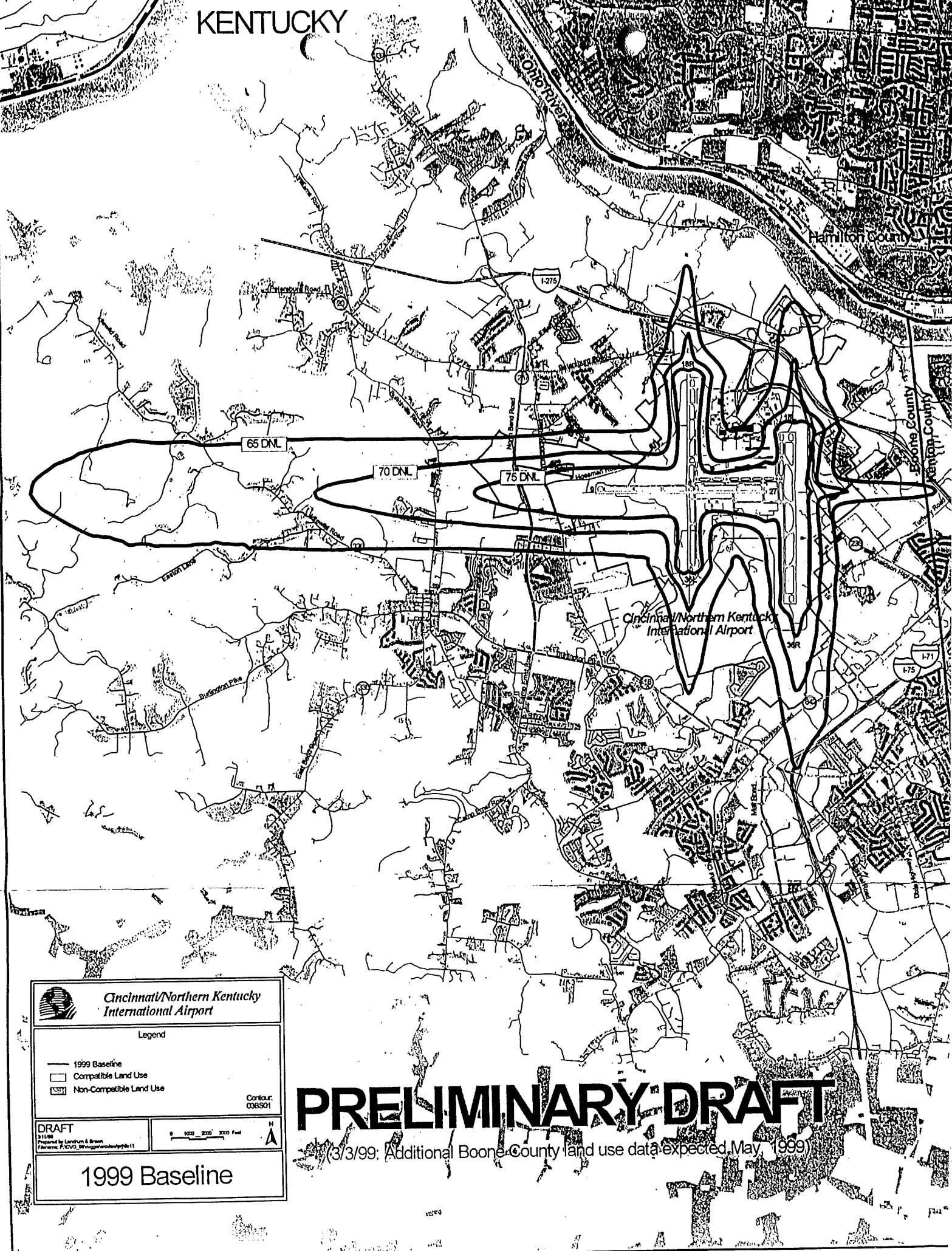
- Parks/Recreational Areas
- Industrial
- Multi-Family Residential
- Single-Family Residential
- Mobile Homes
- Commercial
- Proposed Mitigation Program Areas
- Existing Mitigation Program Areas
- Church
- Nursing Home
- School
- Hospital
- Interstate Highway
- State Route
- U.S. Route
- City Boundary
- County Boundary
- State Boundary Lines
- Study Area Boundary
- Existing Airport Boundary
- Future Airport Boundary
- Grid Points Analyzed
- 1997 Annualized (no construction)


Scale in Feet
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 Project: CINCINNATI

1997 Annual (no construction)
 Noise Contour
 runstream: 978501



KENTUCKY



 **Cincinnati/Northern Kentucky International Airport**

Legend

- 1999 Baseline
- Compatible Land Use
- ▨ Non-Compatible Land Use

Contour: 03B501

DRAFT

3/1/99
Prepared by Landrum & Brown
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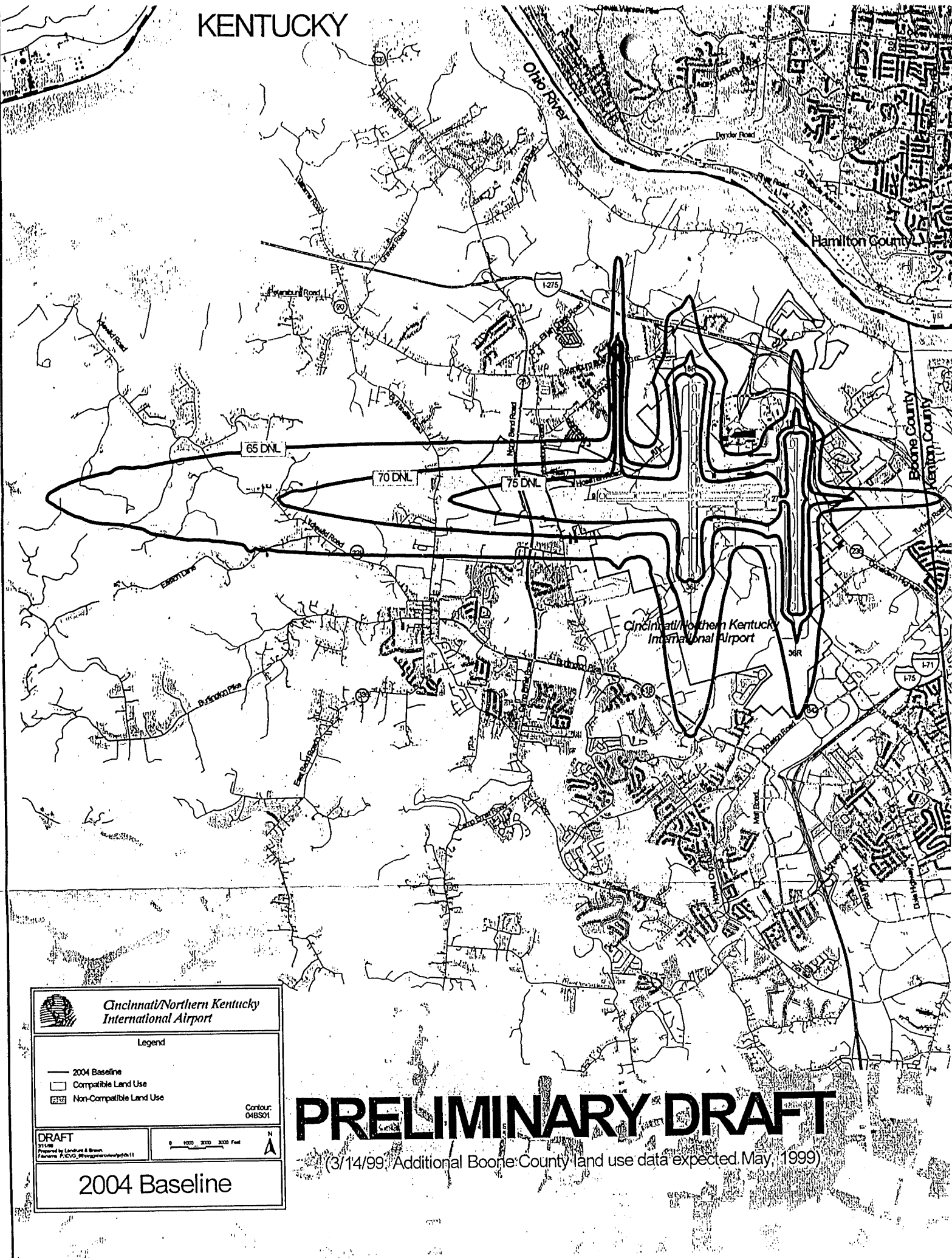
0 1000 2000 3000 Feet

1999 Baseline





PRELIMINARY DRAFT

(3/3/99: Additional Boone County land use data expected May, 1999)

KENTUCKY



Cincinnati/Northern Kentucky International Airport

 Cincinnati/Northern Kentucky International Airport	
Legend	
 2004 Baseline	
 Compatible Land Use	
 Non-Compatible Land Use	
Contour: 04BS01	
DRAFT <small>31 May 1999 Prepared by Landform & Brown Firmware: P:\CVG_99\cvg\cvg\p1\0411</small>	0 1000 2000 3000 Feet N ▲
2004 Baseline	

PRELIMINARY DRAFT

(3/14/99, Additional Boone County land use data expected May, 1999)

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
March 24, 1999
7:00 P.M.

PUBLIC HEARINGS

Commission Members Present: Mr. Brown, Mr. Damstrom - Vice Chairman, Mr. Hicks - Temporary Presiding Officer, Mr. McMillian, Mr. Newman, Mr. Ries, Mr. Rush, Mrs. Smith, Mr. Viox, Mr. White, and Mrs. Wilson.

Staff Members Present: Mr. Kevin Costello, AICP - Executive Director, Ms. Susan Cabot - Historic Preservation, Ms. Jan Hancock - Secretary, and Mr. Mitch Light - Assistant Zoning Administrator/ZEO.

Legal Counsel Present: Mr. Dale Wilson.

Mr. Phil Damstrom, Vice Chairman, called the meeting to order at 7:03 P.M.. Following an explanation of the Public Hearing process, Mr. Damstrom introduced the first item on the Agenda:

2. Applicant: Raymond Erpenbeck Consulting Engineers

Request: Zoning Map Amendment

The request of Raymond Erpenbeck Consulting Engineers (applicant) for John M. Niehaus (owner) to consider a Zoning Map Amendment from Suburban Residential One (SR-1) to Suburban Residential Two (SR-2) for a 29-acre site on the south side of Conrad Lane, immediately west of Regal Ridge Estates Subdivision, Boone County, Kentucky. The request is for a zone change to allow a single-family townhouse dwelling unit development.

Mr. Kevin Costello presented the Staff Report which included a slide presentation and review of the attachments (see Staff Report).

Mr. Hicks and Mrs. Smith arrived during the presentation of the Staff Report.

Mr. Damstrom asked for the applicant's presentation.

Mr. Ray Erpenbeck, engineer for the developer, introduced the property owners, Mr. John Niehaus and Mr. Pete Reil, as well as Mr. Steve Liesman from Mr. Erpenbeck's office.

Mr. Erpenbeck presented and reviewed a slide of the site and surrounding properties. He indicated the vacant property and the single-family house to the south. He indicated the area where the airport tore down houses and noted the location of the industrial area. He presented the Site Plan and indicated the drainage swales. He stated that they are developing the ridge tops and will leave the valleys alone. They cross the valleys in one location to provide interconnection. Mr. Erpenbeck presented a slide of townhouses in Oak Tree Subdivision, which have garages. He showed a slide of the Eddenburg development and stated that they are brick buildings with garages.

Steve Liesman distributed a handout to the Commissioners "CHATEAU ESTATES, Owners: John M. Niehaus/Peter J. Reil" (see Exhibit 1).

Mr. Erpenbeck presented a slide of Stonehaven Townhomes Subdivision to indicate the type of homes they will building. He presented a colored copy of the Site Plan and noted the paper street (Orient). He stated that the site is 29.2 acres and they propose 233 units. He reviewed the slide and stated that access is on Conrad Lane. There are two proposed entrances with connection to provide for looping of traffic within the development. There will be a boulevard-type main entrance that lets the traffic go into the side streets without having any buildings or driveways facing the main street. There is a 12" water main along Conrad Lane. He stated that the Fire Department is concerned with the fire flow, but they can make water available on Conrad Lane as they develop, which can provide a back-feed into Burlington. This will be worked out with Boone County Water District. He indicated the 12" water main and stated that there is more than adequate flow to provide for this development and for fire flow. He stated that what the Fire Chief is talking about is a concern in Burlington -- and not part of this development. He stated that they have an easement for the sanitary sewer, which will go by gravity to the Allen Fork Lift Station west of Burlington. The Sanitary Sewer District has assured them that they have more than sufficient capacity to handle this development and there are no restrictions on the lift station. He stated that they will be constructing a detention pond to control the off-flow at the upper end of Allen Fork Creek. The detention pond will probably be a dry pond. They will have enough detention to control the flow and meet the Subdivision Regulations -- flow after the development will not exceed current flow.

Mr. Erpenbeck stated that this is a townhouse development that will be owner occupied. It will not be rental units. Typically, this type of development is occupied by empty nesters and generates very few students. The development will not have a major impact on the schools. If the site were developed as SR-1 and there were 150 single-family homes on the site, that would generate approximately 300 students. This development will generate 25 to 50 students at most.

Mr. Erpenbeck stated that there is a tremendous amount of open space in the development. The density is 8 units per acre, which is not an intense development. They feel that they have more than adequate green space. Each building has garages. Some units within a building may not have a garage, but most units are proposed to have garages. The development is very compatible with the single-family residential development around it. He indicated the area directly north of the site which is Business Park and includes industrial uses. He noted developments that have townhomes including Oakbrook and Triple Crown. In regard to buffering, he stated that the units will be held considerably off the property lines. He noted the edge of the wooded area and existing tree line which can be left to provide buffering. He indicated buildings that will be 75' - 100' off the property line and areas where there could be berming and buffering around the development.

Mr. Erpenbeck presented the Airport Noise Contour Map and indicated the site. He stated that the site is just outside the 65LDN contour line, which is another reason this type of housing makes sense. He presented the location map and noted a house on Regal Ridge approximately 480 feet from one of their buildings, as well as a house on the corner facing Conrad. He noted where mounding could be done. He stated that they do not know exactly, but the Simmons' house appears to be between 300' to 400' off the property line. He stated that the abutting residences are well away from the property line. He indicated the sanitary sewer and stated that they only have to come 300' to 400' to the site. He presented the Comprehensive Plan and noted the areas of high suburban density and areas developed as single-family (SR-1). He referred to the Staff Report and the comments about Orient Street. He stated that they did not propose any improvements to Orient Street and they did not propose using that street because it is very narrow and in very poor condition. Orient Street would not be a good connection. He stated that if Staff wants them to do something in regard to using Orient Street, they will work with Staff in this regard.

Mr. Erpenbeck stated that they have addressed all of the items in the Staff Report. He stated that hundreds of homes have been removed from the area and a lot of the traffic has been removed from Bullittsville Road. This development will not bring the traffic level back to what it was before those homes were removed.

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

Mr. Jeff Simmons indicated his property in relation to the site. Before he purchased his property in 1994, he surveyed the area and there were a few single-family homes. He also checked with Mr. Niehaus about his intentions and was given a drawing of this 30-acre parcel with approximately 27 homes on it. With that in mind, he built his home. Mr. Simmons stated that the area is rural and single-family, and there is no high-density development until you get to KY 18. He stated that

the Staff Concerns are also his concerns. He spoke with Mr. Riel, who is Mr. Neihaus' partner, and was told that these would be rental condominiums -- but on Monday Mr. Riel said that he made a mistake and they will be "for sale" units. Mr. Niehaus has not returned his calls. He stated that he is concerned about the design, the density, and the layout of the development. He has a Victorian home with a big front porch designed to look through the woods. He indicated the older trees on the site and stated that to put 5 to 7 units in a row, they will have to remove all of those trees. He indicated the swale and stated that he will have a view of a row of homes. He stated that there is virtually no green space. He does not think they can salvage any of the trees. He stated that there is only twenty feet of buffer indicated. He owns seventeen acres and intends to stay there. He stated that when his seventeen acres develops, the only way he has out is Orient Street. If they do not develop Orient Street to their property lines, then his property is landlocked -- and the Comprehensive Plan says development should take into account accessibility and development of adjacent properties. He stated that there is no easement through this development for him to get to any public lands. He stated that this is the opportune time for Orient Street to develop. He stated, in regard to airport noise, that the more trees there are, the more sound buffering there is. He feels that they will lose a lot of sound buffering if a lot of trees are removed. The buffering needs to be adequate and take into account the line of sight from his home and any future development. He noted that there are no sidewalks or walking paths for the people in the development. He is concerned about an overflow of people onto his property and onto airport property for recreational use. He indicated how the property drains. He stated that in a good storm, water drains across Orient Street and into his neighbor's pond. If Orient Street is unimproved, there will be a "no man's land" between this property and the airport property. He asked that the Committee address Orient Street. He stated that something needs to be done with Orient Street. Mr. Simmons submitted written comments for the record (see Exhibit 2).

Mr. Ron Flannery, 2509 Conrad Lane, indicated his property, which is part of Regal Ridge Subdivision. He also checked the zoning of the property around where he was going to build. He knew there would eventually be single-family homes in Derby Farms and he did not have a problem with that. He indicated the area of the old Boh house which rezoned two years ago for manufacturing and light industrial -- which is not consistent with the area. He submitted pictures of the results of that rezoning. He calls that area "Three Mile Island". He stated that the buildings were burned last summer and left like that -- they cannot be seen from the road, but he can see them from his house. He noted that the company said they would build nice berms, and they build a berm -- but some of the trees are dead. He stated that the buildings were to be nearer to KY 237 at the beginning of the development, but they are directly across from his house.

Mr. Flannery stated that the proposed development is not consistent with the area. Regal Ridge is 13 or 14 houses on 28 acres -- but this will be 233 units on 29 acres. He noted that Mr. Erpenbeck stated that when the houses in the area were torn down, the traffic on Bullittsville and Conrad was cut down substantially -- which is true. However, when they were torn down, Derby Farms was going up and now the traffic on Conrad Lane, especially at the S curve, is dangerous and there are a lot of accidents in the winter. The more traffic there, the more accidents there will be. They now sit at the traffic light at KY 237 and Conrad Lane for possibly five minutes. He stated that traffic will be a problem. He is against random rezoning. He built his house there to live in and he knew what was around his property and how it was zoned. Development like light manufacturing and industrial, and 233 condominiums, will depreciate the value of his home.

Mr. Bob Matheny, a resident of Orient Street, agreed with the others. He noted the single-family homes and lots in excess of an acre in the area. They moved there with the idea of it being single-family with very large lots. He does not think the proposed development is appropriate for the area. He stated that in heavy rain there is substantial water that overflows the dam, which they recently rebuilt on advice of the Water Conservation people. He put in a 12" culvert and it still overflows. He is concerned about the runoff. In heavy rain, water builds up on Bullittsville Road. He stated that the water situation needs to be addressed and the Staff Concerns need to be addressed.

Mr. Damstrom asked if there was anyone else present who wished to speak.

Mr. Mike Poole, 5846 North Orient Street, indicated his property. He has lived in the area all his life and the subject property belonged to his uncle at one time. He is in favor of single-family development, but not this type of development. He is opposed to the request.

Brenda O'Banion, stated that she is upset about this. The Commissioners are not thinking about what they are doing to the homeowners out there. She and her neighbors are upset about this.

Kristy O'Shea, a resident of Regal Ridge since last August, stated that they moved off Limaburg Road because of how built up it was and the semis going up and down. Their home on Regal Ridge is a quiet place for her children to play. Her child is late to school and they dismiss it because of the traffic on Conrad Lane. If there is more development, there will be more traffic and more congestion. They like the quiet rural setting and do not want the area so built up.

Mr. Dan Hammons a resident of Regal Ridge, stated that there will probably be 100 to 200 children in the development. He is concerned about the crowding of the schools and the traffic coming into the area.

Mr. Russell Sloan, 2484 Venetian Way in Derby Farms, stated that his house backs up against Conrad Road. He does not think there is enough space to widen the road without taking part of his lot. He stated that he will have to wait longer at Conrad Road and KY 237.

There being no further comments from the audience, Mr. Damstrom asked if there were any comments or questions from the Commissioners.

Mr. Viox asked if the applicant has considered pedestrian ways, recreation, and the concerns raised in the Staff Report.

Mr. Erpenbeck stated that they did not propose any pedestrian ways or walkways within the development, but are willing to work with Staff in this regard.

Mr. John Niehaus, the developer, stated that in most of his developments the people enjoy walking on the private lanes. This has been his experience for over twenty-five years.

Mr. Viox questioned how a school-aged child would walk to school. He stated that Orient Street at some point will develop as a road or a pathway. He stated that living in one of these units on Conrad Lane, people would have to go to Burlington out the back way.

Mr. Niehaus stated that they do not have a problem with looking at Orient Street. He stated that Mr. Erpenbeck suggested to them that they leave Orient Street alone, but using it would leave more room on the inside of the development for green space. Where they have the boulevard coming in could be left as green space, or they could move the buildings around and leave more of the wooded areas. He stated that they can do a major readjustment if the boulevard street is not there and they move the development over onto Orient Street.

Mr. Viox asked if this would require another Public Hearing.

Mr. Costello stated that there is a need to determine who owns the paper street to make sure there is proper access. He stated that the Planning Commission is just seeing the portion that abuts this property, but there is another portion that is not paved and is very narrow. Staff would have to study the possibility of having a pedestrian system there. It is now being used for limited vehicular access and they would have to look at mixing vehicular traffic with pedestrians or separating them. They would have to see where the property line of the school is to see if a pathway system could be continued from the site south to the school property.

Mr. Viox stated that the school is on Orient Street. Ms. Cabot explained that Orient Street stops.

Mr. Viox stated that if the pedestrian way was along Orient, eventually when the other properties develop, the pedestrian way would continue all the way to the school.

Mr. Costello stated that Staff can look at this -- he is not sure it could be accomplished.

Mr. Erpenbeck stated that it is a publicly dedicated right-of-way.

Mr. Viox stated that he would like to see a pedestrian way there because Burlington would be an ultimate destination for someone who wanted to walk. Mr. Costello noted that it also gets people to the courthouse.

Mr. Viox commented that if the Concept Plan changes substantially, there may need to be another Public Hearing.

Counselor Wilson stated that an applicant can make revisions to a Concept Development Plan after a Public Hearing when those revisions relate to points raised during the Public Hearing. It would depend on the magnitude of those revisions and how they relate to the points raised.

Mr. Costello noted that it would not be additional land that is rezoned.

Mr. Erpenbeck stated that they would be able to rework the units and open up more area to green space. He indicated where there would be a sidewalk to connect to Orient Street where the pavement currently stops. Mr. Niehaus stated that if people in the condominiums want to take a walk, they could walk on the paved Orient Street and across the park and get to Burlington. He stated that it is a good idea.

Mr. Viox stated that the street proposed next to the Simmons' house looks like it could be pulled away from the property line.

Mr. Erpenbeck responded that they have some flexibility, but it is shown at least fifty feet off the property line. He added that some of the units could be pulled away from the property line a little.

Mr. Viox asked if the Simmons' house is at the same topography. Mr. Simmons responded that it is a little lower. He noted a swale on his property that goes towards the street. He stated that he does not know where the water will go if they build there.

Mr. White asked if there is a reason why Sunview Drive is about 15' - 20' short of Chateau Boulevard. Mr. Erpenbeck responded that it is to provide privacy within the groups of buildings.

Mr. White asked "This will be owner occupied and never become rental units?" Mr. Erpenbeck responded "Yes, and we will commit to that".

In response to comments from Mr. Hicks regarding flooding, Mr. Erpenbeck indicated the major swale and detention pond and how the drainage would flow. He stated that at the top of the ridge, it would drain across Orient -- which is very flat. Mr. Hicks stated that the drainage across Orient Street would probably be reduced with this development. Mr. Erpenbeck agreed.

Mr. Damstrom questioned the number of stories of the buildings. Mr. Erpenbeck responded that they are one-story and two-story buildings, and many may have walk-out basements. Mr. Damstrom questioned the number of bedrooms. Mr. Erpenbeck responded that the majority of the units would have two bedrooms.

Mr. Damstrom questioned the design features. Will the units be all brick? Mr. Niehaus responded that they use a combination of brick, stucco, and vinyl accents.

Mr. Damstrom noted that the Staff Report included the three criteria for a zone change. He asked which criteria they are using. Mr. Erpenbeck responded that the request is in conformance with the Comprehensive Plan.

Mr. McMillian asked if when they drew the plans they had no intention of using Orient Street.

Mr. Erpenbeck responded that he recommended they not use Orient Street because he was concerned about its condition and having the traffic come down into the poorly developed section of Orient Street. He stated that they are open to working with Staff in regard to Orient Street if that is the Planning Commission's recommendation.

Mr. McMillian stated that the Planning Commission is concerned with access management and he does not see any connections to any other pieces of property.

Mr. Erpenbeck responded that these are private streets and that is why they do not connect to any other properties.

Mr. McMillian stated that there is not much consideration for fire protection either.

Mr. Erpenbeck responded that the Fire Chief's concern was in regard to the fire hydrants he indicated on the map. He stated that there is more than adequate flow with the 12" main on Conrad Lane. The concern was to get a secondary feed into downtown Burlington to improve the flow.

Mr. McMillian questioned parking on both sides of the street. Mr. Erpenbeck responded that there is no on-street parking.

Mr. Damstrom asked if there were any other comments.

Mr. Erpenbeck stated that if they used Orient Street, that would address Mr. Simmons' concern about access for future development on his property. He stated that they are willing to work with Staff in this regard.

Mr. Viox asked if the applicant has researched how many school children there are in this type of unit.

Mr. Erpenbeck stated that in "for sale" units, the number of school children is extremely low. He stated that 25 to 40 students would probably be the maximum since these units are typically for empty nesters whose children have grown.

Mr. Viox asked if these units are comparable to Oakbrook? Thornwilde? Plantation Pointe? Mr. Erpenbeck responded that they are probably compatible with Oakbrook. Mr. Viox asked Staff to call the school and find out what the average number of public school children is in the Oakbrook development.

Mr. Costello commented that the developer has existing developments with these kinds of units.

Mr. Niehaus responded that Stonehaven and Eddenburg are just over one-half built and there is one child who is 18 years old. The rest are empty-nesters. He stated that the empty nester market is growing and by 2005 empty nesters will dominate the home market. In general, these developments are totally empty nesters.

Mr. Viox stated that he is appalled and concerned by the pictures submitted by Mr. Flannery. The developer has burned down buildings and not cleaned up the site -- and he hopes something will be done about it. Mr. Costello responded that he will write to Mr. Banta at Corporex tomorrow about the buildings and about maintaining the berm.

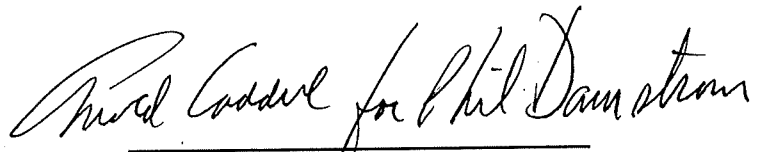
Mr. Damstrom asked if there were any further comments or questions.

Mr. Simmons stated that the application is based on the fact that it is in accordance with the Comprehensive Plan. He stated that his understanding of the 1995 Comprehensive Plan is that at that time the airport was buying homes and taking out homes along the corner of Bullittsville and Conrad. This got into being high density because there were a lot of unknowns there. He noted the small block of property that is high density and stated that the owners of more than half of that section have all indicated their opposition to the high density. They want to keep it single-family and it is their property. The single exception is the subject property. He believes that the present zoning is appropriate and he has not heard anything this evening that show the zoning is inappropriate and should be changed.

There being no further comments, Mr. Damstrom explained that the Planning Commission is a recommending body. The Planning Commission's recommendation will go to Fiscal Court and they can override the recommendation, go along with the recommendation, or hold their own Public Hearing. Mr. Damstrom stated that the Committee Meeting for this item will be on April 1, 1999 at 5 PM in the second floor conference room. This item will be on the Agenda for the Business Meeting on April 21, 1999 at 7:30 P.M..

Mr. Damstrom closed this Public Hearing and called for a short recess.

APPROVED:


Phil Damstrom, Vice Chairman

Attest:


Jan Hancock, Recording Secretary

- Exhibit 1: "Chateau Estates, Owners: John M. Niehaus/Peter J. Reil"
(9 pages)
Exhibit 2: Simmons' Position Summary, March 24, 1999 (1 page)

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
BUSINESS MEETING
May 19, 1999
7:30 P.M.

Mr. Arnold Caddell, Chairman, called the meeting to order at 7:34 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett, Secretary/Treasurer
Mr. Larry Brown
Mr. Arnold Caddell, Chairman
Mr. Phil Damstrom, Vice Chairman
Mr. Mark Hicks, Temporary Presiding Officer
Mr. Richard Knock
Mr. Don McMillian
Mr. Robert Newman
Mr. Robert Ries
Mr. Ralph Rush
Mrs. Carol Smith
Mrs. Lisa Wilson
Mr. David Zimmer

COMMISSION MEMBER NOT PRESENT:

Mr. Earl White

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Ms. Jan Hancock, Secretary
Mr. Mark Jordan, Planner
Mr. Mitch Light, Assistant Zoning Administrator/ZEO
Mr. Todd Morgan, Planner
Mr. Kevin Wall, AICP, CDT - Director, Zoning Services

Approval of the Minutes:

Chairman Caddell stated that the Commissioners had received copies of the Minutes of the April 28, 1999 Public Hearings. He asked if there were any comments or corrections. There being no changes to the Public Hearing Minutes, Mr. Brown moved that they be approved as mailed. Mr. McMillian seconded the motion. A vote on the motion found all voting members in favor. Mr. Knock was not yet present. The motion carried.

Chairman Caddell stated that the Commissioners had received copies of the Minutes of the May 5, 1999 Business Meeting. He asked if there were any comments or corrections. There being no changes to the Business Meeting Minutes, Mr. McMillian moved that they be approved as mailed. Mr. Ries seconded. A vote on the motion found all voting members in favor. Mr. Knock was not yet present. The motion carried.

ACTION ON PLAN REVIEWS:

1. Zoning Map Amendment

The request of Raymond Erpenbeck Consulting Engineers (applicant) for John M. Niehaus (owner) to consider a Zoning Map Amendment from Suburban Residential One (SR-1) to Suburban Residential Two (SR-2) for a 29-acre site on the south side of Conrad Lane immediately west of Regal Ridge Estates Subdivision, Boone County, Kentucky. The request is for a zone change to allow a single-family townhouse dwelling unit development.

Mr. Costello presented the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report including four attached exhibits and large scale drawing of the landscape buffer which was passed around to the Commissioners).

Mr. Hicks moved by resolution to the Fiscal Court that the request be approved based on the Staff and Committee Reports. Mr. Damstrom seconded the motion.

The Chairman asked if there were any comments or questions.

Mr. McMillian stated that he thought Orient Street was to go back to the property line. Mr. Costello responded that there was discussion about that. He stated that there would have to be a meeting with Fiscal Court because it is their right-of-way. If it is extended to the property line, there might be a need to improve the road if people are going to be encouraged to use the road south of the development since it is inadequate. There was discussion of the possibility of a T-turn around, or possibly a cul-de-sac, until the county decides whether they want the road to continue to Burlington Elementary. He stated that there are three property owners and Fiscal Court that would be impacted by extending the street to the

south property line and we want to get them all involved since there is the potential for a tie-in. The road would go from being basically a gravel road to a concrete or asphalt road. Fiscal Court may decide that they want the road paved to the property line -- in which case they would have to upgrade the rest of Orient Street. Mr. McMillian questioned it being a gravel road now. Mr. Costello responded that it is a gravel road for about three property owners. He stated that the road goes south and veers to the right to Park Street and into an industrial area where it bleeds over to where Holland Roofing is. In response to further questions from Mr. McMillian, Mr. Costello explained that the county will decide whether they want the developer to extend Orient Street all the way to the south property line. The county may not want them to do it right away, and just to have a turnaround in the interim.

Mr. McMillian asked if the developer has agreed to go to the property line if the county wants them to do that.

The applicant responded "Yes, we agreed to do that".

Mr. Zimmer stated that it is not in the conditions. Mr. Costello responded that the condition reads that they have to meet the requirements of the Fiscal Court. Fiscal Court owns the road and it is their call as to when the tie-in occurs. If the road is extended, it encourages people to use the road. He stated that the problem is that the road is gravel and not wide enough. Once the extension to the south property line is made, all someone has to do is put in some gravel and that will encourage traffic to use that access without upgrading the road. The road really needs to go all the way to Burlington Elementary and have an asphalt surface all the way through to avoid having people make the right hand turn to Park Street through the Holland Roofing parking area. The county has allowed the property owners to put in the road that is there. It is assumed that when Mr. Simmons built there he asked permission to put the gravel down and extend the road knowing the extension would only serve his property at that time. He stated that it is an unimproved area and the developer will commit to paving to the property line.

Mr. Zimmer stated that 228 units will be accessed by one entrance in and one exit out. He stated that if Conrad Road is to be improved by the developer, then maybe Orient Street could be included in the improvement paid for by the developer. Mr. Costello responded that the Committee did not discuss improvements beyond the property line of Orient Street.

Mr. Brown stated that he is concerned about the infrastructure and the road. He stated that this appears to be a "hopscotch" type of zoning -- and the Planning Commission would be putting something in here that does not necessarily need to be here. He stated that it is appropriately zoned for what it should be, which is single-family detached. Children could walk to Burlington Elementary, but instead

we will be putting in an empty nester development -- and if it does not sell to empty nesters, there will be families living there with no amenities inside the development.

The Chairman asked for clarification of Condition #2. Mr. Costello responded that as part of the Subdivision Review process, the developer will have to file a Condominium Regime Plat for the various phases which indicate that the condominiums are for sale. If they were apartments, they would not have to file that plat.

There being no further comments, the Chairman asked for a vote on the motion made by Mr. Hicks to approve the request. The vote found Mr. Damstrom, Mr. Hicks, Mr. McMillian, Mr. Newman, Mr. Rush, and Mrs. Smith in favor. Mrs. Arnett, Mr. Brown, Chairman Caddell, Mr. Ries, Mrs. Wilson, and Mr. Zimmer were opposed. Mr. Knock was not yet present. The vote resulted in a tie with six votes in favor and six opposed.

Counselor Wilson stated that the statute relating to Zoning Map Amendments provides for a period of further consideration by the Planning Commission not to exceed 30 days in regard to a tie vote. If the tie vote is not broken, then the application is forwarded to Fiscal Court without a recommendation from the Planning Commission. Mr. Costello asked if the 30-day period has to be within the 90-day period allowed to take action. Counselor Wilson advised that it is an additional 30 days. Mr. Costello noted that there could be another motion at this time. Counselor Wilson agreed.

Mr. Brown moved by resolution to Fiscal Court to deny the request based on the following findings of fact: 1) The applicant has not demonstrated that the proposed zoning of Suburban Residential Two (SR-2) and proposed building density of 7.8 units per acre is appropriate considering the adjacent land uses, building densities, and zoning. This includes adjacent Suburban Residential One (SR-1) zoning and approximate 2-acre lots in Regal Ridge Subdivision. In addition, the proposed townhouse condominium use is not compatible with the existing single-family detached lot residential uses located along Conrad Lane; and 2) The Future Land Use map indicates High Suburban Density Residential (HSD) for this site. This classification allows for single-family and/or attached housing of up to a maximum of 8 dwelling units per acre. However, the Comprehensive Plan suggests that High Density Residential areas be located near and with convenient access to major streets and there should be a progression of residential uses from high (multi-family) to low (single-family). Mr. Ries seconded the motion.

The Chairman asked if there were any comments or questions.

Mr. Hicks stated that the Comprehensive Plan gives the property the high density at 8 units per acre, and they are underneath that. He stated that if they do not want to build amenities, we should not

penalize them because they are the ones who will have to sell the development. He stated that the developer has worked with the property owners to see that everything is put in the way that they want it, including extra buffering and nice landscaping. They are trying to protect the properties around the development. They are willing to do whatever it takes with the roads and sidewalks and turning it down would be a mistake.

Mr. McMillian agreed with Mr. Hicks. He stated that there was discussion with the property owners in the area and they felt that empty nesters would be better in the area of a horse farm so that there would not be a bunch of kids running across the farm -- which was one of the reasons he was in favor of the application. He stated that at first he was in favor of single-family because of the school there -- but the school is full. He stated that they have proposed another school in another area to take care of the children and, with those conditions, he felt it was appropriate and voted in favor.

Mr. Knock arrived at this time.

Counselor Wilson reviewed the request for Mr. Knock and stated that the Committee Report included a recommendation for approval. A motion to approve based on the Committee Report resulted in a tie of 6:6. There is currently a motion on the floor to deny the request. He stated that if Mr. Knock decides not to exercise his right to vote, his vote will be counted with the majority -- but if there is a tie, it would still be a tie.

Mr. Costello read the Committee Report previously presented by Mr. Brown. Counselor Wilson noted that after Mr. Brown read the findings for denial, there were comments by two Commissioners. He asked Mr. Hicks and Mr. McMillian to summarize their comments for Mr. Knock.

Mr. McMillian stated that he was part of the Committee that recommended approval of the request because there is control over all of the amenities that go in, including the shrubs and fences, to protect the adjacent property owners. At first he thought the property would be good for single-family because it was close to the school, but the school is full and a school is going to be built in another area to serve the rest of the children. He stated that some of the property owners felt that if there were kids on the property they would not be able to keep them out of the horse farm. He stated that they were going to put Orient Street through to the property line. They have one curb cut on Conrad Lane and two or three on Orient Street and he felt that it was a good thing for the area.

Mr. Hicks stated that the Twenty-Five Year Plan basically gives the property eight units per acre and they are under that. They have bent over backwards trying to meet all of the demands. He noted that people were saying that there were no amenities, like a pool, but

that is not a legitimate reason to turn it down. They are in marketing and know if it will sell or not. He noted that at the request of the adjacent property owners, they are putting a substantial amount of buffering around the property. They are doing everything they can to do this right.

Chairman Caddell explained that there is a motion to deny on the floor. A vote in favor of the motion is a vote to deny the request. A roll call vote on the motion found Mrs. Arnett, Mr. Brown, Chairman Caddell, Mr. Ries, Mrs. Wilson, and Mr. Zimmer in favor. Mr. Damstrom, Mr. Hicks, Mr. Knock, Mr. McMillian, Mr. Newman, Mr. Rush, and Mrs. Smith were opposed. With 6 votes in favor and 7 opposed, the motion did not carry. Counselor Wilson explained that there is still not an approval or denial of the request. He stated that the Planning Commission can proceed with another motion or not take action at this time.

Mr. Damstrom moved by resolution to Fiscal Court to approve the request based on the Staff and Committee Reports. Mr. Hicks seconded the motion. A vote on the motion found Mr. Damstrom, Mr. Hicks, Mr. Knock, Mr. McMillian, Mr. Newman, Mr. Rush, and Mrs. Smith in favor. Mrs. Arnett, Mr. Brown, Chairman Caddell, Mr. Ries, Mrs. Wilson, and Mr. Zimmer were opposed. The motion carried by a vote of 7 to 6.

Counselor Wilson stated that the Planning Commission's action is a recommendation to Fiscal Court. Fiscal Court has ninety days to take action.

2. Zoning Map Amendment

The request of Afton Development, LLC c/o Ron Mechlin (applicant) for Marie Conner Family Limited Partnership, James G. Tanner, Jeanette Tanner, John R. Conner, Dianna R. Conner, Denise Frakes, and Richard Anderson, et al (owners) to consider a Zoning Map Amendment from Agricultural Estate (A-2) and Rural Suburban (RS) to Suburban Residential One (SR-1) for a 44.783 acre site on the south side of Conner Road immediately west of Orchard Estates Subdivision, Boone County, Kentucky. The request is for a zone change to allow a subdivision for detached, single family residences.

Staff Member Mark Jordan presented the Committee Report which recommended approval of the request based on the findings of fact but subject to conditions (see Committee Report). The property owner has signed the letter agreeing to the conditions.

Mr. Hicks moved by resolution to Fiscal Court that the request be approved based on the Staff and Committee Reports. Mr. McMillian seconded the motion.

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Phil Damstrom, Chairman

DATE: May 19, 1999

RE: Request of **Raymond Erpenbeck Consulting Engineers (applicant)** for **John M. Niehaus (owner)** to consider a Zoning Map Amendment from Suburban Residential One (SR-1) to Suburban Residential Two (SR-2) for a 29 acre site located on the south side of Conrad Lane immediately west of Regal Ridge Estates Subdivision, Boone County, Kentucky. The request is for a zone change to allow a single family townhouse dwelling unit development.

REMARKS:

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

FINDINGS OF FACT:

1. The proposed use, townhome condominiums and zoning district is in agreement with the 1995 Boone County Comprehensive Plan, which suggests High Suburban Density Residential (HSD). This classification suggests single-family and/or attached housing of up to 8 dwelling units per acre and is typified by townhouse, condominium and zero lot line development.

In addition, the proposed conditions allows the development to occur in compact form and be compatible with the surrounding land uses and zoning.

CONDITIONS

The applicant is being asked to agree to include these items as part of the Concept Development Plan in order to clarify the plan as presented at the March 24, 1999 Public Hearing and subsequent Committee meetings.

1. The applicant shall build one-story units as designated on the Concept Development Plan submitted to the Zone Change Committee on May 6, 1999 (see Exhibit A).

2. The total of dwelling units for the site will be 228 and these units will be "for sale" only and not rental units.
3. Storm water from the southwest corner of the site will be redirected towards the proposed detention area towards the east (see Exhibit B).
4. The proposed building units will be a minimum of 50% brick material and will be based upon the drawings/pictures submitted to the Planning Commission at the March 24, 1999 Public Hearing.
5. All existing trees indicated by the heavy green line on the Concept Development Plan will be retained. In addition, the applicant agrees to install Buffer C (see Exhibit C) along the eastern property or behind the first 3 buildings or east of Teagarden Lane. Also, the applicant will move the proposed buildings located along the Simmons property line north if possible at time of final plans. The applicant is also required to install Buffer C along with a 6 foot high white vinyl fence along the entire southern property line. Any deviation from this requirement, such as only requiring the fence in areas where the existing trees are retained, will be reviewed at a later date and agreed to by Mr. Simmons.
6. The applicant shall be required to install a public street in the Orient Street right-of-way in accordance with the design requirements of the Boone County Fiscal Court. As part of the street construction, every effort should be made to retain the existing tree line along the eastern side of Orient Street. In addition, the applicant will be required to install landscaping features along Orient Street and Conrad Lane in accordance with the *Boone County Zoning Regulations*. The landscaping features along the southern and eastern property lines shall be installed in the first phase of development.
7. The applicant will be required to meet the design requirements of the Boone County Water District to assure water capacity and quality with existing lines along Orient Street and Conrad Lane.
8. The applicant shall install the westbound left-hand turning lane along Conrad Lane after the 50th dwelling unit building permit is issued (see Exhibit D).
9. The applicant shall develop and implement a Homeowners Agreement (HOA) to maintain all common open space, landscaping features, streets and private utilities.

10. The applicant shall provide documentation that access and connection to a public sanitary sewer exists through Regal Ridge Subdivision

A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request.

Phil Damstrom

Phil Damstrom, Chairman

For Against _____
Abstain _____ Absent _____

Larry Brown

Larry Brown

For _____ Against
Abstain _____ Absent _____

Mark Hicks

Mark Hicks

For Against _____
Abstain _____ Absent _____

Earl White

For _____ Against _____
Abstain _____ Absent _____

TOTAL: 2 FOR 1 AGAINST 0 ABSTAIN 1 ABSENT

CHATEAU ESTATES SUBDIVISION BURLINGTON, BOONE COUNTY, KY JOSEPH M. MEHNHAUS - PETER J. REIL, OWNERS 5908 HARRISON AVENUE CINCINNATI, OHIO 45247		DESCRIPTION CONCEPT PLAN	SHEET 1 OF 1
ENGINEERS: RAYMOND ERPENDECK CONSULTING ENGINEERS 4205 DIXIE HIGHWAY EL SHORE, KENTUCKY PLANNERS: SURVEYORS		DATE: 11/17/88 PROJECT NO.: 880003 SHEETS: 1 OF 1 DRAWING NUMBER: 1796	

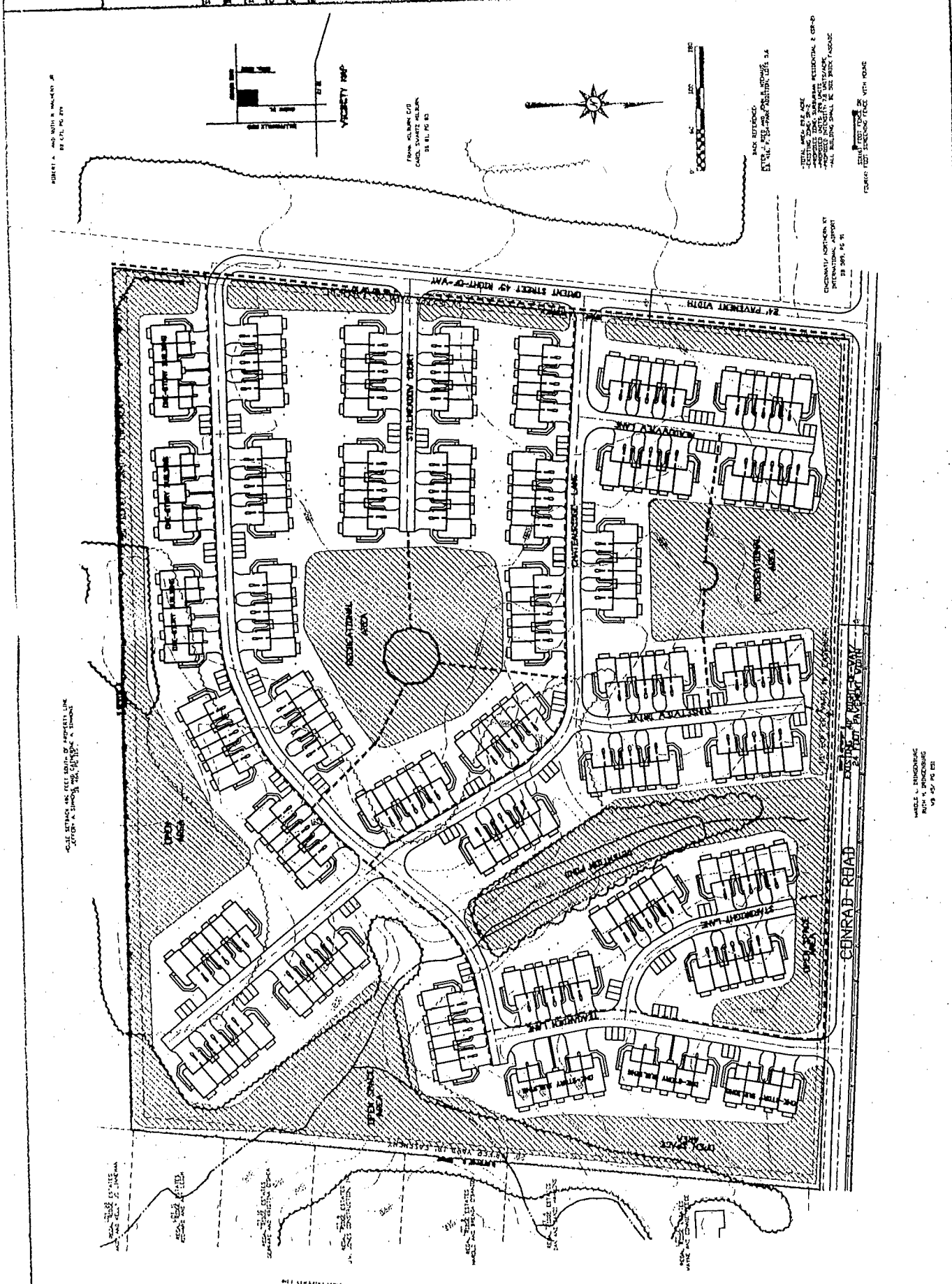
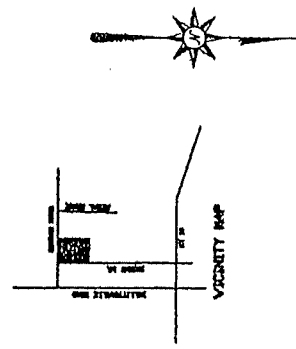


EXHIBIT A

CHATEAU ESTATES SUBDIVISION BURLINGTON, BOONE COUNTY, KY J. REIL, OWNERS JOHN M. NIEHAUS-P 9958 HARRIS AV CINCINNATI, OHIO 45247		ENGINEER: RAYMOND ERPEN 4205 DIXIE HIGHWAY PLANNERS ENGINEERS WHERE, KENTUCKY CONSULTING ENGINEERS SURVEYORS	
SCALE	1"=40 FT	DESIGNED BY	J.L.
DRAWN BY	J.L.	CHECKED BY	J.L.
FILED	J.L.	DATE	J.L.
PROJECT	CHATEAU ESTATES	POINT	DATE
DESCRIPTION	CONCEPT PLAN		
SHEET	1 OF 1		
DATE	MARCH 1999		
PROJECT NO.	1796		
DRAWING NUMBER	1796		



ROBERT A. AND RUTH M. MALHENY JR.
 DB 671, PG 219

FRANK MILBURN C/O
 CAROL SWARTZ MILBURN
 DB 81, PG 85

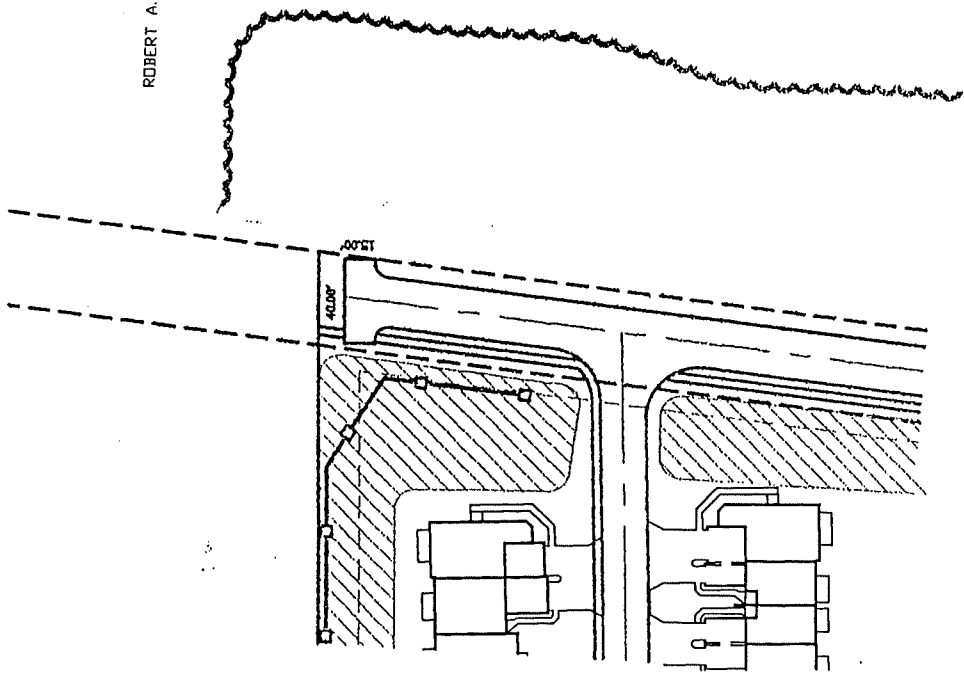
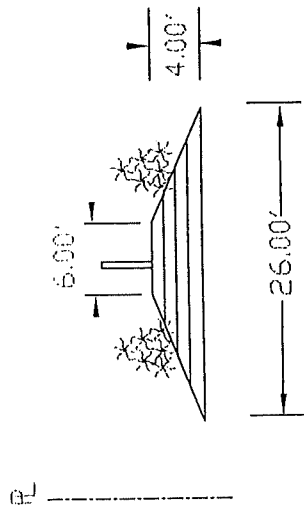


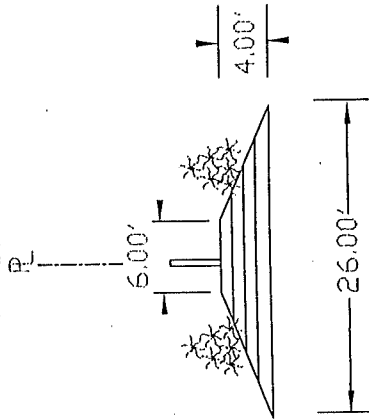
EXHIBIT B

TYPICAL A



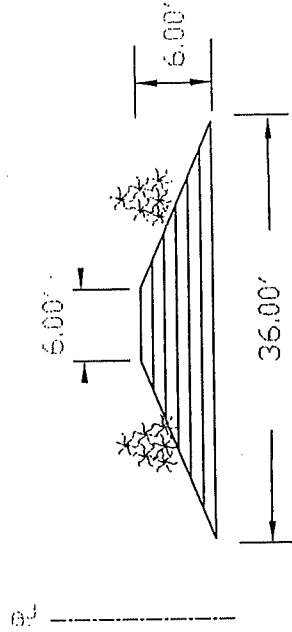
4' LANDSCAPE BUFFER MOUND
W/ 4' FENCE

TYPICAL B



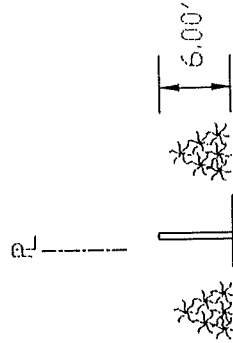
4' LANDSCAPE BUFFER MOUND
W/ 4' SCREENING FENCE

TYPICAL C



SIX(6) FOOT LANDSCAPE BUFFER MOUND

TYPICAL D



SIX(6) FOOT SCREENING FENCE

NOTE: EVERGREEN TREES TO BE PLACED AT
30 FEET OFF CENTER (15' APART)

CHATEAU ESTATES SUBDIVISION BURLINGTON, BOONE COUNTY, KY JOHN M. NEHAUS-PETER, J. REIL, DWYERS 8998 HARRISON AVENUE CINCINNATI, OHIO 45247	ENGINEERS, RAYMOND ERPENDECK CONSULTING ENGINEERS 4203 DIXIE HIGHWAY ELSPERE, KENTUCKY PLANNERS ENGINEERS SURVEYORS	REVISIONS NO. DATE BY 1 11/14/01 2 11/14/01 3 11/14/01 4 11/14/01 5 11/14/01 6 11/14/01 7 11/14/01 8 11/14/01 9 11/14/01 10 11/14/01 11 11/14/01 12 11/14/01 13 11/14/01 14 11/14/01 15 11/14/01 16 11/14/01 17 11/14/01 18 11/14/01 19 11/14/01 20 11/14/01 21 11/14/01 22 11/14/01 23 11/14/01 24 11/14/01 25 11/14/01 26 11/14/01 27 11/14/01 28 11/14/01 29 11/14/01 30 11/14/01 31 11/14/01 32 11/14/01 33 11/14/01 34 11/14/01 35 11/14/01 36 11/14/01 37 11/14/01 38 11/14/01 39 11/14/01 40 11/14/01 41 11/14/01 42 11/14/01 43 11/14/01 44 11/14/01 45 11/14/01 46 11/14/01 47 11/14/01 48 11/14/01 49 11/14/01 50 11/14/01 51 11/14/01 52 11/14/01 53 11/14/01 54 11/14/01 55 11/14/01 56 11/14/01 57 11/14/01 58 11/14/01 59 11/14/01 60 11/14/01 61 11/14/01 62 11/14/01 63 11/14/01 64 11/14/01 65 11/14/01 66 11/14/01 67 11/14/01 68 11/14/01 69 11/14/01 70 11/14/01 71 11/14/01 72 11/14/01 73 11/14/01 74 11/14/01 75 11/14/01 76 11/14/01 77 11/14/01 78 11/14/01 79 11/14/01 80 11/14/01 81 11/14/01 82 11/14/01 83 11/14/01 84 11/14/01 85 11/14/01 86 11/14/01 87 11/14/01 88 11/14/01 89 11/14/01 90 11/14/01 91 11/14/01 92 11/14/01 93 11/14/01 94 11/14/01 95 11/14/01 96 11/14/01 97 11/14/01 98 11/14/01 99 11/14/01 100 11/14/01	DESCRIPTION CONCEPT PLAN SHEET 1 OF 1 DATE PROJECT NO. MARCH 27, 2002 000202 DRAWING NUMBER 1700
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CONRAD ROAD TURN LANE

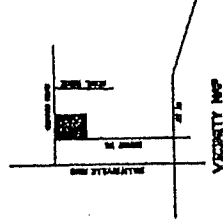
DRIENT STREET

CINCINNATI/ NORTHERN KY
INTERNATIONAL AIRPORT
JOB 589, PG 91

350' TAPER LANE

150' TURN LANE

350' TAPER LANE



SCALE 1"=40 FT	DESIGNED BY S.L.	DRAWN BY S.L.	CHECKED BY S.L.	FIELD S.L.	DATE 10/20/01	PROJECT NUMBER 101	DATE MARCH 1994	PROJECT AL 10000	DATE MARCH 1994	PROJECT AL 10000
CHATEAU ESTATES SUBDIVISION BOONE COUNTY, KY						DESCRIPTION CONCEPT PLAN		SHEET 1 OF 1		DATE MARCH 1994
ENGINEERS: RAYMOND ERPE 4205 DIXIE HIGHWAY PLANNERS SURVEYORS						OWNER: J. REIL, OWNERS 5908 HARRISON AVENUE CINCINNATI, OHIO 45247		PROJECT AL 10000		DATE MARCH 1994
CONSULTING ENGINEERS PLANNERS, KENTUCKY						PROJECT AL 10000		PROJECT AL 10000		DATE MARCH 1994

BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
COURTROOM 3A
March 24, 1999
7:00 P.M.

PUBLIC HEARINGS

Commission Members Present: Mr. Brown, Mr. Damstrom - Vice Chairman, Mr. Hicks - Temporary Presiding Officer, Mr. McMillian, Mr. Newman, Mr. Ries, Mr. Rush, Mrs. Smith, Mr. Viox, Mr. White, and Mrs. Wilson.

Staff Members Present: Mr. Kevin Costello, AICP - Executive Director, Ms. Susan Cabot - Historic Preservation, Ms. Jan Hancock - Secretary, and Mr. Mitch Light - Assistant Zoning Administrator/ZEO.

Legal Counsel Present: Mr. Dale Wilson.

Mr. Phil Damstrom, Vice Chairman, called the meeting to order at 7:03 P.M.. Following an explanation of the Public Hearing process, Mr. Damstrom introduced the first item on the Agenda:

2. Applicant: Raymond Erpenbeck Consulting Engineers
Request: Zoning Map Amendment

The request of Raymond Erpenbeck Consulting Engineers (applicant) for John M. Niehaus (owner) to consider a Zoning Map Amendment from Suburban Residential One (SR-1) to Suburban Residential Two (SR-2) for a 29-acre site on the south side of Conrad Lane, immediately west of Regal Ridge Estates Subdivision, Boone County, Kentucky. The request is for a zone change to allow a single-family townhouse dwelling unit development.

Mr. Kevin Costello presented the Staff Report which included a slide presentation and review of the attachments (see Staff Report).

Mr. Hicks and Mrs. Smith arrived during the presentation of the Staff Report.

Mr. Damstrom asked for the applicant's presentation.

Mr. Ray Erpenbeck, engineer for the developer, introduced the property owners, Mr. John Niehaus and Mr. Pete Reil, as well as Mr. Steve Liesman from Mr. Erpenbeck's office.

Mr. Erpenbeck presented and reviewed a slide of the site and surrounding properties. He indicated the vacant property and the single-family house to the south. He indicated the area where the airport tore down houses and noted the location of the industrial area. He presented the Site Plan and indicated the drainage swales. He stated that they are developing the ridge tops and will leave the valleys alone. They cross the valleys in one location to provide interconnection. Mr. Erpenbeck presented a slide of townhouses in Oak Tree Subdivision, which have garages. He showed a slide of the Eddenburg development and stated that they are brick buildings with garages.

Steve Liesman distributed a handout to the Commissioners "CHATEAU ESTATES, Owners: John M. Niehaus/Peter J. Reil" (see Exhibit 1).

Mr. Erpenbeck presented a slide of Stonehaven Townhomes Subdivision to indicate the type of homes they will building. He presented a colored copy of the Site Plan and noted the paper street (Orient). He stated that the site is 29.2 acres and they propose 233 units. He reviewed the slide and stated that access is on Conrad Lane. There are two proposed entrances with connection to provide for looping of traffic within the development. There will be a boulevard-type main entrance that lets the traffic go into the side streets without having any buildings or driveways facing the main street. There is a 12" water main along Conrad Lane. He stated that the Fire Department is concerned with the fire flow, but they can make water available on Conrad Lane as they develop, which can provide a back-feed into Burlington. This will be worked out with Boone County Water District. He indicated the 12" water main and stated that there is more than adequate flow to provide for this development and for fire flow. He stated that what the Fire Chief is talking about is a concern in Burlington -- and not part of this development. He stated that they have an easement for the sanitary sewer, which will go by gravity to the Allen Fork Lift Station west of Burlington. The Sanitary Sewer District has assured them that they have more than sufficient capacity to handle this development and there are no restrictions on the lift station. He stated that they will be constructing a detention pond to control the off-flow at the upper end of Allen Fork Creek. The detention pond will probably be a dry pond. They will have enough detention to control the flow and meet the Subdivision Regulations -- flow after the development will not exceed current flow.

Mr. Erpenbeck stated that this is a townhouse development that will be owner occupied. It will not be rental units. Typically, this type of development is occupied by empty nesters and generates very few students. The development will not have a major impact on the schools. If the site were developed as SR-1 and there were 150 single-family homes on the site, that would generate approximately 300 students. This development will generate 25 to 50 students at most.

Mr. Erpenbeck stated that there is a tremendous amount of open space in the development. The density is 8 units per acre, which is not an intense development. They feel that they have more than adequate green space. Each building has garages. Some units within a building may not have a garage, but most units are proposed to have garages. The development is very compatible with the single-family residential development around it. He indicated the area directly north of the site which is Business Park and includes industrial uses. He noted developments that have townhomes including Oakbrook and Triple Crown. In regard to buffering, he stated that the units will be held considerably off the property lines. He noted the edge of the wooded area and existing tree line which can be left to provide buffering. He indicated buildings that will be 75' - 100' off the property line and areas where there could be berming and buffering around the development.

Mr. Erpenbeck presented the Airport Noise Contour Map and indicated the site. He stated that the site is just outside the 65LDN contour line, which is another reason this type of housing makes sense. He presented the location map and noted a house on Regal Ridge approximately 480 feet from one of their buildings, as well as a house on the corner facing Conrad. He noted where mounding could be done. He stated that they do not know exactly, but the Simmons' house appears to be between 300' to 400' off the property line. He stated that the abutting residences are well away from the property line. He indicated the sanitary sewer and stated that they only have to come 300' to 400' to the site. He presented the Comprehensive Plan and noted the areas of high suburban density and areas developed as single-family (SR-1). He referred to the Staff Report and the comments about Orient Street. He stated that they did not propose any improvements to Orient Street and they did not propose using that street because it is very narrow and in very poor condition. Orient Street would not be a good connection. He stated that if Staff wants them to do something in regard to using Orient Street, they will work with Staff in this regard.

Mr. Erpenbeck stated that they have addressed all of the items in the Staff Report. He stated that hundreds of homes have been removed from the area and a lot of the traffic has been removed from Bullittsville Road. This development will not bring the traffic level back to what it was before those homes were removed.

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

Mr. Jeff Simmons indicated his property in relation to the site. Before he purchased his property in 1994, he surveyed the area and there were a few single-family homes. He also checked with Mr. Niehaus about his intentions and was given a drawing of this 30-acre parcel with approximately 27 homes on it. With that in mind, he built his home. Mr. Simmons stated that the area is rural and single-family, and there is no high-density development until you get to KY 18. He stated that

the Staff Concerns are also his concerns. He spoke with Mr. Riel, who is Mr. Neihaus' partner, and was told that these would be rental condominiums -- but on Monday Mr. Riel said that he made a mistake and they will be "for sale" units. Mr. Niehaus has not returned his calls. He stated that he is concerned about the design, the density, and the layout of the development. He has a Victorian home with a big front porch designed to look through the woods. He indicated the older trees on the site and stated that to put 5 to 7 units in a row, they will have to remove all of those trees. He indicated the swale and stated that he will have a view of a row of homes. He stated that there is virtually no green space. He does not think they can salvage any of the trees. He stated that there is only twenty feet of buffer indicated. He owns seventeen acres and intends to stay there. He stated that when his seventeen acres develops, the only way he has out is Orient Street. If they do not develop Orient Street to their property lines, then his property is landlocked -- and the Comprehensive Plan says development should take into account accessibility and development of adjacent properties. He stated that there is no easement through this development for him to get to any public lands. He stated that this is the opportune time for Orient Street to develop. He stated, in regard to airport noise, that the more trees there are, the more sound buffering there is. He feels that they will lose a lot of sound buffering if a lot of trees are removed. The buffering needs to be adequate and take into account the line of sight from his home and any future development. He noted that there are no sidewalks or walking paths for the people in the development. He is concerned about an overflow of people onto his property and onto airport property for recreational use. He indicated how the property drains. He stated that in a good storm, water drains across Orient Street and into his neighbor's pond. If Orient Street is unimproved, there will be a "no man's land" between this property and the airport property. He asked that the Committee address Orient Street. He stated that something needs to be done with Orient Street. Mr. Simmons submitted written comments for the record (see Exhibit 2).

Mr. Ron Flannery, 2509 Conrad Lane, indicated his property, which is part of Regal Ridge Subdivision. He also checked the zoning of the property around where he was going to build. He knew there would eventually be single-family homes in Derby Farms and he did not have a problem with that. He indicated the area of the old Boh house which rezoned two years ago for manufacturing and light industrial -- which is not consistent with the area. He submitted pictures of the results of that rezoning. He calls that area "Three Mile Island". He stated that the buildings were burned last summer and left like that -- they cannot be seen from the road, but he can see them from his house. He noted that the company said they would build nice berms, and they build a berm -- but some of the trees are dead. He stated that the buildings were to be nearer to KY 237 at the beginning of the development, but they are directly across from his house.

Mr. Flannery stated that the proposed development is not consistent with the area. Regal Ridge is 13 or 14 houses on 28 acres -- but this will be 233 units on 29 acres. He noted that Mr. Erpenbeck stated that when the houses in the area were torn down, the traffic on Bullittsville and Conrad was cut down substantially -- which is true. However, when they were torn down, Derby Farms was going up and now the traffic on Conrad Lane, especially at the S curve, is dangerous and there are a lot of accidents in the winter. The more traffic there, the more accidents there will be. They now sit at the traffic light at KY 237 and Conrad Lane for possibly five minutes. He stated that traffic will be a problem. He is against random rezoning. He built his house there to live in and he knew what was around his property and how it was zoned. Development like light manufacturing and industrial, and 233 condominiums, will depreciate the value of his home.

Mr. Bob Matheny, a resident of Orient Street, agreed with the others. He noted the single-family homes and lots in excess of an acre in the area. They moved there with the idea of it being single-family with very large lots. He does not think the proposed development is appropriate for the area. He stated that in heavy rain there is substantial water that overflows the dam, which they recently rebuilt on advice of the Water Conservation people. He put in a 12" culvert and it still overflows. He is concerned about the runoff. In heavy rain, water builds up on Bullittsville Road. He stated that the water situation needs to be addressed and the Staff Concerns need to be addressed.

Mr. Damstrom asked if there was anyone else present who wished to speak.

Mr. Mike Poole, 5846 North Orient Street, indicated his property. He has lived in the area all his life and the subject property belonged to his uncle at one time. He is in favor of single-family development, but not this type of development. He is opposed to the request.

Brenda O'Banion, stated that she is upset about this. The Commissioners are not thinking about what they are doing to the homeowners out there. She and her neighbors are upset about this.

Kristy O'Shea, a resident of Regal Ridge since last August, stated that they moved off Limaburg Road because of how built up it was and the semis going up and down. Their home on Regal Ridge is a quiet place for her children to play. Her child is late to school and they dismiss it because of the traffic on Conrad Lane. If there is more development, there will be more traffic and more congestion. They like the quiet rural setting and do not want the area so built up.

Mr. Dan Hammons a resident of Regal Ridge, stated that there will probably be 100 to 200 children in the development. He is concerned about the crowding of the schools and the traffic coming into the area.

Mr. Russell Sloan, 2484 Venetian Way in Derby Farms, stated that his house backs up against Conrad Road. He does not think there is enough space to widen the road without taking part of his lot. He stated that he will have to wait longer at Conrad Road and KY 237.

There being no further comments from the audience, Mr. Damstrom asked if there were any comments or questions from the Commissioners.

Mr. Viox asked if the applicant has considered pedestrian ways, recreation, and the concerns raised in the Staff Report.

Mr. Erpenbeck stated that they did not propose any pedestrian ways or walkways within the development, but are willing to work with Staff in this regard.

Mr. John Niehaus, the developer, stated that in most of his developments the people enjoy walking on the private lanes. This has been his experience for over twenty-five years.

Mr. Viox questioned how a school-aged child would walk to school. He stated that Orient Street at some point will develop as a road or a pathway. He stated that living in one of these units on Conrad Lane, people would have to go to Burlington out the back way.

Mr. Niehaus stated that they do not have a problem with looking at Orient Street. He stated that Mr. Erpenbeck suggested to them that they leave Orient Street alone, but using it would leave more room on the inside of the development for green space. Where they have the boulevard coming in could be left as green space, or they could move the buildings around and leave more of the wooded areas. He stated that they can do a major readjustment if the boulevard street is not there and they move the development over onto Orient Street.

Mr. Viox asked if this would require another Public Hearing.

Mr. Costello stated that there is a need to determine who owns the paper street to make sure there is proper access. He stated that the Planning Commission is just seeing the portion that abuts this property, but there is another portion that is not paved and is very narrow. Staff would have to study the possibility of having a pedestrian system there. It is now being used for limited vehicular access and they would have to look at mixing vehicular traffic with pedestrians or separating them. They would have to see where the property line of the school is to see if a pathway system could be continued from the site south to the school property.

Mr. Viox stated that the school is on Orient Street. Ms. Cabot explained that Orient Street stops.

Mr. Viox stated that if the pedestrian way was along Orient, eventually when the other properties develop, the pedestrian way would continue all the way to the school.

Mr. Costello stated that Staff can look at this -- he is not sure it could be accomplished.

Mr. Erpenbeck stated that it is a publicly dedicated right-of-way.

Mr. Viox stated that he would like to see a pedestrian way there because Burlington would be an ultimate destination for someone who wanted to walk. Mr. Costello noted that it also gets people to the courthouse.

Mr. Viox commented that if the Concept Plan changes substantially, there may need to be another Public Hearing.

Counselor Wilson stated that an applicant can make revisions to a Concept Development Plan after a Public Hearing when those revisions relate to points raised during the Public Hearing. It would depend on the magnitude of those revisions and how they relate to the points raised.

Mr. Costello noted that it would not be additional land that is rezoned.

Mr. Erpenbeck stated that they would be able to rework the units and open up more area to green space. He indicated where there would be a sidewalk to connect to Orient Street where the pavement currently stops. Mr. Niehaus stated that if people in the condominiums want to take a walk, they could walk on the paved Orient Street and across the park and get to Burlington. He stated that it is a good idea.

Mr. Viox stated that the street proposed next to the Simmons' house looks like it could be pulled away from the property line.

Mr. Erpenbeck responded that they have some flexibility, but it is shown at least fifty feet off the property line. He added that some of the units could be pulled away from the property line a little.

Mr. Viox asked if the Simmons' house is at the same topography. Mr. Simmons responded that it is a little lower. He noted a swale on his property that goes towards the street. He stated that he does not know where the water will go if they build there.

Mr. White asked if there is a reason why Sunview Drive is about 15' - 20' short of Chateau Boulevard. Mr. Erpenbeck responded that it is to provide privacy within the groups of buildings.

Mr. White asked "This will be owner occupied and never become rental units? Mr. Erpenbeck responded "Yes, and we will commit to that".

In response to comments from Mr. Hicks regarding flooding, Mr. Erpenbeck indicated the major swale and detention pond and how the drainage would flow. He stated that at the top of the ridge, it would drain across Orient -- which is very flat. Mr. Hicks stated that the drainage across Orient Street would probably be reduced with this development. Mr. Erpenbeck agreed.

Mr. Damstrom questioned the number of stories of the buildings. Mr. Erpenbeck responded that they are one-story and two-story buildings, and many may have walk-out basements. Mr. Damstrom questioned the number of bedrooms. Mr. Erpenbeck responded that the majority of the units would have two bedrooms.

Mr. Damstrom questioned the design features. Will the units be all brick? Mr. Niehaus responded that they use a combination of brick, stucco, and vinyl accents.

Mr. Damstrom noted that the Staff Report included the three criteria for a zone change. He asked which criteria they are using. Mr. Erpenbeck responded that the request is in conformance with the Comprehensive Plan.

Mr. McMillian asked if when they drew the plans they had no intention of using Orient Street.

Mr. Erpenbeck responded that he recommended they not use Orient Street because he was concerned about its condition and having the traffic come down into the poorly developed section of Orient Street. He stated that they are open to working with Staff in regard to Orient Street if that is the Planning Commission's recommendation.

Mr. McMillian stated that the Planning Commission is concerned with access management and he does not see any connections to any other pieces of property.

Mr. Erpenbeck responded that these are private streets and that is why they do not connect to any other properties.

Mr. McMillian stated that there is not much consideration for fire protection either.

Mr. Erpenbeck responded that the Fire Chief's concern was in regard to the fire hydrants he indicated on the map. He stated that there is more than adequate flow with the 12" main on Conrad Lane. The concern was to get a secondary feed into downtown Burlington to improve the flow.

Mr. McMillian questioned parking on both sides of the street. Mr. Erpenbeck responded that there is no on-street parking.

Mr. Damstrom asked if there were any other comments.

Mr. Erpenbeck stated that if they used Orient Street, that would address Mr. Simmons' concern about access for future development on his property. He stated that they are willing to work with Staff in this regard.

Mr. Viox asked if the applicant has researched how many school children there are in this type of unit.

Mr. Erpenbeck stated that in "for sale" units, the number of school children is extremely low. He stated that 25 to 40 students would probably be the maximum since these units are typically for empty nesters whose children have grown.

Mr. Viox asked if these units are comparable to Oakbrook? Thornwilde? Plantation Pointe? Mr. Erpenbeck responded that they are probably compatible with Oakbrook. Mr. Viox asked Staff to call the school and find out what the average number of public school children is in the Oakbrook development.

Mr. Costello commented that the developer has existing developments with these kinds of units.

Mr. Niehaus responded that Stonehaven and Eddenburg are just over one-half built and there is one child who is 18 years old. The rest are empty-nesters. He stated that the empty nester market is growing and by 2005 empty nesters will dominate the home market. In general, these developments are totally empty nesters.

Mr. Viox stated that he is appalled and concerned by the pictures submitted by Mr. Flannery. The developer has burned down buildings and not cleaned up the site -- and he hopes something will be done about it. Mr. Costello responded that he will write to Mr. Banta at Corporex tomorrow about the buildings and about maintaining the berm.

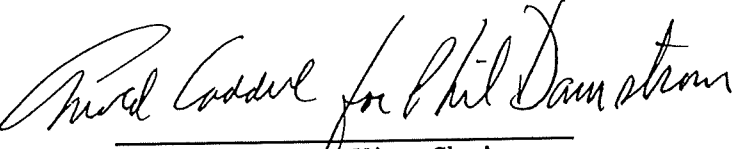
Mr. Damstrom asked if there were any further comments or questions.

Mr. Simmons stated that the application is based on the fact that it is in accordance with the Comprehensive Plan. He stated that his understanding of the 1995 Comprehensive Plan is that at that time the airport was buying homes and taking out homes along the corner of Bullittsville and Conrad. This got into being high density because there were a lot of unknowns there. He noted the small block of property that is high density and stated that the owners of more than half of that section have all indicated their opposition to the high density. They want to keep it single-family and it is their property. The single exception is the subject property. He believes that the present zoning is appropriate and he has not heard anything this evening that show the zoning is inappropriate and should be changed.


There being no further comments, Mr. Damstrom explained that the Planning Commission is a recommending body. The Planning Commission's recommendation will go to Fiscal Court and they can override the recommendation, go along with the recommendation, or hold their own Public Hearing. Mr. Damstrom stated that the Committee Meeting for this item will be on April 1, 1999 at 5 PM in the second floor conference room. This item will be on the Agenda for the Business Meeting on April 21, 1999 at 7:30 P.M..

Mr. Damstrom closed this Public Hearing and called for a short recess.

APPROVED:


Phil Damstrom Vice Chairman

Attest:


Jan Hancock, Recording Secretary

- Exhibit 1: "Chateau Estates, Owners: John M. Niehaus/Peter J. Reil"
(9 pages)
Exhibit 2: Simmons' Position Summary, March 24, 1999 (1 page)

SUPPORTING INFORMATION

574-2300
598-2870 (F)

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005

806-334-2186

FAX 806-334-2264

E-Mail plancom@one.net

May 13, 1999

Mr. John M. Niehaus
5858 Harrison Avenue
Cincinnati, OH 45247

RE: Recommended Conditions of Approval for Zone Change Application from SR-1 to SR-2 for a 29 Acre Tract Located on the South Side of Conrad Lane and East of Orient Street, Boone County, Kentucky - Chateau Estates Subdivision

Dear Mr. Niehaus:

The following represents recommended conditions of approval for the above referenced zone change request as agreed by the Boone County Planning Commission's Zone Change Committee at their May 6, 1999 meeting. If you, as the property owner, agree to these conditions, please indicate by signing on the line provided at the end of this letter and return the original to me by 5:00 p.m. on May 18, 1999.

1. The applicant shall build one-story units as designated on the Concept Development Plan submitted to the Zone Change Committee on May 6, 1999 (see Exhibit A).
2. The total of dwelling units for the site will be 228 and these units will be "for sale" only and not rental units.
3. Storm water from the southwest corner of the site will be redirected towards the proposed detention area towards the east (see Exhibit B).
4. The proposed building units will be a minimum of 50% brick material and will be based upon the drawings/pictures submitted to the Planning Commission at the March 24, 1999 Public Hearing.
5. All existing trees indicated by the heavy green line on the Concept Development Plan will be retained. In addition, the applicant agrees to install Buffer C (see Exhibit C) along the eastern property or behind the first 3 buildings or east of Teagarden Lane. ~~Also, the applicant agrees to move the proposed buildings located along the Simmons property line north in order to retain additional existing trees.~~ The applicant is also required to install Buffer C along with a 6 foot high white vinyl fence along the entire southern property line. Any deviation from this requirement, such as only requiring the fence in areas where the existing trees are retained, will be reviewed at a later date and agreed to by Mr. Simmons.

NO
JUN 7
5/19/99

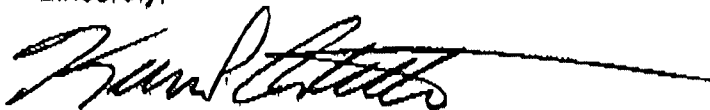
→ Will move north if possible at time of final plans.

Mr. John M. Niehaus
May 13, 1999
Page 2

- 6. The applicant shall be required to install a public street in the Orient Street right-of-way in accordance with the design requirements of the Boone County Fiscal Court. As part of the street construction, every effort should be made to retain the existing tree line along the eastern side of Orient Street. In addition, the applicant will be required to install landscaping features along Orient Street and Conrad Lane in accordance with the *Boone County Zoning Regulations*. The landscaping features along the southern and eastern property lines shall be installed in the first phase of development.
- 7. The applicant will be required to meet the design requirements of the Boone County Water District to assure water capacity and quality with existing lines along Orient Street and Conrad Lane.
- 8. The applicant shall install the westbound left-hand turning lane along Conrad Lane after the 50th dwelling unit building permit is issued (see Exhibit D).
- 9. The applicant shall develop and implement a Homeowners Agreement (HOA) to maintain all common open space, landscaping features, streets and private utilities.
- 10. The applicant shall provide documentation that access and connection to a public sanitary sewer exists through Regal Ridge Subdivision.

Ray

Sincerely,



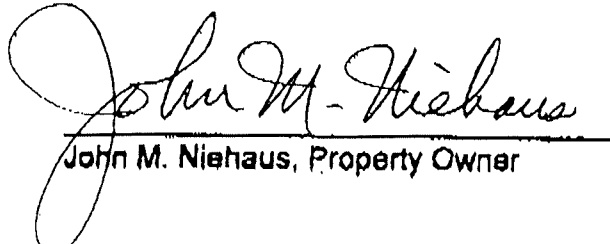
Kevin P. Costello, AICP
Executive Director

KPC/vlm

Enclosures

AGREEMENT

I, John M. Niehaus, hereby agree to the conditions of approval listed herein for the Chateau Estates zone change request from SR-1 to SR-2 for the 29 acre tract located on the south side of Conrad Lane and east of Orient Street, Boone County, Kentucky.


John M. Niehaus, Property Owner

5/19/99
Date

RECEIVED
AUG 30 1999
BOONE COUNTY
PLANNING COMMISSION

**Resolution
Of
The Boone County Fiscal Court**

Resolution No. 99-184-A

A RESOLUTION OF THE BOONE COUNTY FISCAL COURT DENYING THE ZONE CHANGE REQUESTED BY RAYMOND ERPENBECK CONSULTING ENGINEERS (APPLICANT) FOR JOHN M. NIEHAUS (OWNER) ON A 29 ACRE SITE GENERALLY LOCATED ON THE SOUTH SIDE OF CONRAD LANE IMMEDIATELY WEST OF REGAL RIDGE ESTATES SUBDIVISION, BOONE COUNTY KENTUCKY.

NOW, THEREFORE, BE IT RESOLVED BY THE BOONE COUNTY FISCAL COURT:

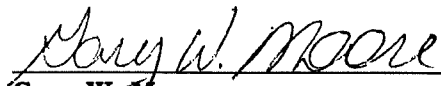
SECTION I

That Boone County Fiscal Court hereby denies the zone change requested by Erpenbeck Consulting Engineers (Applicant) for John M. Niehaus (Owner) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Suburban Residential One (SR-1) to Suburban Residential Two (SR-2) on a 29 acre site generally located on the south side of Conrad Lane immediately west of Regal Ridge Estates Subdivision, Boone County, Kentucky, based on the following findings of fact:

1. That the proposed zone change is incompatible with the surrounding area even though the Future Land Use Map indicates high density suburban residential for this site. This classification allows for single family and detached housing of one to a maximum of eight dwelling units to an acre, however, the Comprehensive Plan suggest that high density residential area be located near and with convenient access to major streets and, therefore, should be a progression of residential uses from high multi-family to low single family, consequently, SR-1 is the appropriate zoning for this site.
2. That without substantial votes to carry the original motion which included additional conditions, there will be no protection to the surrounding area.

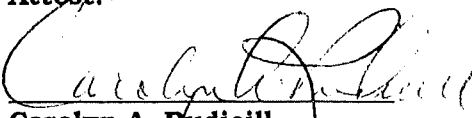
SECTION II

That this Resolution is hereby approved and adopted in Open Session of the Boone County Fiscal Court this 10th day of August, 1999.



Gary W. Moore
Boone County Judge-Executive

Attest:



Carolyn A. Rudicill
Fiscal Court Clerk